

January 18, 2023

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

RE: Docket Nos.: 21-695 Northern States Power Company, d/b/a Xcel Energy, In the Matter of Xcel Energy's Tariff Revisions Updating Community Solar Garden Tariff Providing Additional Customer Protections in Subscription Eligibility and 13-867 In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of its Proposed Community Solar Garden Program

Dear Mr. Seuffert:

The City of Minneapolis ("Minneapolis") respectfully submits these Reply Comments regarding the proposed modifications to the community solar tariff filed by Xcel Energy in response to the Commission Order to ensure renters have access to its community solar garden ("CSG") and affordability programs.

Minneapolis has an interest in this matter as it relates to both consumer protection for renters and municipal goals for clean energy. We appreciate the Joint Petitioners (Xcel Energy, Energy Cents Coalition, Mid-Minnesota Legal Aid, and Citizens Utility Board) elevating the issue that some residential customers who rent may not have had full access to important low-income programs in cases where a third-party biller was involved.¹

Minneapolis agrees that customers who rent must have access to all the programs available, including the Xcel community solar program, and protections to which they are legally entitled. We support the Commission Order in this matter in its entirety, including Order Point 2 directing Xcel to propose tariff modifications to allow low-income renters who are subject to third-party billing to access the PowerOn Program, Medical Affordability Program, Gas Affordability Program, and Low-Income Discount Program and requiring:

- 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.
- B. Xcel shall propose a modification to its tariffs for these programs to allow low-income renters who are subject to third-party billing to access these programs.²

¹ Docket 21-695. Petition. Sept. 23, 2021.

² Docket 21-695. Commission Order. June 24, 2022. p.7.

We also support Order Point 6 directing Xcel to convene a stakeholder process to address the issues raised by the Petitioners before filing revised tariffs:

6A. Transparency about Community Solar Garden offerings serving their residential unit under third-party billing systems.

6B. Tenant rights under third-party billing systems, including any right to claim control over the utility account.

6C. Low-income tenant access to utility energy assistance programs such as PowerOn even when receiving service under a third-party billing system.

6D. Ensuring that a landlord who has tenant accounts in the landlord's name may continue to participate in Xcel's CSG program, assuming the implementation of this model does not cause more harm than benefit to the tenants.

6E. Ensuring that any penalties to CSG developers who violate Xcel's tariff are based on developer-caused violations or known omissions, and are commensurate with the timeframe of the violation/known omission.³

While Minneapolis appreciates the opportunity to attend the stakeholder meetings hosted by Xcel, our observation was that Xcel started the meetings with a premise that was outside the bounds of the Order, revisiting issues addressed by the Commission at the hearing. Specifically, Xcel did not intend to identify pathways to open access to renters for low-income programs as specified in the Commission Order. We agree with the Initial Comments of the Joint Solar Associations and Community Solar Garden Operators that Xcel should have asked the Commission for Reconsideration if it had an issue with the Commission Order.⁴

Minneapolis is concerned that Xcel put the burden on stakeholders to come up with a solution as an opening position and did not conduct the meetings consistent with the Commission Order. The Community Solar Garden Operators worked in good faith to find compromise and offer constructive suggestions to identify solutions, including agreeing to Xcel's demand during the first stakeholder meeting that renters must opt in to third party billing. Specifically, Xcel's opening position was that:

*At a minimum, the opt-in form must be used which provides informed consent to tenant that **the tenant can not retain low-income affordability benefits where its account is transferred to the landlord.***⁵ (emphasis added)

However, the parties met Xcel's request and agreed to an opt in arrangement for third party billing. But the issue remains unresolved about the ability of renters to access low-income affordability benefits when accounts are transferred to the landlord.

Some examples that seem to support the Joint Solar Associations and Community Solar Garden Operators position that the Xcel stakeholder process was not responsive to the Commission Order,⁶ Xcel challenged the Order by directing stakeholders to:

Cite legal authority in support of the claim that landlords can take over existing separately metered tenant utility accounts, remove tenants from their status as ratepayers and Xcel Energy customers

³ Commission Order. June 24, 2022. p. 6-7.

⁴ See Comments Joint Solar Associations. Dec 21, 2022. p. 16; Comments of the Community Solar Garden Operators. Dec. 21, 2022. p. 12-13.

⁵ Xcel Energy Low Income Energy Assistance and CSG Program Participation Stakeholder Meeting. Aug 9. 2022. Slide 13.

⁶ See Joint Solar Associations Comments. Dec 21, 2022. p. 2, 5, 6, 11, 13, 20-21; Comments of the Community Solar Garden Operators. Dec. 21, 2022. p. 10-13.

without the tenants' affirmative and informed consent, and rebill the metered utility service tenants.

Describe how the public interest is served by removing billing of separately metered utility service to tenants from regulatory protections and requirements, and from PUC oversight.⁷

Xcel also stated that testimony to the Commission demonstrated community solar program enrollment for tenants “has caused **and will continue to cause harm** to tenants including” (emphasis added):

The average monthly benefit from the tenant's participation in the Building Subscription model in the form of the monthly solar energy credit is less than \$5, which is significantly less than the amounts of low income discounts and PowerOn credits, which have been lost as a result of past tenant participation in CSGs.⁸

In these examples, Xcel disregards direction from the Commission for Xcel to allow renters access to both its community solar program and affordability programs.

Minneapolis agrees with the Joint Solar Associations that it is problematic that Xcel is limiting who it considers a customer to only the party that is directly paying the bill. We agree with the Commission that customers should not be excluded from low-income affordability benefits.⁹

Xcel states that Minnesota law prevents the Company from considering a renter as the customer when there is a third-party biller, but it did not provide specific legal authority to justify this position.¹⁰ We share the Joint Solar Associations' concerns that Xcel has limited who it considers a customer in a manner that is inconsistent with Minnesota law.¹¹

We agree with the Joint Solar Associations and Community Solar Garden Operators that the Commission should direct Xcel to comply with the Order since the Commission has authority over Xcel's affordability programs. Delay in working to identify solutions harms renters in Minneapolis because Xcel has decided to continue to limit the ability of customers to receive payments from Xcel's affordability programs while living in a residence with common community solar subscriptions and third party billing.

Minneapolis notes that the stakeholder group didn't reach consensus on the proposed modifications Xcel filed with the Commission.¹² However, Minneapolis appreciates the Community Solar Garden Operators willingness to work productively toward a solution that improves customer access to programs and consumer protections, including that tenants can opt in or out of community solar and third-party billing for any reason. We support the redline edits proposed by the Community Solar Garden Operators as striking an appropriate balance.¹³

We also appreciate the statutory language citation that prevents property owners from shutting off service or evicting for unpaid utilities in the initial comments of the Community Solar Garden Operators.¹⁴

⁷ Xcel Energy Low Income Energy Assistance and CSG Program Participation Stakeholder Meeting. Aug 9, 2022. Slide 13.

⁸ *Id.* Slide 20

⁹ Commission Order. p. 5.

¹⁰ Xcel Energy Compliance Filing. p. 14-15.

¹¹ Joint Solar Association Comments. Dec 21, 2022. p.13.

¹² Xcel Compliance Filing. Attachment F. Nov. 11, 2022.

¹³ Community Solar Garden Operators Initial Comments. Dec. 21, 2022. p.5-6, 9-10, Attachment A.

¹⁴ *id.* p.7.

Minneapolis makes these recommendations with the goal of promoting the public interest. Most households in Minneapolis rent their homes, so resolution of this matter consistent with the Commission Order is of urgent interest for the benefit of residents who want to participate in assistance programs and/or community solar. We appreciate the Commission's consideration of our comments in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K. W. Havey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kim W. Havey (He/Him)
Division Director
Sustainability, Healthy Homes and the Environment

STATE OF MINNESOTA)

) ss.

CERTIFICATE OF SERVICE

COUNTY OF HENNEPIN)

I, Stacy A. Miller, of the City of Minneapolis, County of Hennepin, State of Minnesota, affirm that on the 18th day of January 2023, I served a copy of the following via e-mail and/or via U.S. Mail:

REPLY COMMENTS OF THE CITY OF MINNEAPOLIS regarding Docket Nos. 21-695 and 13-867

at the last known mailing addresses and email addresses of said entities/individuals on the attached Service List. If by U.S. Mail, I placed said document in postage prepaid envelope and placed same in the U.S. Post Office in Minneapolis, Minnesota for delivery by the United States Postal Service.



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