



Mara N. Koeller
Associate Attorney

414 Nicollet Mall, 5th Floor
Minneapolis, Minnesota 55401
Phone: 612.215.4605
Fax: 612.215.4544

April 10, 2014

VIA ELECTRONIC FILING

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building, Suite 350
St. Paul, MN 55101

Re: *In the Matter of Xcel Energy's Request to Issue Renewable Development Fund Cycle 4
Requests for Proposals and Petition for Approval of a Standard Grant Contract
PUC Docket No. E002/M-12-1278*

Dear Dr. Haar:

Enclosed for electronic filing by Northern States Power Company, a Minnesota corporation, in the above-captioned matter is Xcel Energy's Answer to Petition for Reconsideration in the above-referenced Docket.

Sincerely,

A handwritten signature in black ink that reads 'Mara Koeller'.

Mara N. Koeller

cc: Service Lists

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In the Matter of Xcel Energy’s Request
to Issue Renewable Development
Fund Cycle 4 Requests for Proposals
and Petition for Approval of a
Standard Grant Contract

Docket No. E002/M-12-1278

**XCEL ENERGY’S ANSWER TO
PETITION FOR
RECONSIDERATION**

I. INTRODUCTION

Northern States Power Company, doing business as Xcel Energy, respectfully answers the Petition for Reconsideration submitted by Minnesota Go Solar LLC (“Go Solar”). Xcel Energy respectfully requests that the Minnesota Public Utilities Commission deny Go Solar’s Petition for Reconsideration (“Petition”) of the Commission’s March 11, 2014 Order in the above-referenced Docket (“Approval Order”). In the Approval Order, the Commission approved Xcel Energy’s proposal for energy production, research and development, and higher education grants to fund through Cycle 4 of the Renewable Development Fund (“RDF”) program established under Minnesota Statutes Section 116C.779 (the “RDF Statute”). The Commission’s approval of Xcel Energy’s proposal for RDF program expenditures for Cycle 4 was appropriate and Go Solar’s Petition should be denied.

The Commission has stated that it will reconsider an order when (1) new issues it has not yet considered are raised; (2) new facts not yet in evidence are presented for consideration; (3) there are errors or ambiguities in the Commission's order; or (4) the

Commission is otherwise persuaded to reconsider an order.¹ Go Solar's petition for reconsideration fails to meet the Commission's criteria for granting reconsideration and should be denied.

Go Solar's Petition reiterates comments it has previously made to the Commission.² Specifically, Go Solar criticizes the selection process and the work of the RDF advisory group and its decisionmaking process.³ Go Solar argues that the technical score alone, and not a qualitative evaluation by the RDF advisory group in addition to the technical score, should be used to select projects.⁴ These comments are consistent with comments previously made by Go Solar and were in the record reviewed by the Commission when it made its decision. Go Solar raises no new issues or facts.

Go Solar's Petition claims that the Approval Order is not sufficiently detailed to explain the Commission's decision. Go Solar refers to the Approval Order as "conclusory" and states that "there is no adequate explanation as to how the Commission derived its conclusion."⁵ The Commission's orders must explain the connection between the facts and the choices made.⁶ The Commission's Approval Order provides the law that it must apply, summarizes the comments of all

¹ *In the Matter of Detailing Criteria and Standards for Measuring an Electric Utility's Good Faith Efforts in Meeting the Renewable Energy Objectives Under Minn. Stat. § 216B.1691*, ORDER AFTER RECONSIDERATION at 9, Docket No. E999/CI-03-869 (Aug. 13, 2004). ("*Detailing Criteria*")

² Go Solar December 12, 2013 Reply Comments; Go Solar December 31, 2013 Supplemental Reply Comments.

³ Petition at 11-13.

⁴ *Id.* at 10 and 19-22.

⁵ *Id.* at 5 and 18.

⁶ *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 277 (Minn. 2001) ("*Blue Cross*") ("the agency's conclusions are not arbitrary and capricious so long as a 'rational connection between the facts found and the choice made' has been articulated.") (*citation omitted*).

stakeholders it received during the comment period before the Commission meeting on January 27, 2014, and analyzes the record in reaching its decision.⁷ Go Solar does not identify any errors, ambiguities, or other persuasive information to warrant the Commission's reconsideration of its Approval Order.

Because Go Solar's Petition has not raised any new issues, new relevant facts, errors or ambiguities in the Approval Order, or other persuasive information, Xcel Energy respectfully requests that Go Solar's Petition be denied.

II. REPLY

A. Go Solar Raises No New Issues or Facts

The Commission will reconsider an order when new issues or new and relevant evidence are presented in a petition for reconsideration.⁸ Go Solar raises concerns with the RDF advisory group's evaluation process. Go Solar's Petition for Reconsideration raises no new issues or facts.

Go Solar reiterates its arguments regarding the selection process. These arguments incorrectly find fault with several of the Company and RDF advisory group's decisions. Go Solar's Petition focuses primarily on the permissible decision made by the RDF advisory group and Company to deviate from the independent evaluator's technical score and immaterial lack of notes at the RDF advisory group selection meeting discussing the RDF Statute. However, review of the Company's Selection Report, two supplements, and Reply Comments⁹ demonstrate that the

⁷ See Approval Order.

⁸ *Detailing Criteria*, ORDER AFTER RECONSIDERATION at 9.

⁹ See Selection Report; First Supplement to the Selection Report; Second Supplement to the Selection Report; Xcel Energy's December 12, 2013 Reply Comments.

considerations Go Solar raises are addressed in the record and were fully considered by the Commission before its Approval Order.¹⁰

The RDF Statute does not require selection of projects based solely on the technical score of the independent evaluator¹¹ and the Commission's February 6, 2013 Order approving the Request for Proposals ("RFP") expressly allowed for deviations from scoring so long as they were supported.¹² Xcel Energy filed its Selection Report, two supplements, and Reply Comments on the selection process undertaken by the advisory group and the Company provided voluminous support for any deviation from the independent evaluator's technical score.¹³

However, Go Solar again focuses on the independent evaluator's technical score of its proposal throughout its Petition much as it did throughout its filings in the record. Xcel Energy does not dispute that the independent evaluator awarded its highest score for energy production projects to the Go Solar proposal. Go Solar, however, believes that the Commission should reconsider its approval of the Company's recommendation because it did not strictly follow the independent evaluator's technical score ranking.¹⁴ As discussed, the RDF selection process includes input from the independent evaluator and the RDF advisory group.¹⁵ Where the RDF advisory group's selection deviated from the technical score, the Company provided

¹⁰ Go Solar December 12, 2013 Reply Comments; Go Solar December 31, 2013 Supplemental Reply Comments.

¹¹ Minn. Stat. § 116C.779.

¹² February 6, 2013 Order at Order Point 6(e).

¹³ Approval Order at 7.

¹⁴ Petition at 23-24.

¹⁵ Minn. Stat. § 116C.779, subd. 1(f).

an explanation of its evaluation process,¹⁶ consistent with the requirements of the Commission's February 6, 2013 Order.¹⁷

Further, deviation from the technical score has previously been approved by the Commission in determining RDF program expenditures.¹⁸ The RDF advisory group's use of the technical scores as a starting point combined with further evaluation of subjective factors was appropriate and compliant with the RDF Statute and the Commission's February 6, 2013 Order. There is no need for the Commission to reconsider its Approval Order.

Go Solar's issues with the RDF advisory group meeting minutes are immaterial. Specifically, Go Solar takes issue with the "absence of any discussion of the RDF statutory criteria" from the RDF advisory group selection meeting and points to this fact to support its allegation that the Company recommendation did not follow the RDF Statute.¹⁹ As illustrated throughout Xcel Energy's various filings in this proceeding, the RDF advisory group was aware of the RDF Statute and its grant consideration requirements.²⁰ The notes referred to by Go Solar throughout its Petition are the immediate impressions of the meeting by the notetaker and are not a transcript of all details discussed during a meeting. In compliance with its

¹⁶ First Supplement to the Selection Report at 7-25; Xcel Energy's December 12, 2013 Reply Comments, Attachment P.

¹⁷ Approval Order at 7.

¹⁸ *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of the Selection of Projects for the Third Cycle Renewable Development Fund*, ORDER APPROVING SELECTED RDF PROJECTS at Order Point 7, Docket No. E002/M-07-675 (Apr. 1, 2008). In Cycle 3, the highest-scored research and development project was not recommended for funding. The eighth-highest-scored energy production project was recommended for funding over the projects in the fourth, sixth, and seventh projects. *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of the Selection of Projects for the Third Cycle Renewable Development Fund*, THIRD FUNDING CYCLE EVALUATION AND SELECTION REPORT at 2, Docket No. E002/M-07-675 (Dec. 6, 2007).

¹⁹ Petition at 11.

²⁰ See Xcel Energy December 12, 2013 Reply Comments at 2-4.

responsibilities, the RDF advisory group was well-informed of the RDF Statute and the criteria that it must consider in making a recommendation to the Company. The compliance with these statutory criteria is detailed throughout the selection report, two supplements, and reply comments filed by Xcel Energy.

These issues and others raised by Go Solar regarding the selection process are consistent with its prior comments to the Commission. Go Solar's Petition raises no new issues or new relevant facts.

B. Go Solar Raises No Errors, Ambiguities, or Other Persuasive Information

The Company may not expend RDF funds without the Commission's approval.²¹ In providing this approval, Minnesota law requires that the Commission's conclusions or decisions must be supported by substantial evidence.²² Substantial evidence requires "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."²³ Similarly, the Commission is also required to explain the connection between the facts and choices it made to ensure that its orders are not arbitrary and capricious.²⁴ Further, Minnesota law requires that if the Commission is presented with opposing points of view, it must reach a reasoned decision that rejects one point of view.²⁵ The Commission must provide a reasoned

²¹ Minn. Stat. § 116C.779, subd. 1(e).

²² See *Blue Cross*, 624 N.W.2d at 277 ("An appellate court may reverse or modify an administrative decision if substantial rights of the petitioners have been prejudiced by administrative findings, inferences, conclusions or decisions that are unsupported by substantial evidence in view of the entire record, or arbitrary and capricious . . .").

²³ *In re Excelsior Energy Inc.*, 782 N.W.2d 282, 290 (Minn. Ct. App. 2010).

²⁴ *Blue Cross*, 624 N.W.2d at 277. ("the agency's conclusions are not arbitrary and capricious so long as a 'rational connection between the facts found and the choice made' has been articulated.") (citation omitted).

²⁵ *In re Detailing Criteria & Standards for Measuring an Elec. Utility's Good Faith Efforts in Meeting the Renewable Energy Objectives Under Minn. Stat. 216B.1691*, 700 N.W.2d 533, 539 (Minn. Ct. App. 2005)

decisionmaking, including articulated standards and reflective findings.²⁶ The Commission's Approval Order meets these requirements.

First, the Approval Order is supported by substantial evidence based on the facts in the record. In making its decision, the Commission was presented with information and comments from the Company and stakeholders.²⁷ The Commission accurately recognized the voluminous size of the record before it²⁸ which included filings from Xcel Energy setting forth, in detail, the process followed to reach its recommendation and many comments from grant proposers, including comments from Go Solar.²⁹ The Commission also provided an opportunity for project proposers to address the Commission before making its decision on the Company's recommendation for RDF expenditures.³⁰

Second, the Approval Order explains the connection between the facts and choices made by the Commission. Specifically, the Approval Order provided that the Commission "carefully considered each comment" provided before making its decision on Xcel Energy's recommendations for RDF program expenditures.³¹ The Commission summarized the comments it received from stakeholders into four

("An agency decision is not arbitrary and capricious if the agency, presented with opposing points of view, reaches a reasoned decision that rejects one point of view.")

²⁶ *Cable Comm'n's Bd. v. Nor-West Cable Communications P'ship*, 356 N.W.2d 658, 669 (Minn. 1984) ("If an administrative agency engages in reasoned decisionmaking, the court will affirm The court will intervene, however, where there is a 'combination of danger signals which suggest the agency has not taken a 'hard look' at the salient problems' and the decision lacks 'articulated standards and reflective findings.'") (quoting *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977)).

²⁷ Approval Order at 1-2.

²⁸ *Id.* at 7.

²⁹ *Id.* at 1-2.

³⁰ *Id.* at 2.

³¹ *Id.* at 5.

primary categories³² and then discussed its reasoning and analysis of the record, explaining the connection between the facts in the record and the choices made, in reaching its conclusions on the RDF program expenditures for Cycle 4.³³

Third, the Approval Order demonstrates that the Commission reached a reasoned decision in accepting Xcel Energy's funding recommendations and explained its reasoning. The Commission's Approval Order sets forth the standards to be applied in its evaluation of RDF program expenditures.³⁴ The Commission then summarized the information the Company filed in the record regarding its Cycle 4 selection process.³⁵ After discussing the information provided by Xcel Energy, the Commission discussed the various stakeholder comments received.³⁶ In its written order, the Commission provided its analysis for denying a contested case proceeding, approving the recommended and reserve list projects, approving allocation of additional funds, approving procedures to fund reserve list projects if funds become available, and approving procedures should contract negotiations reach an impasse.³⁷ Further, there are no errors or ambiguities in the Commission's Approval Order. It clearly states the Commission's intent for Cycle 4 RDF expenditures.

³² Approval Order at 6-7.

³³ *Id.* at 7-9. (Through three pages, the Commission walks through its application of the facts it was presented with against the various standards it applies in evaluating RDF program expenditures. The Commission explained its reasoning for denying a contested-case proceeding, approving the recommended and reserve projects for funding, approving the additional allocation of funding, how the Company should proceed with contract negotiations and report back if negotiations reach an impasse, and approve the proposed methodology for funding reserve-list projects should additional funds become available.)

³⁴ *Id.* at 2-3.

³⁵ *Id.*

³⁶ *Id.* at 5-7. (The Commission specifically noted that it "has carefully considered each comment.")

³⁷ *Id.* at 7-9.

Therefore, the Commission properly, and in compliance with the RDF Statute, approved the Company's recommended RDF expenditures for Cycle 4 and issued an unambiguous and error-free Approval Order.

III. CONCLUSION

Xcel Energy requests that the Commission deny Go Solar's Petition as it fails to meet the Commission's criteria for granting reconsideration. The Approval Order is supported by the record and is consistent with applicable law. Go Solar has not raised any new information that was not already before the Commission prior to its Approval Order. Further, Go Solar has not identified any errors, ambiguities, or other persuasive information for reconsideration.

Dated: April 10, 2014

Kodi Jean Church (#391056)
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Respectfully submitted:

By: /s/ Mara Koeller
Mara Koeller
Associate Attorney
Xcel Energy Services Inc.
414 Nicollet Mall
Minneapolis, MN 55401

**Attorneys for Northern States Power
Company, a Minnesota corporation**

CERTIFICATE OF SERVICE

I, Theresa Sarafolean, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

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

electronic filing

DOCKET No. E002/M-12-1278 (OFFICIAL)

Dated this 10th day of April 2014

/s/

Theresa Sarafolean

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-1278_Official
John J.	Carroll	jcarroll@newportpartners.com	Newport Partners, LLC	9 Cushing, Suite 200 Irvine, California 92618	Electronic Service	No	OFF_SL_12-1278_Official
Bob	Eggers	re@powerworks.com	PowerWorks Wind Turbines LLC	15850P Jess Ranch Road Tracy, CA 95377	Electronic Service	No	OFF_SL_12-1278_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_12-1278_Official
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-1278_Official
Lynn	Hinkle	lhinkle@mnseia.org	Minnesota Solar Energy Industries Association	2512 33rd Ave South #2 Minneapolis, MN 55406	Electronic Service	No	OFF_SL_12-1278_Official
Mara	Koeller	mara.n.koeller@xcelenergy.com	Xcel Energy	414 Nicollet Mall 5th Floor Minneapolis, MN 55401	Electronic Service	No	OFF_SL_12-1278_Official
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_12-1278_Official
Thomas	Melone	Thomas.Melone@AllcoUS.com	Minnesota Go Solar LLC	222 South 9th Street Suite 1600 Minneapolis, Minnesota 55120	Electronic Service	No	OFF_SL_12-1278_Official
Alan	Muller	alan@greendel.org	Energy & Environmental Consulting	1110 West Avenue Red Wing, MN 55066	Electronic Service	No	OFF_SL_12-1278_Official
SaGonna	Thompson	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_12-1278_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Jason	Willett	jason.willett@metc.state.mn.us	Metropolitan Council	390 Robert St N Saint Paul, MN 55101-1805	Electronic Service	No	OFF_SL_12-1278_Official