

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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May 6, 2016

**In the Matter of a Commission
Inquiry into Fees Charged on
Qualifying Facilities**

Docket No. E999/CI-15-755

**COMMENTS IN RESPONSE TO THE COMMISSION'S DECEMBER 23, 2015 NOTICE BY
FRESH ENERGY, ENVIRONMENTAL LAW & POLICY CENTER AND VOTE SOLAR**

Fresh Energy, Environmental Law & Policy Center and Vote Solar submit these comments in response to the Commission's March 16, 2015 Notice Seeking Comments. For the reasons described below, we request that the Commission order Connexus Energy, Goodhue County Cooperative Electric Association, Mille Lacs Energy Cooperative, Minnesota Power, Otter Tail Power, and Xcel Energy to cease assessing additional fees and charges to distributed generation ("DG") customers within 30 days of the order.

I. Background

In October 2015 the Commission opened this docket to investigate utility fees charged specifically to customers with small generating systems at their homes or businesses ("distributed generation" or "DG" customers). This inquiry docket stems from a Commission Order *In the Matter of a Request for Dispute Resolution with People's Energy Cooperative Under the Cogeneration and Small Power Production Statute*, Minn. Stat. § 216B.164, Docket No. 15-255 ("People's") where the Commission found that the People's Electric Cooperative failed to show that its monthly DG fee complied with state law. In that docket, it came to the Commission's attention that other cooperative utilities and investor-owned utilities ("IOUs") in the state were also charging DG customer fees similar to the People's fee.¹ As a result, the Commission directed staff to open the instant docket investigating DG customer fees for all Minnesota electric utilities. In response to staff's initial statewide survey, six utilities responded that they currently have monthly fees charged only to DG customers that are not charged to other customers.

The following are the monthly DG fees identified and the general rationale provided by the utilities.

¹ *In the Matter of a Request for Dispute Resolution with People's Energy Cooperative Under the Cogeneration and Small Power Production Statute*, Minn. Stat. § 216B.164, Docket No. 15-255 (hereinafter "People's Order") at 4.

- Connexus Energy; \$2.65. Connexus identifies the justification for the fee amount as “[t]he incremental cost between a standard meter and a bi-directional meter.”²
- Goodhue County Cooperative Electric Association (“Goodhue”); \$3.00. Goodhue states that “[t]he \$3.00 monthly charge recoups some of the additional metering costs including the meter itself, installation of the meter, ongoing billing and reporting requirements unique to the meter and ongoing administrative/maintenance costs.”³
- Mille Lacs Energy Cooperative (“Mille Lacs”); \$4.50. Mille Lacs states that “[t]he \$4.50 monthly charge recoups some of the metering costs including the meter itself, installation of the meter, ongoing billing and reporting requirements unique to the meter, and ongoing administrative/maintenance costs.”⁴
- Minnesota Power; \$2.55 for systems 40 kW or smaller, \$3.57 for systems 40 kW to 100 kW. Minnesota Power states that its fee includes “meter maintenance costs and customer accounting expenses unique to distributed generation customers. Meter maintenance costs include the cost of the meter, the cost to install or remove a meter, and a portion of administration and general service expense and distribution general engineering.”⁵
- Otter Tail Power (“Otter Tail”); \$3.70 for net metering customers.⁶ Otter Tail provides that its additional customer charge is to recover “special metering” costs and “related O&M expenses (e.g. Meter, Customer Accounts & Customer Services).”⁷
- Xcel Energy (“Xcel”); \$3.15 for a single-phase meter, \$6.40 for a three-phase meter, for net metering customers.⁸ Xcel explains that “the monthly metering charge was determined based on the recovery of the cost and installation of the additional meter and the associated billing, operating, and maintenance expenses.”⁹

The six utility charges vary widely across similar meter types, are inconsistent as to what types of meters are used and why, and all purportedly include O&M and administrative costs that are not well described or supported. For example, Table 1 shows the wide variation in the utilities’ stated meter costs. The

² Connexus response to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015 at 1.

³ Goodhue response to December 23, 2015 *Information Request No. 3*, February 5, 2016.

⁴ Mille Lacs response to December 23, 2015 *Information Request No. 3*, February 5, 2016 .

⁵ Minnesota Power response to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015 at 2.

⁶ Section 12.01, Electric Rate Schedule, Small Power Producer Rider, Net Energy Billing Rate at 1. Otter Tail Power did not directly provide the amount of its additional monthly fee charged to net metered customer in either of its responses to staff inquiries.

⁷ Otter Tail Power response to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015 at 1-2.

⁸ Xcel response to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015 (hereinafter “Xcel IR”) at 2.

⁹ *Id.* at 3.

utilities also list different costs for similar work. For example, Xcel reports a \$36 cost to replace a customer's existing meter with a reprogrammed meter whereas Minnesota Power reports a \$75 cost for ostensibly the same work.¹⁰ The rationale for some other costs is not adequately explained. For example, Minnesota Power's customer accounting expense appears to duplicate expenses already covered in the standard customer charge: "The customer accounting expense is the average customer accounting cost per Residential or General Service customer."¹¹

Table 1

Company	Standard Meter (1φ)	Bi-directional Meter (1φ)	Standard Meter (3φ)	Bi-directional Meter (3φ)
Connexus	\$34	\$149	\$160	\$955
Goodhue	\$190			
Mille Lacs	\$130		\$285	
Minnesota Power	\$130 ¹²	\$709 ¹³	\$240	\$793
Otter Tail	\$20	\$161	\$118	\$266
Xcel Energy	\$93	\$93	\$354 ¹⁴	\$354

In total, the investor-owned utilities ("IOUs") collectively have slightly more than 1,650 customers net metering (Otter Tail did not answer staff's request as to the number of customers to whom it is charging additional fees) and the three cooperative utilities here collectively have 60 net metering customers.¹⁵

II. Analysis

The issue in this case is whether the various monthly metering and administrative fees charged by Minnesota utilities to their DG customers are legal under Minnesota law and, if so, whether they are reasonable and appropriate. Minnesota's Cogeneration and Small Power Production statute, Minn. Stat § 216B.164 and accompanying rules in Part 7835, govern customer-sited distributed generation and lay out the compensation frameworks for electricity distributed generation customers provide to utilities. Minn. Stat. § 216B.03 governs the Commission's review of utility rates and charges. In reviewing the applicable law, two background principles are clear. First, the statute places the burden of proof squarely

¹⁰ Minnesota Power response to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015 at 3.

¹¹ *Id.*

¹² *Id.* Minnesota Power's response also notes a cost of \$230 in response to the first question. Differences between the two are unclear, but the total cost of \$709 is closest to including the \$130 meter cost.

¹³ Includes the cost of the standard meter plus two external meter reading modules, but does not include the cost of a cellular line of \$11.50/month.

¹⁴ Response to Question 3 indicates this cost is for a Form 16S meter for loads three phase loads up to 250 kW. For larger loads, a Form 9S meter is used at an installed cost of \$557.

¹⁵ Responses by the six utilities at issue to October 13, 2015 *Notice Requesting Information from Investor-Owned, Cooperative, and Municipal Utilities*, December 11, 2015, Question 1.B.

on utilities to justify their fees and charges. And, second, the Commission should resolve any ambiguity in favor of consumers and consistent with Minnesota's other clean energy policy goals and priorities. Specifically, Minn. Stat. §216B.164 Subd.1 "requires the Commission to construe the statute in accordance with its intent to give maximum possible encouragement to cogeneration and small power production consistent with protection of ratepayers and the public."¹⁶

Similarly Minn. Stat. § 216B.03 requires every rate charged by a public utility to be "just and reasonable" and prohibits all rates that are "preferential" or "discriminatory," requiring instead that all rates be "equitable and consistent in application to a class of consumers."¹⁷ To the extent possible, the statute requires the Commission to set rates "to encourage energy conservation and renewable energy use" and to "further the goals" of Minnesota's other clean energy laws, including DG compensation and net metering law at section 216B.164.¹⁸ The statute explicitly directs that "[a]ny doubt as to reasonableness should be resolved in favor of the consumer."¹⁹

Section 216B.164 also contains a "non-discrimination" principle, which requires utilities and electric cooperatives to bill net metering customers for the net energy supplied by the utility "according to the applicable rate schedule for sales to that class of customer."²⁰ In other words, utilities may not single out DG customers for additional fees or charges that do not apply to similarly situated customers in the same customer class. The only exception is that electric cooperatives may charge an additional fee under certain limited circumstances not applicable here, but this applies only for customers installing net metering systems after July 1, 2015 and requires a demonstration that the fee is "reasonable and appropriate for that class of customer based on the most recent cost of service study."²¹

Importantly, the law clarifies that it is not "discriminatory" to require DG customers to pay the reasonable costs of interconnecting their facilities with the distribution grid.²² These "interconnection costs" are assessed and collected through the utilities' respective "section 10 tariffs" pursuant to statewide interconnection standards.²³ This standardized process ensures that any interconnection costs are

¹⁶ People's Order at 6.

¹⁷ Minn. Stat. §216B.03 Reasonable Rate. This principle should also apply to cooperative utilities charging rates that are under Commission jurisdiction, such as the DG fees in this case.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Minn. Stat. §216B.164, Subds. 3(a), (b).

²¹ Minn. Stat. §216B.164, Subd. 3(a).

²² Minn. Stat. §216B.164, Subd. 8(b) ("Nothing contained in this section shall be construed to excuse the qualifying facility from any obligation for costs of interconnection and wheeling in excess of those normally incurred by the utility for customers with similar load characteristics who are not cogenerators or small power producers....").

²³ See Minn. Stat. 216B.1611, subd. 2; *Order Establishing Interconnection Standards*, September 28, 2004, Docket No. 01-1023.

reasonable and transparent, in contrast to the widely divergent monthly metering and administrative fees charged by the utilities in this docket.

Reviewing this statutory framework as a whole, it is clear that the types of hardware and O&M costs the utilities purport to recover with these monthly fees should be assessed, if at all, through Minnesota's standardized interconnection process and not through ad hoc monthly fees. The law clearly prohibits discriminatory monthly fees that are applied to DG customers only. Even if they were legal, however, the utility responses, which overall are both inconsistent and lacking in justification, demonstrate that the utilities have failed to satisfy their burden of proving that they are reasonable or justified in this case. For the reasons described in more detail below, the Commission should order the six utilities that have responded in this docket to cease charging DG fees within 30 days of the Commission's order.

A. Minnesota Law Prohibits Utilities From Imposing Additional Fees On Customers With A Distributed Generation System Interconnected With A Cooperative Or Municipal Utility Before July 1, 2015, Or At Any Time With A Public Utility.

Any fee charged to a self-generating customer that is more than the fees charged to a non-DG customer and outside of an interconnection agreement is not permitted under Minnesota's Cogeneration and Small Power Production statute and rules. Fees that single-out DG customers are not permitted because the plain language of the statute and rules does not authorize such charges and because allowing extra fees and charges to customers interconnecting under the statute would undermine the statute's intent – transparently setting the compensation for customers self-generating with small systems.

The Statute's and Rules' Non-Discrimination Principle

A foundational principle of customer-generation compensation, including net metering, is that DG customers are billed for electricity use at the identical rate schedule as non-DG customers so that rates are "non-discriminatory" between DG and non-DG customers. This "non-discrimination" principle, at its most basic, holds that customers should not be subject to unique monthly rate charges solely by virtue of their status as self-generators. To the extent there are legitimate hardware or on-going interconnection-related costs, standard practice is that those costs are justified and recovered through the interconnection process and agreement between the DG customer and utility.

The purpose of customer-generation compensation policies – like net metering and PURPA – is to clearly establish the rates and compensation for customers who self-generate, and the non-discrimination principle is foundational because it establishes a level-playing field upon which to base the compensation rates set through these policies. If additional fees on top of regular customer charges and rates are allowed, then these fees reduce a DG customer's overall value, thereby eroding the purpose and effect of

specific DG compensation policies. For this reason, the non-discrimination principle is an accepted and standard feature of net metering policies nationwide.²⁴

For example, the New Mexico Public Regulation Commission recently rejected a utility proposal to impose extra charges for DG customers on the grounds that the utility proposal violated the state's net metering law, and specifically, the non-discrimination principle. "[T]he Commission has interpreted its rule to require that customers with net metered qualifying facilities should pay the same rates and minimum charges as they would pay had they not interconnected qualifying facilities."²⁵ The New Mexico Commission explained one of the main purposes of the non-discrimination principle in its net metering law is that it "improves the predictability of the economic value of such generation for customers considering installation of a qualifying facility because the rule allows such customers to estimate the costs and benefits based upon rates already applicable to such customers."²⁶

In addition to state net metering laws, the non-discrimination principle is also a federal requirement. Federal rules implementing PURPA, state that "[r]ates for sales: . . . (ii) shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility."²⁷

Minnesota's statutes and rules reflect the non-discrimination principle throughout. The Co-Generation & Small Power Production statute evinces the non-discrimination principle's prohibition on DG-specific additional charges in four provisions: Subd. 3(c), Subd. 3(a), Subd. 3(b) and Subd. 8(b), and is codified in Minn. Rule Part 7835.3000.

The principle is most directly articulated in Subd. 3 (c), which states that in setting the compensation rates for the energy DG customers deliver to the grid – or "purchase" rates – the Commission must

²⁴ See e.g., Illinois' net metering statute 220 ILCS 5/16-107.5(e) ("An electricity provider shall provide to net metering customers electric service at non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates that the customer would be charged if not a net metering customer."); New Mexico's net metering rule, 17.9.570.14(C) ("Net metering calculation. The utility shall calculate each customer's bill for the billing period using net metering and with the following conditions: (1) Customers shall be billed for service in accordance with the rate structure and monthly charges that the customer would be assigned if the customer had not interconnected a qualifying facility."). See also the Interstate Renewable Energy Council's model net metering rules, Section (b)(13) available at <http://www.irecusa.org/irec-model-net-metering-rules-2009/> ("An Electricity Provider shall not charge a Customer-generator any fee or charge; or require additional equipment, insurance or any other requirement not specifically authorized under this sub-section or the interconnection rules in Section [[reference state interconnection rules here]], unless the fee, charge or other requirement would apply to other similarly situated customers who are not Customer-generators.").

²⁵ *Order Granting Interlocutory Appeals*, October 28, 2015, Case No. 15-00127-UT, at 7.

²⁶ *Id.*

²⁷ 18 C.F.R. § 292.305.

consider the fixed costs embedded in the energy charge, *and* that it must also “ensure that the costs charged to the QF are not discriminatory in relation to the costs charged to other customers of the utility.”

(c) In setting rates, the commission shall consider the fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge and shall ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility. The commission shall set the rates for net input into the utility system based on avoided costs as defined in the Code of Federal Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of Federal Regulations, title 18, section 292.304, and all other relevant factors.²⁸

In its 1983 initial Order establishing Rules for net metering and co-generation compensation, the Commission explicitly discussed additional DG fixed charges and found that Subd. 3(c) prohibits additional fees charged only to DG customers. It stated that:

The Commission believes that if this were its only requirement it would be reasonable in many cases to assess qualifying facilities an additional fixed charge to recover fixed distribution costs which other customers pay through consumption of energy at elevated energy rates. However, the Commission must also “ensure that the costs charged to the qualifying facility are not also discriminatory in relating [sic] to the costs charged to other customers of the utility.” If a nongenerating customer reduces his consumption to zero, he must pay only the monthly fixed charges. Consequently the Commission believes it would be discriminatory to require a qualifying facilities [sic] to pay more than the standard monthly fixed charge.²⁹

The Commission’s decision in that Order is particularly useful, as staff noted in its *Briefing Papers* for the People’s docket, “[t]he language of this subdivision has not changed (other than renumbering [and the 2015 amendment]) since the statute was enacted and the rules were adopted 32 years ago, nor to staff’s knowledge has the Commission’s interpretation or determination ever been challenged.”³⁰

²⁸ Emphasis added.

²⁹ *Order Adopting Rules*, March 7, 1983, Docket No. E-999/R-80-560 at 54 (emphasis added).

³⁰ *Staff Briefing Papers for August 13, 2015*, Docket No. E-132/CG-15-255 at 15.

In addition to Subd. 3(c), the non-discrimination principle is also evident when reading Subd. 3(a) and (b) with Subd. 8(b). Together, these provisions govern what the utility may charge a DG customer through (i) the energy charge and (ii) the fixed charge, and establish that both must be non-discriminatory.

Subd. 3. Purchases; small facilities. (a) This paragraph applies to cooperative electric associations and municipal utilities. For a qualifying facility having less than 40-kilowatt capacity, the customer shall be billed for the net energy supplied by the utility according to the applicable rate schedule for sales to that class of customer.³¹

Subd. 3(b) has identical language, but applies to public utilities.

Subd. 8. Interconnection required; obligation for costs. (b) Nothing contained in this section shall be construed to excuse the qualifying facility from any obligation for costs of interconnection and wheeling in excess of those normally incurred by the utility for customers with similar load characteristics who are not cogenerators or small power producers, or from any fixed charges normally assessed such nongenerating customers.³²

Therefore, for the energy charge, Subd. 3(a) and (b) require that DG customers are billed for net energy “according to the applicable rate schedule for sales to that class of customer.” In turn, for the fixed customer charge, Subd. 8(b) states that DG customers must still pay the monthly fixed charge, but that the charge must be limited to that “normally assessed such nongenerating customers.” In other words, a utility must charge DG customers the same energy rate and fixed charge as customers in the same rate class that do not have distributed generation.

Minnesota Rule Part 7835.3000, *Rates for Utility Sales to a Qualifying Facility to be Governed by Tariff*, combines these provisions in a straightforward manner. “Except as otherwise provided in part 7835.3100, rates for sales to a qualifying facility must be governed by the applicable tariff for the class of electric utility customers to which the qualifying facility belongs or would belong were it not a qualifying facility.”³³

Moreover, Minn. R. Parts 7835.4013 and 7835.3300 reaffirm this structure specifically for IOU and cooperative utility net metering customers, respectively. Both rules states that net metering customers

³¹ Emphasis added.

³² Emphasis added.

³³ Minn. R. 7835.3100 pertains to co-generation arrangements not at issue here, namely supplementary, maintenance, backup or interruptible power.

are to be billed “according to the utility’s applicable retail rate schedule.”³⁴ These provisions further demonstrate the statute’s intent to establish a compensation scheme where DG and net metering customers are charged and credited for their net consumption at the same rates as non-generating customers. Additional charges are directly contrary to this statutory intent and would allow utilities to circumvent the statute’s intent – setting the compensation for customers self-generating with small systems.

Finally, the addition to Subd. 3(a) enacted in 2015 is strong evidence that prior to this amendment, §216B.164 did not allow DG customer-specific charges. This amendment, which is directly on the subject of additional DG customer charges and which sets parameters for when such a charge may be instituted by electric cooperatives and municipal utilities, would be superfluous if such charges were already allowed in §216B.164.

Subdivision 3(c) Does Not Allow for Additional Fees

In the People’s docket preceding the instant docket, some parties argued that additional DG fees were authorized under Minn. Stat. §216B.164 Subd. 3(c). They based this argument on Subd. 3(c)’s provision discussing Commission consideration of “fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge” that immediately precedes the statute’s prohibition on discriminatory DG fees. The Commission rejected this argument because it found that Subd. 3(c) does not apply to net metered customers electing compensation under Subd. 3(d) and therefore cannot authorize fees applied to those net metered customers.³⁵ The Commission’s reasoning also applies to net metering fees at issue here as well as any DG fees applied to customers electing compensation under Subd. 3(c) or any other provisions in the statute. The full language of the provision provides useful context:

(c) In setting rates, the commission shall consider the fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge and shall ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility. The commission shall set the rates for net input into the utility system based on avoided costs as defined in the Code of Federal Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of Federal Regulations, title 18, section 292.304, and all other relevant factors.³⁶

³⁴ Minn. R. 7835.4013, subp. 1 (applies to investor-owned utilities); Minn. R. 7835.3300, subp. 2.(applies to cooperative utilities).

³⁵ People’s Order at 6.

³⁶ Emphasis added.

When read as a whole, subdivision 3(c)'s language regarding Commission consideration of fixed distribution costs does not permit additional fees to DG customers. Rather, it pertains to the Commission's decision setting the compensation or "purchase" rate when the Commission establishes Rules under the statute. It does so by requiring the Commission to consider fixed distribution costs when setting the compensation rate for customers electing Subd. 3(c). This interpretation – that this language is limited to the Commission's setting "purchase rates" for utility purchases from the customer – is consistent with the statute, as Subd. 3 is titled "*Purchases; small facilities.*"

Moreover, the 1983 Order's description of the Commission's rulemaking at that time confirms such an interpretation. There, the Commission stated that "[i]n the case of net input into the utility system by the qualifying facility, compensation to the customer shall be at a per kilowatt-hour rate set by the Commission" and that when establishing this customer compensation rate, "[i]t is clear that the Commission must set the rates, that the rates must have a basis in avoided costs, and that the Commission must consider the utility's fixed distribution costs both with respect to the monthly fixed charge and with respect to the utility's other customers."³⁷ The Commission's analysis demonstrates that the language regarding distribution fixed costs governs specific compensation rates set by the Commission through rule, and therefore, does not authorize utilities to collect additional fees from DG customers.

Interconnection Costs

While Minn. Statute §216B.164 and standard net metering policy prohibit additional energy and fixed charges that apply only to DG customers, both provide that reasonable interconnection costs are the customer's responsibility. Subd. 8(b) provides that "nothing contained in this section shall be construed to excuse the qualifying facility from any obligation for costs of interconnection."³⁸ The categorical difference between the prohibited discriminatory charges and permissible interconnection costs is that the latter are identified as legitimate through the interconnection process, established at the time of interconnection and included in the interconnection agreement rather than in a generic monthly charge in the DG rate tariff.

In short, the only permissible additional DG customer-specific charges are interconnection-related costs that are: (1) consistent with Minnesota's interconnection standards, (2) not already covered in the standard customer charge, (3) transparently outlined in the utility's interconnection tariff, (4) compiled

³⁷ *Order Adopting Rules*, March 7, 1983, Docket No. E-999/R-80-560, at 54.

³⁸ Subd. 8(b) also includes costs for "wheeling in excess of those normally incurred by the utility for customers with similar load characteristics who are not cogenerators or small power producers" as allowable costs. Wheeling costs have not been at issue in this or previous dockets and no utilities included wheeling costs as part of any existing DG charges.

and cost-justified at the time of interconnection, and (5) documented in the Interconnection Agreement. As described below, none of the DG fees at issue in this docket meet these requirements and therefore are prohibited by Minnesota law.

Each of the charges at issue in this docket is identified by the utility as primarily or entirely intended to cover meter and meter-related administrative costs, and therefore are not typically classified as interconnection costs for the vast majority of net metering customers. Metering requirements are set out in the state's Interconnection Standards. The standards require only a single bi-directional meter for systems under 40 kW.³⁹ This requirement for a single meter should not require additional costs for the customer as their metering costs for a single meter are covered under the existing customer charge.⁴⁰ Production meters are not currently required unless a customer is enrolled in a utility incentive program that requires REC transfer to the utility. To the extent a utility decides to require an additional meter or a more advanced meter, net metered customers should not be singled-out to pay for the additional meter costs not required under current standards. For some larger systems a different meter or additional equipment is required.⁴¹ In these circumstances the additional meter or metering equipment should be handled through the interconnection process and interconnection agreement. Doing so provides customers with cost transparency at the outset and prevents monthly charges that are purported to collect infrastructure costs, such as meters, but that continue after the infrastructure is fully depreciated.

Metering-related administrative costs or other non-interconnection administrative costs purportedly related to net metering systems are also not properly considered interconnection costs. Any administrative interconnection cost is already covered in the interconnection standards. To the extent there are justified and legitimate administrative costs related to metering for net metered customers, which the utilities in this docket have not demonstrated, those costs would be *de minimis*. Such *de minimis* costs cannot be recovered through an additional fee in the co-generation and small power production tariffs as described above. Various subsets of customers in a general rate class have different administrative costs that are not broken out individually. Indeed, customers who make frequent calls to the call center, customers with different energy efficiency technologies or customers who change with unusual or changing load characteristics do not have special charges.

³⁹ *Order Establishing Interconnection Standards*, September 28, 2004, Docket No. 01-1023, Attachment 2 Requirements, Table 5A at 14.

⁴⁰ *Statement of Need and Reasonableness*, December 29, 2014, Docket No. 13-729 at 19. Notably, Minn. R. 7835.2700 Metering, which states that "the qualifying facility must pay for the requisite metering as an interconnection" was repealed as part of the latest rule update ("[t]he draft therefore also repeals the following rules that include interconnection standards and [sic] that were codified prior to the Commission's order establishing interconnection standards: 7835.2300; 7835.2500; 7835.2700; 7835.2900 and parts 7835.4800 through .5800.").

⁴¹ *Id.*

In the event that the amount of net metering customers grow to a point where administrative costs could become more than *de minimis*, state law already provides an option to limit additional net metering customers. Minn. Stat. § 216B.164, Subd. 4b allows a utility to file a request to limit net metering when cumulative net metering generation “has reached four percent of the public utility's annual retail electricity sales.” In considering such a request, the statute provides that the Commission specifically consider *inter alia* “the impact of net metered facilities on electricity rates for customers without net metered systems.”⁴²

Therefore, the statute provides a consistent framework that does not include the utility charges in this docket: it prohibits additional unique charges to DG customers, provides standards for interconnection costs to be determined and paid for in the interconnection process and allows for an “off-ramp” for net metering penetrations that could create significant costs upon a requisite utility demonstration of such costs.

B. The Reported Utility Meter And O&M Costs Vary Widely and Are Not Reasonably Justified or Supported.

Even assuming, for the sake of argument, that it is permissible for utilities to assess DG-specific fees and charges under Minnesota law (which it is not), the Commission should still reject the specific fees at issue in this docket because the utilities have not met their burden demonstrating the charges are justified and reasonable.

Meter Costs Vary Significantly Across Utilities

There is wide variation in the costs for both meters and O&M among the utilities that is not adequately explained and raises questions about the actual basis for the fees.

The cost of the meters and the associated carrying charges vary widely among the utilities and are summarized in Table 1. Even the costs of similar standard meters vary considerably between utilities. For example, the cost of a single direction standard meter is \$20 for Otter Tail while, Connexus’ \$34 meter costs 70% more.⁴³ The per-meter costs then jump to \$93 for Xcel and \$130 for Minnesota Power. Mille Lac’s meter cost is also \$130⁴⁴ and Goodhue’s meter cost is \$190.⁴⁵ In addition, Goodhue requires

⁴² *Id.*

⁴³ Otter Tail *Response to PUC Information Requests 1-5*, February 5, 2016 (hereinafter “Otter Tail IR”) at 4, question 3; Connexus *Response to PUC Information Requests 1-5*, February 5, 2016 (hereinafter “Connexus IR”) at 2, Question 3.

⁴⁴ Mille Lacs *Response to PUC Information Requests 1-5*, February 9, 2016 (hereinafter “Mille Lacs IR”) at 1 (“MLEC require[s] a second standard 2S meter for all single phase installations for all dual meter set ups” and “[t]he average cost for the 2S meters is \$130.”).

a second meter for all installations that apparently adds no additional functionality other than measuring electricity outflows. These discrepancies raise questions that are not answered in the utility responses: Why do Goodhue's bi-directional meters cost 46 percent more than Mille Lac's and nearly 10 times that of Otter Tail's? Why do the IOU meter costs differ significantly?

There also appears to be similar variation among utilities for bi-directional meters and three phase meters, as laid out in Table 1. Single phase bi-directional meters go from \$93 (Xcel) to \$709 (Minnesota Power). Similarly, standard three phase meters range from \$118 (Otter Tail) to \$354 (Xcel) and three phase bi-directional meters vary from \$266 (Otter Tail) to \$955 (Connexus).

Table 1

Company	Standard Meter (1 ϕ)	Bi-directional Meter (1 ϕ)	Standard Meter (3 ϕ)	Bi-directional Meter (3 ϕ)
Connexus	\$34	\$149	\$160	\$955
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Otter Tail	\$20	\$161	\$118	\$266
Xcel Energy	\$93	\$93	\$354 ⁴⁸	\$354

In addition, the utilities' explanations of the treatment and recovery of O&M and other administrative expenses that they claim are covered by the DG fees at issue also vary, lack detail and are inconsistent with the fee amounts being charged:

- Connexus: "Connexus does not separately track operations and maintenance (O&M) costs for bi-directional meters. However, the maintenance cost for a bi-directional meter is equivalent to a standard meter." "In most years, Meter O&M costs average \$4-5/meter/year."⁴⁹
- Goodhue: "The \$3.00 monthly charge recoups some of the additional metering costs

⁴⁵ Goodhue Response to PUC Information Requests 1-5, February 5, 2016 (hereinafter "Goodhue IR") at 1 ("GCCEA required a second meter for all installations for dual meter set ups. The average cost for the installed meter is \$190" and adds no additional functionality other than measuring electricity outflows.).

⁴⁶ Minnesota Power Response to PUC Information Requests 1-5, February 5, 2016 (hereinafter "Minnesota Power IR") Question 3. Its filing also notes a cost of \$230 in response to the first question. Differences between the two are unclear, but the total cost of \$709 is closest to including the \$130 meter cost.

⁴⁷ *Id.* Includes the cost of the standard meter plus two external meter reading modules, but does not include the cost of a cellular line of \$11.50/month.

⁴⁸ Xcel Response to PUC Information Requests 1-5, February 5, 2016 (hereinafter "Xcel IR") response to Question 3 indicates this cost is for a Form 16S meter for loads three phase loads up to 250 kW. For larger loads, a Form 9S meter is used at an installed cost of \$557.

⁴⁹ Connexus IR at 2, Question 3.

including the meter itself, installation of the meter, ongoing billing and reporting requirements unique to the meter and ongoing administrative/maintenance costs.”⁵⁰

- Mille Lacs: “The \$4.50 monthly charge recoups some of the metering costs including the meter itself, installation of the meter, ongoing billing and reporting requirements unique to the meter, and ongoing administrative/maintenance costs.”⁵¹
- Minnesota Power: “The monthly fee of \$2.55 charged to DG customers is intended to capture additional hardware, programming, installation, operations and maintenance, and administrative costs. These current costs are based upon Minnesota Power’s use of the Automated Meter Reading (“AMR”) system.”⁵²
- Otter Tail: The O&M and administrative costs differ depending on whether a customer has DG as follows⁵³:

	Single Phase	Three Phase
O&M w/ DG	\$25	\$48
O&M w/out DG	\$9	\$35
Admin w/ DG	\$106	\$146
Admin w/out DG	\$86	\$105

- Xcel: Xcel’s fees include a 13.88 percent carrying charge and purportedly associated Customer Accounting and Assistance expenses.⁵⁴

Types of Meters

While the utilities refer to the fees as “meter” fees, the purpose of the meters upon which these fees are based is not uniform across the utilities. For the cooperatives and Minnesota Power, the fees are based upon a dual meter arrangement for measuring in-flows and out-flows of electricity at a DG customer’s site. However, Otter Tail and Xcel each require both a bi-directional meter and a production meter. Xcel claims REC reporting as the primary reason necessitating production metering, while Otter Tail provides no rationale. Xcel requires the use of meters with “interval data recording capability,” noting such meters will “accommodate more complicated billing rates.”⁵⁵ Other utilities do not require this capability for net metering customers.

⁵⁰ Goodhue IR at 1, Question 3.

⁵¹ Mille Lacs IR, Question 3.

⁵² Minnesota Power IR at 1.

⁵³ Otter Tail IR at 2, Question 3.

⁵⁴ Xcel IR at Attachment A.

⁵⁵ Xcel IR at 19, Question 2.

The widely varying utility requirements and rationales for DG metering highlight why it is not appropriate to collect these costs through ad hoc monthly fees. In many cases, it is likely that net metering customers can be accommodated using the customer's existing meters, as they are in many other states. However, there may be situations in which more advanced metering is desired by the customer or the utility.⁵⁶ In those cases, the metering costs should be addressed through the interconnection process where they can be disclosed and reviewed to determine whether they are reasonable and appropriate. The utilities' current practice of assessing a monthly fee is not transparent and likely results in the over-collection of costs because the utilities apparently intend for the fees to continue indefinitely for DG customers, even after the infrastructure is fully depreciated.

In sum, the utilities' widely divergent requirements and explanations for their DG fees in this docket raise more questions than they answer.⁵⁷ Even if the utilities were allowed to single out DG customers for additional fees, the record in this case would not satisfy the utilities' burden of demonstrating that the charges actually assessed are reasonable and prudent. To the extent there is any doubt as to reasonableness, Minnesota law requires the Commission to "resolve[] [it] in favor of the consumer."⁵⁸ Finally, as noted above, the law requires the Commission to construe the statute in accordance with Minnesota's other clean energy goals and laws.⁵⁹ In light of all of these factors, the Commission should determine that the utilities have not met their burden of proof to support their DG fees and charges.

III. Recommendations

Fresh Energy, Environmental Law & Policy Center and Vote Solar recommend that the Commission:

1. Order that public utilities are not permitted to charge monthly fees in their DG rate tariffs that are unique to DG customers under Minn. Stat. §216B.164.
2. Order that the monthly fees charged by Connexus, Goodhue and Mille Lacs to customers with DG installed before July 1, 2015 are not permitted under Minn. Stat. §216B.164.
3. Order that the public utilities make a compliance filing within 30 days of the Order that removes all monthly DG fees and charges from all applicable DG tariffs.

⁵⁶ For example, utilities may desire to collect additional information that more advanced meters can provide. If utilities would like this information, and the host customer agrees, then the utility should be allowed to install such meters at its own expense. Similarly, it may be reasonable for customers who are receiving utility incentives which require REC tracking to request the installation of a production meter. In those cases, the customer would be expected to pay the reasonable costs of the meter, as determined through the interconnection process.

⁵⁷ Fresh Energy, Environmental Law & Policy Center and Vote Solar reserve our ability to update our comments based on responses to Information Requests filed by the Energy Freedom Coalition of America that were not timely responded to by the utilities in this docket.

⁵⁸ Minn. Stat. § 216B.03.

⁵⁹ Minn. Stat. § 216B.164 Subd.1; Minn. Stat. § 216B.03.

4. Order that the cooperative utilities make a compliance filing with the Commission within 30 days of the Order demonstrating that they are no longer charging unique monthly fees to DG customers interconnected before July 1, 2015.

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