

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben  
Valerie Means  
Matthew Schuerger  
Joseph K. Sullivan  
John A. Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Xcel Energy's Petition for  
Approval of a Resiliency Service Program

ISSUE DATE: March 15, 2023

DOCKET NO. E-002/M-22-170

ORDER APPROVING RESILIENCY  
SERVICE PROGRAM WITH  
MODIFICATIONS AND REQUIRING  
ANNUAL REPORTS

**PROCEDURAL HISTORY**

On April 7, 2022, Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company) filed a petition requesting approval of a new Resiliency Service Program and associated tariff.

On April 20, 2022, the Commission issued a notice of comment period on the petition.

By August 8, 2022, the Commission received initial comments on the petition from:

- Polar Semiconductor, LLC (Polar Semiconductor)
- Minnesota Solar Energy Industries Association (MnSEIA)
- All Energy Solar
- Target Corporation (Target)
- Department of Commerce, Division of Energy Resources (Department)

By August 22, 2022, the Commission received reply comments on the petition from:

- MnSEIA
- Xcel
- The Department

On August 31, 2022, the Commission received late-filed comments from the Institute for Local Self-Reliance (ILSR).

On February 2, 2023, the Commission met to consider the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Petition**

Xcel requests approval of its Resiliency Service Program (the Program) and associated program tariff (the Resiliency Service Tariff). The Company proposes to provide resiliency services to certain commercial and industrial (C&I) customers that have a higher-than-standard need for service reliability. The Company identified two barriers that prevent customers from obtaining resiliency services: high upfront costs and the complexity of planning and building a resiliency project. Through the Program, the Company seeks to support C&I customers that have a low tolerance for electric service disruptions and expand customer access to resiliency services.

Xcel proposes to support customer resiliency through ownership, installation, operation, and maintenance, through its vendor partners, of resiliency service assets. The Company will own and operate all resiliency services assets. Xcel's pre-approved vendor partners will be responsible for all construction and asset operation and maintenance. Resiliency service assets may include combinations of battery energy storage systems and generation assets such as back-up generation and solar photovoltaic. Xcel proposes to locate resiliency service assets on or near a customer's premises serving load located behind a single customer meter.

Xcel plans to make an application available for vendors seeking to become a preferred vendor in the Program. Participating customers may also select a vendor that is not on the preferred list. Xcel will require any vendor brought forward by a customer to submit all documentation required of a preferred vendor applicant and meet the financial and technical requirements of the Program. Vendors who pass the evaluation process will be maintained on the preferred vendor list.

Resiliency service assets will be paid for by the participating customer over the asset life through a 10-, 15-, or 20-year term customer service agreement (CSA). At the conclusion of the CSA ownership of the asset would either be transferred to the participating customer, decommissioned at the participating customer's expense, or remain in Xcel ownership through a new CSA.

Participating customers in the Program will pay for all project costs through dedicated monthly customer charges designed to recover the revenue requirement of the assets specific to each customer as well as all costs for program operations. The Company explained that nonparticipating customers will not contribute toward resiliency enhancements, or any services related to the Program.

The Company proposes to add resiliency service assets to rate base in FERC Account 371 and capitalize the assets as electric distribution assets to plant-in-service. Xcel stated it will request that, in future rate case filings, the capitalized cost be allowed in rate base and receive a return on investment, and that operations and maintenance expenses related to the Program will also be included in the Company's revenue requirement during its next rate case filing.

Xcel proposes to file an annual report in this docket providing the number of new customers participating in the Program from the prior year. The report will include each new customer's resiliency service assets, the cost of each asset, and customer contribution in aid of construction and allowance.

## **II. Comments**

### **A. Comments in Support of the Petition**

Polar Semiconductor filed comments in support of the Program. Polar Semiconductor stated that, as a chip manufacturer competing in the global semiconductor market, a world class power supply is necessary for advanced semiconductor manufacturing. Polar Semiconductor explained that the Program would enable Minnesota manufacturers to obtain costly resiliency assets as an expense, as opposed to a traditional capital acquisition, which would allow the company to use its critical cash reserves for investments into increased manufacturing output to compete with manufacturers in other states as well as globally.

Target expressed support for the Program but raised concerns with the proposed structure of the Program. Specifically, Target raised concerns about the transfer of asset ownership at the end of the CSA and the participating customer's responsibility for asset repair or replacement. Target stated that, under the current structure, it would be unlikely to participate in the Program.

### **B. Comments in Opposition to the Petition**

MnSEIA, All Energy Solar, and ILSR raised several issues related to Xcel's competitive advantage as a regulated monopoly entering the distributed energy resource (DER) asset market and recommended that the Commission deny the Petition. ILSR requested that, if the Commission approves the Program, the Company be required to allow competitors to access the same customer data Xcel uses to operate the Program.

MnSEIA identified three factors contributing to concerns about unfair competition and Xcel's abuse of monopoly power: access to low-cost capital, access to customer data, and the Company's role as the gatekeeper for interconnection of DER systems. MnSEIA contends that the Program will crowd out better offerings and give Xcel unfair advantages over competitors. MnSEIA argued that Xcel could leverage its advantages as a monopoly to outcompete energy service companies. MnSEIA also argued that Xcel could leverage its control over the grid to prioritize interconnection of its own projects under the Program over other pending applications waiting to interconnect to the grid. MnSEIA further explained that Xcel possesses an unrivaled competitive advantage in soliciting customers for the Program because the Company has exclusive data regarding its customers' energy needs. MnSEIA also raised concerns with Xcel's preferred vendor list. All Energy Solar echoed MnSEIA's concerns regarding unfair competitive advantage and abuse of monopoly power.

### **C. Xcel's Reply**

Xcel clarified that the transfer of asset ownership at the end of the CSA is optional. Xcel explained that if the customer chooses not to take ownership of the assets, the Company will decommission the assets or provide continuing services to the customer through a new CSA. Xcel stated that all costs for the assets behind a customer's meter that are owned by the Company, including costs for removal and decommissioning, will be paid for by the participating customers. The Company explained that this design enables Xcel to lower the barriers of resiliency service for interested customers and provide a service while simultaneously avoiding direct bill impacts to ratepayers that do not participate in the Program.

In response to Target's concerns regarding financial risks associated with service assets failing during the term of the CSA, Xcel explained that service level agreements (SLAs) for equipment uptime and protection of customer financial risks can be negotiated between the customer, the Company, and the participating vendor, and included in the CSA for a project.

Xcel explained that the Program was developed to allow participating customers to pay all the costs and incur all the benefits of the Program. Xcel contends that it shares broad financial risks with participating customers. According to Xcel, if a customer becomes insolvent and can no longer pay for the assets, the Company bears the financial risk of potentially not recovering the full cost of the assets. Finally, Xcel argued that participating customers' financial risks can be mitigated through asset warranties and insurance, along with negotiated SLAs.

The Company argued that the Program has the potential to grow the market for resiliency services for its customers and foster a robust market. Xcel contends that the Program will lower the barriers of entry for interested C&I customers, including high upfront costs and complex project planning and procurement, which will expand the access customers have to these services. According to the Company, the Program provides a benefit to the resiliency service market in the Company's service territory by providing a new option to potential customers and driving new business to developers and vendors that partner with the Company. Xcel clarified that it will not prohibit or prevent third-party developers and vendors from offering services to Xcel customers outside of the Program. Further, Xcel stated that use of the Resiliency Service Tariff to construct these projects will be open to all vendors that are willing to partner with the Company and that meet the Program requirements.

In response to concerns raised by both All Energy Solar and MnSEIA regarding interconnection of projects participating in the Program, Xcel stated that all projects in the Program will follow the Minnesota Distributed Energy Resources Interconnection Process rules as outlined in the in the Company's Minnesota Electric Rate Book. Customers participating in the Program will not be treated differently, or receive preferential treatment, for interconnection purposes.

#### **D. The Department**

The Department stated that the Program and proposed Resiliency Service Tariff are reasonable and reflect the rate structure and terms outlined in the petition and recommended that the Commission approve the Petition with modifications.

The Department stated that Xcel structured the Program such that non-participating ratepayers are adequately protected from its cost and that participating customers are offered a service they can voluntarily participate in. Specifically, the Department explained that the Program is in the public interest for the following reasons:

- The program's costs are entirely contained to participating customers and will not impact non-participating customers.
- The program seeks to address a customer need but is entirely voluntary for participating customers.
- The program is targeted at C&I customers who likely have the tools and experience to discern between different financing and leasing options in the market.

- All work related to the program will be done by third-party vendors, creating market opportunity for current and new participants.
- The size and scope of the program is limited to 15 projects over six years as proposed, allowing the Commission and stakeholders to assess the program without significantly decreasing market share of resiliency projects.
- Resiliency projects that include solar photovoltaic and storage assets may lead to greenhouse gas emission reductions during normal operations.
- The program may provide non-energy-related benefits to local communities by supporting critical infrastructure during extreme events.<sup>1</sup>

The Department did not agree with MnSEIA's assertion that Xcel's access to low-cost capital is a competitive advantage. The Department reasoned that Xcel has targeted this program at C&I customers with a need for higher-than-standard service reliability, which suggests that these customers are aware of their electric service needs and have the tools and expertise to assess different financing and leasing terms and rates.

The Department also stated that the risk of Xcel gaining a dominant market share through this Program is limited given that Xcel is anticipating implementation of 15 projects over six years across its Minnesota service territory. Furthermore, the Department expressed doubt that Xcel's access to customer data provides a competitive advantage over third parties operating in the private market. The Department noted that two primary factors may indicate whether a customer has significant resiliency needs: the type of customer (e.g., hospitals, industrial customers with specific manufacturing processes, community centers or other potential critical infrastructure) and outage rates. First, data pertaining to the type of customer is readily available to the public and obtained by third parties. Second, feeder-specific outage rates identified at the city level are publicly available in Xcel's annual service quality reports. The Department acknowledged that other customer energy usage data, such as outage data, may be valuable for identifying customers with high resiliency needs. However, the record does not specifically refer to the type of data, unavailable to other parties, that would give Xcel a clear and unfair competitive advantage for identifying potential customers for the Program.

In addition to Xcel's proposed annual reporting metrics, the Department recommended that the Commission require the Company to include the follow metrics in its annual reports:

- all costs, including allocated costs, and revenues to show that non-participant customers are not paying for the costs of the Program;
- the length of time Program projects are in the interconnection queue before the interconnection process is completed;
- frequency and duration of electric service interruptions before and after completion of each resiliency service project;
- performance of resiliency service projects during outages/island mode;
- interval load and resiliency service asset generation data to identify peak load reduction and ability to achieve demand response to load shifting goals (if applicable and available);
- number of residents served and critical services provided during emergency events (if applicable for community resiliency projects);

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<sup>1</sup> Department Reply Comments, at 7–8 (August 22, 2022).

- power quality measurements before and after completion of each resiliency project (if applicable and measurable);
- wholesale market data for any resiliency service assets that participate in ancillary services, capacity, day-ahead, or real-time energy markets;
- description of any safety issues or grid operation difficulties and applied solutions;
- description of any applicable findings used or incorporated into distribution system planning or distribution system operations; and
- customers' resiliency and operation objectives (if not confidential).

### **III. Commission Action**

The Commission has reviewed the Petition and appreciates the Department's thoughtful analysis of the competitive market issues raised by MnSEIA, All Energy Solar, and ILSR.

The Commission agrees with the Department's analysis and recommendations that, as modified, the Program is in the public interest. The Program lowers barriers to obtaining resiliency services and is entirely voluntary for participating customers. The Commission is satisfied that the Program, as modified, contains sufficient protections for non-participating ratepayers and is structured to prevent unfair competitive advantages. The Commission is sensitive to the concerns that Xcel's access to customer data gives it a competitive advantage over third parties operating in the private market. However, the Commission is not persuaded that Xcel's access to data gives the Company an unfair competitive advantage for identifying customers with high resiliency needs. Nonetheless, the Commission will prohibit Xcel from using customer energy usage or grid data that is not available to customers and third parties to market the Program. The Company did not oppose this modification. Therefore, the Commission will approve Xcel's Petition as stated in the ordering paragraphs below.

The Commission agrees with the Department's analysis and recommendations that the public interest will be better served with additional reporting requirements that the Company agreed to provide. To provide transparency for participating customers and the public, the Commission will require the Company to file annual reports, as set forth in the ordering paragraphs below.

### **ORDER**

1. The Commission hereby approves Xcel Energy's Resiliency Service Program, tariff, and accounting treatment with the following modifications:
  - a. All interconnection applications must be handled by a third-party vendor and must abide by all applicable Minnesota interconnection standards and all internal Xcel policies, including the Company's technical planning standards and insurance requirements. In applying the applicable interconnection standards and policies, Xcel shall not treat participating and non-participating customers differently for interconnection purposes. If unexpected or unplanned Company-incurred interconnection costs are required, the customer must pay and undergo studies as set forth in the Minnesota Distributed Energy Resources Interconnection Process (MN DIP). If distribution upgrades are required, the customer must pay them in accordance with MN DIP.

- b. Xcel may not use customer energy usage or grid data, that is not available to customers and third parties seeking to implement similar services outside of the resiliency services program, to market the program.
  - c. Customers in the Resiliency Service Program shall only participate in tariffs for which they are eligible. Participation in the Resiliency Service Program alone does not make a customer eligible for participation in any tariffs or combination of tariffs that a similarly situated customer who is not in the Program would not be able to participate.
2. Xcel Energy must file annual reports starting one year after the date of this order. The reports must contain the following information:
- a. The number of new customers participating in the program from the prior year. The report will include each new customer's Resiliency service assets, the cost of each asset, and customer contribution in aid of construction and any other funds or allowances provided by Xcel.
  - b. All costs, allocated costs, and revenues to show that non-participant customers are not paying for the costs of the Resiliency Service Program.
  - c. The length of time Resiliency Service Program projects are in the interconnection queue before the interconnection process is completed.
  - d. The following information, approved as part of the Pilot Review Report by the Public Service Commission of Wisconsin for Northern States Power Company-Wisconsin's Resiliency Service Pilot:
    - i. Frequency and duration of electric service interruptions before and after completion of each resiliency service project.
    - ii. Performance of resiliency service projects during outages/island mode.
    - iii. Interval load and resiliency service asset generation data to identify peak load reduction and ability to achieve demand response to load shifting goals (if applicable and available).
    - iv. Number of residents served and critical services provided during emergency events (if applicable for community resiliency projects).
    - v. Power quality measurements before and after completion of each resiliency project (if applicable and measurable).
    - vi. Wholesale market data for any resiliency service assets that participate in ancillary services, capacity, day-ahead, or real-time energy markets.
    - vii. Description of any safety issues or grid operation difficulties and applied solutions.

- viii. Description of any applicable findings used or incorporated into distribution system planning or distribution system operations.
- ix. Customers' resiliency and operation objectives (if not confidential).

3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert  
Executive Secretary



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## **CERTIFICATE OF SERVICE**

I, Leesa Norton, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

**Minnesota Public Utilities Commission**  
**ORDER APPROVING RESILIENCY SERVICE PROGRAM WITH**  
**MODIFICATIONS AND REQUIRING ANNUAL REPORTS**

Docket Number E-002/M-22-170

Dated this 15th day of March, 2023

/s/ Leesa Norton

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Allen	michael.allen@allenergysolar.com	All Energy Solar	721 W 26th st Suite 211  Minneapolis, Minnesota 55405	Electronic Service	No	OFF_SL_22-170_Official
Alison C	Archer	aarcher@misoenergy.org	MISO	2985 Ames Crossing Rd  Eagan, MN 55121	Electronic Service	No	OFF_SL_22-170_Official
James J.	Bertrand	james.bertrand@stinson.com	STINSON LLP	50 S 6th St Ste 2600  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
John	Coffman	john@johncoffman.net	AARP	871 Tuxedo Blvd.  St, Louis, MO 63119-2044	Electronic Service	No	OFF_SL_22-170_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-170_Official
Riley	Conlin	riley.conlin@stoel.com	Stoel Rives LLP	33 S. 6th Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
George	Crocker	gwillc@nawo.org	North American Water Office	PO Box 174  Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_22-170_Official
Christopher	Droske	christopher.droske@minneapolisismn.gov	City of Minneapolis	661 5th Ave N  Minneapolis, MN 55405	Electronic Service	No	OFF_SL_22-170_Official
Catherine	Fair	catherine@energycents.org	Energy CENTS Coalition	823 E 7th St  St Paul, MN 55106	Electronic Service	No	OFF_SL_22-170_Official
John	Farrell	jfarrell@ilsr.org	Institute for Local Self-Reliance	2720 E. 22nd St Institute for Local Self-Reliance Minneapolis, MN 55406	Electronic Service	No	OFF_SL_22-170_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_22-170_Official
Edward	Garvey	edward.garvey@AESLconsulting.com	AESL Consulting	32 Lawton St  Saint Paul, MN 55102-2617	Electronic Service	No	OFF_SL_22-170_Official
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W  Farmington, MN 55024	Electronic Service	No	OFF_SL_22-170_Official
Michael	Hoppe	lu23@ibew23.org	Local Union 23, I.B.E.W.	445 Etna Street Ste. 61 St. Paul, MN 55106	Electronic Service	No	OFF_SL_22-170_Official
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2950 Yellowtail Ave.  Marathon, FL 33050	Electronic Service	No	OFF_SL_22-170_Official
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
Sarah	Johnson Phillips	sarah.phillips@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
Peder	Larson	plarson@larkinhoffman.com	Larkin Hoffman Daly & Lindgren, Ltd.	8300 Norman Center Drive Suite 1000 Bloomington, MN 55437	Electronic Service	No	OFF_SL_22-170_Official
Kavita	Maini	kmains@wi.rr.com	KM Energy Consulting, LLC	961 N Lost Woods Rd  Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_22-170_Official
Stacy	Miller	stacy.miller@minneapolismn.gov	City of Minneapolis	350 S. 5th Street Room M 301 Minneapolis, MN 55415	Electronic Service	No	OFF_SL_22-170_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
David	Moeller	dmoeller@allte.com	Minnesota Power	30 W Superior St  Duluth, MN 558022093	Electronic Service	No	OFF_SL_22-170_Official
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_22-170_Official
Logan	O'Grady	logrady@mnseia.org	Minnesota Solar Energy Industries Association	2288 University Ave W  St. Paul, MN 55114	Electronic Service	No	OFF_SL_22-170_Official
Carol A.	Overland	overland@legalelectric.org	Legaletric - Overland Law Office	1110 West Avenue  Red Wing, MN 55066	Electronic Service	No	OFF_SL_22-170_Official
Nicholas	Paidosh	nicholas.paidosh@target.com	Target Corporation	1000 Nicollet Mall TPN-03 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_22-170_Official
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206  St. Paul, MN 551011667	Electronic Service	No	OFF_SL_22-170_Official
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750  St. Paul, MN 55101	Electronic Service	No	OFF_SL_22-170_Official
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7  Minneapolis, MN 554011993	Electronic Service	Yes	OFF_SL_22-170_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-170_Official
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd  St. Paul, MN 55102	Electronic Service	No	OFF_SL_22-170_Official
Byron E.	Starns	byron.starns@stinson.com	STINSON LLP	50 S 6th St Ste 2600  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
James M	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	150 S 5th St Ste 700  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_22-170_Official
Joseph	Windler	jwindler@winthrop.com	Winthrop & Weinstine	225 South Sixth Street, Suite 3500  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official
Kurt	Zimmerman	kwz@ibew160.org	Local Union #160, IBEW	2909 Anthony Ln  St Anthony Village, MN 55418-3238	Electronic Service	No	OFF_SL_22-170_Official
Patrick	Zomer	Pat.Zomer@lawmoss.com	Moss & Barnett PA	150 S 5th St #1200  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-170_Official