

December 21, 2022

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. Docket No. E0002/M-21-695 and E002/M-13-867

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

PROPOSED COMMUNITY SOLAR GARDEN PROGRAM AND TARIFF REVISIONS
UPDATING COMMUNITY SOLAR GARDEN TARIFF PROVIDING ADDITIONAL
CUSTOMER PROTECTIONS IN SUBSCRIPTION ELIGIBILITY

The Department concludes the proposed filing is in the public interest. The Department recommends the Commission approve Xcel Energy's November 14, 2022 Compliance Filing.

The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/MICHELLE REBHOLZ
Public Utilities Rates Evaluation Supervisor

MR/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/M-21-695 and E002/M-13-867

I. INTRODUCTION

On September 23, 2021, Xcel Energy made a filing which was assigned to the current docket, proposing to modify its existing tariff under the Standard Contract for Solar*Rewards Community, for the purpose of adding consumer protections to tenants in premises that are subject to CSG subscriptions.

After receiving comments and oral argument, the Commission declined to act on Xcel's petition, indicating it wished to have the parties further develop the record on the matters raised by the petition. It directed Xcel to convene a stakeholder process within 60 days and file revised tariffs within 120 days.

The Department calls particular attention to the following Ordering Paragraph in the Commission's order as the primary goal of the further process and compliance filing:

2. Regarding its PowerOn Program, Medical Affordability Program, Gas Affordability Program, and Low-Income Discount Program, Xcel shall do the following:

A. Before Xcel transfers a utility account from a tenant to the landlord as part of a Community Solar Program, Xcel shall take reasonable steps with the landlord to help qualified tenants continue receiving the benefits of these low-income affordability programs.

II. BACKGROUND

In its Order, the Commission specified that the process must address a number of issues raised in the docket to date, including the following:

- Transparency about community solar offerings serving their unit under third-party billing systems.
- Tenant rights, including any right to claim control over the utility account, under third-party billing systems.
- Low-income tenants' access to utility energy assistance programs such as PowerOn, even when receiving service via a third-party billing system.

- Ensuring that landlords who have tenant accounts in their name may continue to participate in Xcel's CSG program, assuming the implementation of this model does not cause more harm than benefit to tenants. (cite)
- Ensuring any penalties for community solar developers who violate Xcel's tariff are based on developer-caused violations or known omissions, and commensurate with the timeframe of the violation/known omission.¹

Department staff attended all Xcel stakeholder meetings with the Commission's issue list in mind.

III. SUMMARY OF STAKEHOLDER MEETINGS AND ISSUES RAISED

Department staff attended all stakeholder meetings. The Department has the following observations regarding issues raised during the meetings:

- Landlords have a variety of practices with respect to CSG and billing. Those attending did describe their practices, but other landlords may not have participated nor otherwise discussed their practices.
- Conversations often veered onto broader landlord-tenant issues which are complex, vary based on the particular nature of the arrangement between the landlord and tenant, and are sometimes legal in nature. Those broader issues do not need to be resolved here. A number of the attorneys at the stakeholder meetings discussed their interpretation of legal standards or jurisdiction. The only topic that is presented by the filing is landlords that have chosen to subscribe their buildings to Xcel's CSG program.
- Even as late as the October 26 stakeholder meeting, there was still confusion about billing and the data needed for programs such as PowerOn. There was no consensus that programs like PowerOn or protections such as the Cold Weather Rule (CWR) could be offered if service was in the landlord's name.

IV. THE STAKEHOLDER PROCESS AND XCEL'S NOVEMBER 14, 2022 FILING

The Minnesota Department of Commerce (Department) examined the compliance filing in light of applicable statutes, rules, Commission Orders, and the public interest.

The issues presented in this petition are complicated. The Department believes Xcel made all possible efforts to navigate these complicated issues in its stakeholder meetings. Stakeholders, likewise, participated and engaged thoughtfully at the meetings.

¹ ORDER DENYING PETITION, ADDRESSING LOW-INCOME ENERGY ASSISTANCE PROGRAMS, AND REQUIRING FURTHER PROCEEDINGS, Dockets E002/M-21-695 and E002/M-13-867, Issued June 24, 2022.

The Commission indicated that five issues in particular should be examined during the stakeholder meetings:

- *Transparency about community solar offerings serving their unit under third-party billing systems.*

The Department believes the tariff pages stating how CSG offerings work in rental units will offer uniformity, which in turn will offer clarity and transparency. Tariffs are public and are reviewed by numerous stakeholders before approved; they are also posted on utility websites. Understandably, different landlords have different practices to serve their business needs and the needs of their tenants. Memorializing the terms and conditions for CSG in a tariff will also enable the Commission's CAO and other organizations to understand the nature of the program and communicate them to consumers.

- *Tenant rights, including any right to claim control over the utility account, under third-party billing systems.*

This issue was a complicated one, and when it was discussed at stakeholder meetings, the topic was sometimes discussed as a broader one than merely CSG subscriptions. The Department believes Xcel's proposed tariff pages offer a clear and actionable path forward.

- *Low-income tenants' access to utility energy assistance programs such as PowerOn, even when receiving service via a third-party billing system.*

This matter was resolved as to most low income programs. However, it was not resolved as to PowerOn due to the manual processes and the personal data needed to enroll utility customers. The Department also believes the tariff pages will resolve it as to the Commission's Cold Weather Rule. As discussed in Section III, even as recently as the last stakeholder meeting, landlord representatives expressed confusion or lack of knowledge on how PowerOn worked. Thus, the Department concurs with Xcel that its Opt In/Opt Out proposal allows tenants to choose the options that best fit their personal circumstances.

- *Ensuring that landlords who have tenant accounts in their name may continue to participate in Xcel's CSG program, assuming the implementation of this model does not cause more harm than benefit to tenants.*

The Department believes that Xcel's proposal, consistent with the discussion at the stakeholder meetings, allows landlords who have tenant accounts in their name to participate in Xcel's CSG program.

- *Ensuring any penalties for community solar developers who violate Xcel's tariff are based on developer-caused violations or known omissions, and commensurate with the timeframe of the violation/known omission.*

This was a point of discussion in the stakeholder meetings, but there was no consensus reached.

Overall, the Department believes Xcel and stakeholders made all reasonable attempts to cover the five topics in the Commission's Order. Likewise, Xcel's November 14 filing attempted to be as comprehensive and solution-oriented as possible.

V. DEPARTMENT ANALYSIS

The Department believes it is important for the Commission to clarify the scope of its decision on Xcel's petition. Whatever the Commission's decision is, it should make clear that it is only ruling on Xcel's proposal, which applies only to landlords who choose to voluntarily subscribe to Xcel's CSG program. Some of the discussions at the stakeholder meetings covered broader landlord-tenant issues related to utility service. While impactful to both landlords and tenants, those broader questions are not at issue here.² The scope of this docket is only related to landlords that choose to subscribe to a CSG. The Commission is the only state agency that can approve the terms and conditions of Xcel's CSG program, and if a landlord elects to use the program, it is subject to the terms and conditions approved by the Commission.

The complexity of the issues, and the valid but competing policy interests leads the Department to recommend that the Xcel proposal best balances these policies. The Opt in/Opt Out proposal allows landlords to continue to subscribe to CSGs while allowing tenants to make choices that suit their circumstances best.

IV. CONCLUSIONS AND RECOMMENDATIONS

The Department recommends the Commission approve Xcel's November 14 compliance filing.

² It is possible that some of these broader landlord-tenant utility topics could only be resolved by legislation.

CERTIFICATE OF SERVICE

I, Nicole Westling, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. E0002/M-21-695 and E002/M-13-867

Dated this **20th** day of **December 2022**

/s/Nicole Westling

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