



414 Nicollet Mall
Minneapolis, Minnesota 55401

January 18, 2023

—VIA ELECTRONIC FILING—

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

RE: REPLY COMMENTS

PROPOSED COMMUNITY SOLAR GARDEN PROGRAM AND TARIFF REVISIONS UPDATING
COMMUNITY SOLAR GARDEN TARIFF PROVIDING ADDITIONAL CUSTOMER PROTECTIONS
IN SUBSCRIPTION ELIGIBILITY
DOCKET NO. E002/M-21-695 AND E002/M-13-867

Dear Mr. Seuffert:

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission this Reply in response to Comments received from various parties on December 21, 2022 in the matter of our November 11, 2022 Proposed Community Solar Garden Program and Tariff Revisions Updating Community Solar Garden Tariff Providing Additional Customer Protections In Subscription Eligibility compliance filing.

Pursuant to Minn. Stat. § 216.17, subd. 3, we have electronically filed this document with the Commission, and copies have been served on the parties on the attached service lists.

If you have any questions regarding this filing please contact Lynnette Sweet at lynnette.m.sweet@xcelenergy.com or me at (612) 337-2096 or bridget.dockter@xcelenergy.com.

Sincerely,

/s/

BRIDGET DOCKTER
MANAGER OF POLICY AND OUTREACH

Enclosures
cc: Service List

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

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

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

DOCKET NO. E002/M-21-695
E002/M-13-867

REPLY COMMENTS

INTRODUCTION

Northern States Power Company, doing business as Xcel Energy, submits this Reply in response to Comments received from the Minnesota Department of Commerce (Department), Minnesota Office of Attorney General (OAG), Mid-Minnesota Legal Aid, TBR and Solar Holdings (CSG Operators), Citizens Utility Board of Minnesota (CUB), Minnesota Solar Energy Industries Association and Coalition for Community Solar Access (Joint Solar Associations), Sagiliti, and the Energy CENTS Coalition (ECC) on December 20 and 21, 2022.

The Company would like to thank parties for their engagement in this docket. As originally filed on September 23, 2021, we remain concerned that tenants who need the comprehensive approach to energy assistance that the State of Minnesota and Xcel Energy's affordability programs provide are missing a critical opportunity to receive assistance to pay their utility bills as a result of a process created by landlords to require tenants to participate in a Community Solar Garden (CSG). The model, developed by certain building owners, creates a re-billing situation for which tenants no longer receive a direct bill from Xcel Energy.

We appreciate the review of these issues and the stakeholder engagement in several discussions since 2021. These efforts have led to an agreement on a few important items including support of the Opt-in/Opt-out provision and a decrease to the minimum qualifying monthly usage threshold for the PowerOn Program, as well as

the addition of an exemption clause to the Standard Contract for Solar*Rewards Community that includes a landlord who is the named customer on the account and who is solely responsible for electric bills where tenants benefit from service. We believe we have met the requirements of the Commission Order, pending our request to re-open Order Point 2B. We elaborate on specific Order Points and respond to some parties' comments below.

COMMENTS

I. Broad Support of an Opt-in/Opt-out Provision

Protecting the most vulnerable is sound public policy. For this reason, we believe it is necessary to create protections for income qualified tenants. By making customers aware of the benefit options afforded them they can make informed decisions regarding what is in their best interest.

All parties have indicated in filed Comments their support of tenant choice through an Opt-in/Opt-out provision as part of the CSG program. Our proposed provision allows the tenant to choose if they want to Opt-in and participate in a CSG, and Low Income Home Energy Assistance Program (LIHEAP), if qualified by Sagilitti or Opt-out and participate in Xcel Energy's utility funded Low Income Energy Assistance Programs through qualification in the State's LIHEAP program. We believe this consensus meets the requirement of Commissions Order point 2A.

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. Necessary Tariff Modifications

The Company's proposed changes to the Solar*Rewards Community tariff align with an Opt-in/Opt-out approach that adds critical tenant protections. Our proposed modifications include two major components. First, where the landlord is the named customer, the modifications provide tenants a choice to determine whether their rental unit can be associated with a CSG subscription, and the tenants can have this CSG subscription discontinued at any time and for any reason. Second, where a

tenant is the named customer on the account, it is their decision on whether to have a subscription to a CSG. Allowing the tenant to remain as the customer of record provides statutory protections afforded them by law such as protection from disconnection during the Cold Weather Rule period, the ability to access the utility and the Commission's dispute resolution processes, and the ability to participate in our Affordability Programs. These redlines were provided in our November Compliance.

Parties generally agreed with the Opt-in/Opt-out approach as noted above. The proposed language (Section 9, Original Sheet No. 99.1 subsection 2) specifically states that the Opt-in/Opt-out provision is for all new subscriptions after the effective date or for a pre-existing subscription associated with a new tenant. Therefore, tenants who are already re-billed for service as part of a CSG subscription plan are not eligible for these new rules – they would have to specifically work with their landlord to make changes to their pre-existing arrangements. This was an addition to our proposal to stakeholders to come to an agreement around this option.

The Joint Solar Associations provided initial comments opposing several tariff provisions. CSG Operators also requested several changes to the tariff language in Comments. We address the recommended changes in detail below.

A. Tariff Sheets 9-66.1 and 9-76

The Company does not support the changes recommended by the CSG Operators for Tariff Sheets 9-66.1 and 9-76 for the reasons listed below. The CSG Operators recommend the following changes to tariff sheets 9-66.1 and 9-76:

The decision whether to become or remain a Community Solar Garden subscriber is left ~~entirely~~ to an individual tenant. ~~This decision shall not be subject to pressure or influence of any kind – direct or indirect – from a landlord or landlord agent.~~ Beginning on [the first calendar day of the first month following the Commission order approving this tariff revision], Subscriber eligibility requirement shall also include that in the event the premises associated with a Subscription is occupied by a residential tenant, and where the Landlord (as defined in the “Landlord ~~as Subscriber~~” Addendum) is the named customer on the Company account, then the Subscription is subject to the “Landlord ~~as Subscriber~~” Addendum. However, notwithstanding this, if the premises 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 premises 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 ~~as Subscriber~~” Addendum.

First, we address the inaccurate representation made by CSG Operators regarding to whom the term “subscriber” belongs. Minn. Statute §216B.1641 subdivision c. defines subscriber as a retail customer of the public utility. Further, the Company’s tariff at Section 9, 2nd Revised Sheet No. 72, defines subscriber as:

“a retail customer of the Company who owns one or more Subscriptions of a community solar garden interconnected with the Company” and a subscription is defined as a “contract between Subscriber and the Community Solar Garden Operator.”

This definition then requires specific contractual agreements from the subscriber. In Section 9, 3rd Revised Sheet No. 76, the subscriber must complete a fully executed Subscriber Agency Agreement and Consent Form.

The CSG Operators recommend changing the name of the Addendum form “Landlord as Subscriber Addendum” to “Landlord Addendum” claiming the term is “misleading because tenants receive the subscription benefits under a simplified CSG offering facilitated by the landlord in which tenants are responsible for paying their CSG subscriptions and electricity bills”¹ Despite how the CSG Operators have arranged their relationship with tenants, as part of the Solar*Rewards Community program, the landlord is signing the Subscriber Agency Agreement and Consent Form and is therefore the subscriber, as described above, agreeing to the terms of a subscriber. There is no additional obligation on the tenant through the tariff; our Addendum clearly labels this agreement where the landlord as the subscriber signs the tariff contractual form as approved by the Commission. To be clear, the Company has no agreement with the tenant under these terms.

We agree with the CSG Operators that “signing a contract under undue influence or coercion is a matter of contractual law”² however, we believe it is in the public interest to make these protections explicit. Our proposed changes align with this public interest and therefore we do not support removing this language.

¹ Initial Comments, CSG Operators, Docket No. E002/M-13-867, December 22, 2022. (pg. 6).

² Id.

B. Tariff Sheets 99.1 and 99.2

The CSG Operators request the following changes to our proposed language at Section 9, Original Sheets 99.1 and 99.2 subsection 4:

- Title and opening paragraph – rename to “Landlord Addendum” instead of “Landlord as Subscriber Addendum”
- 4.d. Seeks to modify the language to change the due date from the 10th of each month to the 10th day of each month.
- 4.i. Recommends changes to clarify that the landlord must have an “internal” dispute resolution process, and seeks to change the timeframe for resolution from 30 to 60 days.
- 4.j. delete the following: “Payment Agreements. Landlord must make available payment agreements to tenants in arrears or who are unable to pay their bill in full between October 1 through April 30. Payment agreements must consider a tenant’s financial circumstances and any extenuating circumstances of the household, including tenants where a medical emergency exists or where medical equipment requiring electricity necessary to maintain life is in use.”
- 4.l. delete the following: “Landlord must make available payment agreements to tenants in arrears or who are unable to pay their bill in full during the Cold Weather Rule period (between October 1 through April 30). Payment agreements must consider a tenant’s financial resources and any extenuating circumstances of the household but may be no more than 10% of the tenant household's income.”
- 4.m. delete the following: “Landlord must provide to each tenant protections set forth in Minn. Stat. §216B.098, Subds. 2, 3 (during the non-Cold Weather Rule period), and Subd. 5, and where this statute uses the term “utility” this term under this Addendum shall mean instead the Landlord.”
- 4.n.5. On Tenant disclosures, modify as follows as shown in redline: By September 30 of each year, Landlord must provide each tenant information about budget billing plans offered by the Company and inform the Company if a tenant requests a budget billing plan.

We oppose the changes to the title and opening paragraph as discussed above. The landlord is the subscriber in this situation.

For article 4.d, we do not oppose this change.

For article 4.i, we do not oppose the suggested changes.

For articles 4.j, 4.l, and 4.m, we oppose the suggested deletions. These provisions mimic the protections that the tenants would have if they were customers of the utility. Article 4.j follows Minn. Stats. §§216B.097 and 216B.098, Subd. 5; Article 4.l follows Minn. Stat. §216B.096, Subds. 2 and 5; and, Article 4.m aligns with Minn. Stat. §216B.098, Subds. 2, 3 and 5. The tenants should not have any less protection under the BSM model. The Company continues to believe the importance of protecting tenants whose apartment is the subject of a subscription under the Solar*Rewards Community program under the arrangements created by their landlords.

For article 4.n.5, we are not supportive of the proposed changes to this language. This language is intended to provide disclosures by the Landlord in instances for which the landlord has assumed the billing for the account. In this case, the Company would not be offering additional tenant billing options and it would be up to the landlord to do so.

C. Tariff Sheet 99.3

In their Initial Comments, the Joint Solar Association opposes the Opt-in/Opt-out provision under the premise that it is “inaccurate” to state that customers participating in CSGs should not have access to Xcel Energy programs and protections afforded by Minnesota law.³ The Company does not make such claims regarding CSG subscribers. The Opt-in/Opt-out provision is intended for tenants who participate through a landlord rather than directly through the Company. Since these tenants are no longer retail customers of the utility, do not sign the tariffed contractual form applicable to subscribers and instead are rebilled by a landlord, their participation in certain programs are limited by the rules established for those individual programs in tariff and Minnesota Statute. We do not support changes to the Opt-in/Opt-out provision as suggested by the Joint Solar Association’s misrepresentation of what has been provided on record within this docket.

³ Initial Comments, Joint Solar Association, Docket No. E002/M-13-867, December 22, 2022. (pg. 19).

D. Tariff Sheet 74

The CSG Operators requests the following modifications to our proposed tariff sheet 74:

Consistent with this, in the event that any Subscription associated with a specific premises 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 ~~as Subscriber~~” 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 unless the Community Solar Garden Operator disputes the violation within 30 days under section 12.

We do not oppose the changes on lines 1, 2, 5, and 9 (adding premise number language). We oppose the changes on lines 3-4 as discussed above where we oppose renaming the Addendum.

We oppose the changes on the last two lines. Under the proposed changes, the CSG Operator could perpetually avoid a violation of the CSG contract merely by disputing the violation itself. In that case, even if the facts otherwise clearly show a violation of the Solar*Rewards Community Contract, this added language would forever prevent there from being such a violation. If CSG Operator disputes that there is a violation, then like any breach of contract situation, they can pursue dispute resolution and remedies for breach provisions under the contract provisions at tariff sheet 9-83, and 9-81 through 9-82.

III. Elimination of PowerOn Qualifying Monthly Usage Level

All parties support the decrease of the monthly usage threshold currently in tariff for the PowerOn program. After further discussions between ECC and the Company, we agree to eliminate the qualifying monthly usage threshold. At this time, we enroll all qualified LIHEAP customers because we have a continuous surplus in our tracker account. We have not turned any customer away because of their usage level. As a

result, we do not anticipate any real difference in our PowerOn program participation due to a formal tariff modification eliminating the qualifying usage threshold.

IV. Request to Re-Open Commission Order Point 2B

By statute, a party “at any time” may request that the Commission reopen and amend a prior order. Minn. Stat. §216B.25. The Joint Solar Associations (at page 16) and CSG Operators (at page 13) argue that any such request must be made within 20 days of the prior order.

Minn. Stat. §216B.25 states as follows:

FURTHER ACTION ON PREVIOUS ORDER.

The commission may at any time, on its own motion or upon motion of an interested party, and upon notice to the public utility and after opportunity to be heard, rescind, alter, or amend any order fixing rates, tolls, charges, or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order therein, for the taking of further evidence or for any other reason. Any order rescinding, altering, amending, or reopening a prior order shall have the same effect as an original order.

In support of their position that there is a 20-day time period to file such a request, they each cite to 7829.3000, which states in part:

Subpart 1. Time for request. A party or a person aggrieved and directly affected by a commission decision or order may file a petition for rehearing, amendment, vacation, reconsideration, or reargument within 20 days of the date the decision or order is served by the executive secretary. This subpart does not affect any statutory limit on the time allowed for a petition for judicial review that may run concurrently.

This rule aligns with Minn. Stat. §216B.27 which applies to petitions for rehearing (not reopening), and which has a 20-day time limit, and states in part:

216B.27 REHEARING; CONDITION PRECEDENT TO JUDICIAL REVIEW.

Subdivision 1. Applying for rehearing. Within 20 days after the service by the commission of any decision constituting an order or determination, any party to the proceeding and any other person, aggrieved by the decision and directly affected thereby, may apply to the

commission for a rehearing in respect to any matters determined in the decision. The commission may grant and hold a rehearing on the matters, or upon any of them as it may specify in the order granting the rehearing, if in its judgment sufficient reason therefor exists.

Subd. 2. Contents of application; condition precedent for review. The application for a rehearing shall set forth specifically the grounds on which the applicant contends the decision is unlawful or unreasonable. No cause of action arising out of any decision constituting an order or determination of the commission or any proceeding for the judicial review thereof shall accrue in any court to any person or corporation unless the plaintiff or petitioner in the action or proceeding within 20 days after the service of the decision, shall have made application to the commission for a rehearing in the proceeding in which the decision was made. No person or corporation shall in any court urge or rely on any ground not so set forth in the application for rehearing.

The Commission has recognized that Minn. Stat. § 216B.25 “authorizes the Commission to reopen any docket at any time for any reason.”⁴

A. Minnesota Statute and Commission Order Require Utility Access to Customer Data to Comply

As indicated in our compliance filing, the Company, Joint Petitioners, and stakeholders have spent significant time both separately and as a stakeholder group discussing how all our Affordability Programs function and how they interact with the State’s LIHEAP program. As such, we do not believe there is a practical, cost and time-efficient modification that works in the best interest of our most vulnerable customers that can be made, that will allow income qualified tenants subject to re-billing, access to our Affordability Programs without compromising our ability to comply with:

- Minn. Statute § 216B.15, subd 14, which sets the affordability parameters
- Minn. Statutes §216B.029, 216B.091, 216B.096, 216B.095, 216B.0976, and 216B.098 that require reporting by the utility based on customer data

⁴ See, for example, the August 26, 2019 order in *In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of a Natural Gas Extension Project (NGEP) Cost Rider Surcharge for the Recovery of 2019 Rochester Project Costs*, Docket No. 18-182, at p. 3.

- Specific reporting requirements to Xcel Energy borne of Commission Orders for our utility based Low Income Discount, PowerOn, and Medical Energy Assistance Programs – which we need customer data to produce.

B. PowerOn and Medical Affordability Program Process

For ease of explanation, we will again walk through our PowerOn enrollment and customer engagement process. We were surprised to read the Comments by MnSEIA and the CCSA indicating our lack of explanation and that it was unknown who had spent significant time trying to find a solution to meet the Commission's Order Point 2B. The stakeholder group spent time discussing the PowerOn program logistics at every meeting, but most significantly in the first and second meetings. Additionally, at the request of stakeholders, we sent a detailed explanation of the Company's affordability programs, customer outreach efforts, and where to access them. This was included as part of Attachment C in the Compliance Filing. After reviewing the attendance of the filed meeting notes, we show MnSEIA attended the first three (of four) stakeholder meetings while CCSA was not present at any. Following every stakeholder meeting, parties were sent meeting notes to review, check for accuracy, and provide feedback. Any changes received by the group were incorporated into the final versions of the notes.

C. Affordability Program Information Location

Customers can find information on our affordability programs as well as instruction on how to apply at the two links below. They also describe, in detail, the customer requirements and utility interaction. Based on concerns expressed by the agencies and stakeholders received from and after the start of during COVID and after, we began offering the PowerOn and Gas Affordability⁵ application in Somali, Spanish, and Hmong as well as English.

D. Outreach and Eligibility

Xcel Energy performs ongoing, direct mail outreach to current and previous LIHEAP customers to inform them about the availability of PowerOn, Medical Affordability Program (MAP), and Gas Affordability Program (GAP). Once customer eligibility is verified through LIHEAP approval, the customer is eligible for the utility programs.

⁵ Xcel Energy: [PowerOn and Gas Affordability Program | Billing & Payment | Xcel Energy](#)

Xcel Energy Notification of LIHEAP Qualified Customers

Xcel Energy receives a weekly notification file from the Department that identifies Xcel Energy customers that have received LIHEAP and may be eligible for our PowerOn/GAP/Medical programs along with the Senior Discount Program. The Senior Discount is automatically setup in Xcel Energy's billing system and the customer does not need to complete any additional paperwork. That same list is shared with our third party administer ECC for outreach PowerOn/GAP⁶ and MAP.

Customer Notification of Xcel Energy Affordability Programs

LIHEAP customers submit PowerOn/GAP/MAP applications to ECC. The application includes the household income amount and, by signing, the customer agrees to allow ECC to contact them about related services such as low-income Conservation Improvement Program (CIP) programs. ECC determines the monthly affordability credit and required monthly payment amount, as well as any applicable arrearage credit and co-payment amount and provides that information to both Xcel Energy and the program applicant. The Company then takes that information and enrolls the customer on whichever program they are eligible for and enters it into our billing system. The customer's account is notated with the credit amounts and affordability budget amounts in our billing system. The process for the Xcel Energy enrollment is automated through an information systems query that runs twice weekly to gather consumption, enroll the customers, provide credits, and removals for nonpayment's or closed accounts. The monthly affordability and arrearage credit is posted on the customers Xcel Energy bill. The Company's billing system does not have the capability to post the customer levelized affordable monthly payment. We are undertaking a review process of a new billing system and this would be one of the considerations to add. At this time ECC provides the levelized affordable monthly payment amount in a separate letter mailed to participants. ECC also serves as a critical customer contact that is integrated in the community and helps our customers not only with Xcel Energy's PowerOn/GAP/MAP programs but connects them to other Xcel Energy low-income services like CIP programs as well as city, county, and state services and funding. This is a very important wrap around service for our customers.

PowerOn Program Credit Calculation Overview

The PowerOn credit is calculated based on three percent of a household's income. The credit itself is determined by using the customers' actual annual electric bill, reducing the annual electric bill to meet three percent of the household income, providing a bill credit for the any difference, and requiring the customer to agree to a

⁶ Energy CENTS Coalition: [Power On/Gas Affordability Program | Energy Cents](#)

levelized monthly payment amount. Participating customers that miss two consecutive monthly payments will be removed from the program and subject to regular collection practices, including service disconnection. Once a customer payment is received, we apply the monthly affordability credit amount to the customer bill. The credit amount is shown as a separate line item on the next month's bill. Xcel Energy must know if the payment has been received and the amount of that payment. Table 1 below illustrates how that credit and payment is calculated.

Table 1: Example PowerOn Credit Payment Calculation

	Current Bill							
Annual Household Income	\$17,000							
Annual Xcel Energy Bill	\$800	\$510 (3% of \$17,000)= \$290/yr credit applied as \$24.16 per month shown on Xcel Energy customer bill						
	PowerOn Bill							
Required Monthly Payment	\$66.66	\$42.50	Payment amount is not shown on Xcel Energy bill					
			Payment amount is provided by PowerOn administrator					

The program also includes an arrearage forgiveness component for those customers with past due bills. As a customer makes payments on the past due portion of their account, we will match it with an arrearage forgiveness credit. The arrearage co-payment is calculated as either one-half of the past due balance, spread over 12-24 months, or one percent of household income, whichever is less. The co-payment is matched as a credit that appears on the Xcel Energy bill (the required co-payment does not show on the Xcel Energy bill but is provided to each participant by the PowerOn administrator).

CONCLUSION

The Company appreciates the opportunity to respond to parties' comments regarding the stakeholder process and our compliance filing in these dockets. We ask the Commission to approve our compliance filing, re-open Order point 2B, approve the Opt-in/Opt-out provision, approve the elimination of a minimum monthly qualifying average usage level for the PowerOn Program, and approve the tariff modifications as agreed to above.

Dated: January 18, 2023

Northern States Power Company

CERTIFICATE OF SERVICE

I, Crystal Gottschalk-Syvertsen, hereby certify that I have this day served copies of the foregoing document on the attached list of persons

xx by depositing a true and correct copy thereof, properly enveloped
with postage paid in the United States mail at Minneapolis, Minnesota

or

xx by electronic filing

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

Dated this 18th day of January 2023

/s/

Crystal Gottschalk-Syvertsen
Regulatory Administrator

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