

Staff Briefing Papers

Meeting Date	January 4, 2018	Agenda Item # *4
Company	Minnesota Power	
Docket No.	E-015/M-15-825	
	In the Matter of a Petition by Minnesota Power for Approval of a Community Solar Garden Program.	
Issues	Has the Company met the Requirements of Order Points 8, and 10, from the Commission's July 27, 2016 Order, with its October 3, 2016 Compliance Filing?	
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Relevant Documents

Date

Minnesota Power's (MP) Petition for Approval of CSG Pilot Program	September 15, 2015
PUC Order Approving Pilot Program with Modification	July 27, 2016
MP's Compliance Filing Meeting Order Point 8 and 10	October 3, 2016
Department of Commerce (The Department or DOC) Comments	November 14, 2016
Fresh Energy Comments	November 14, 2016
Fresh Energy Redline Draft RFP	November 14, 2016
Northland Community Solar Coalition (NCSC) Comments on Stakeholder Process	November 14, 2016
NCSC Comments on Draft RFP	November 14, 2016
MP Reply Comments	November 28, 2016
NCSC Reply Comments	November 28, 2016
NCSC Recommendations	November 28, 2016
Fresh Energy Reply Comments	November 28, 2016

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I. Statement of the Issues

- A. Has the Company met the Requirements of Order Point 8 from the Commission's July 27, 2016 Order?**
- B. Has the Company met the Requirements of Order Point 10 from the Commission's July 27, 2016 Order?**
- C. Should the Commission take any other action in regard to Order Point 8 or Order Point 10**

II. Background

On September 10, 2015, Minnesota Power (MP or the Company) filed a Petition with the Minnesota Public Utilities Commission (Commission) seeking approval of a Community Solar Garden (CSG) pilot program and associated cost recovery pursuant to Minn. Stat. § 216B.1645.

On July 27, 2016, the Commission issued an Order in this Docket approving the Company's proposed CSG pilot program, as modified. The Order required additional compliance requirements, including submittal of a draft Request for Proposal (RFP) to the Commission for three non-utility CSGs, each up to one megawatt (MW) in size, and a discussion with stakeholders about how pricing information on public facing programs can be made public in the future. These two items represent Order Points 8 and 10, respectfully.

III. Order Point 8 – Request for Proposal

Order point 8 of the Commission's July 27 Order required MP, in consultation with interested stakeholders, to draft an RFP for three non-utility community solar gardens, each up to 1 MW, and file the draft RFP with the Commission by October 1, 2016.¹

The Commission Order states that CSGs represent an opportunity to explore new frameworks for providing customers with affordable, renewable, and distributed electric generation and that failing to take advantage of that opportunity would be inconsistent with the public interest.²

To balance the interest in opening the program to new ownership and development models with the interest in a controlled roll-out of this pilot program, the Commission required MP to draft (in consultation with interested stakeholders) a RFP for three non-utility community solar gardens, each up to 1 MW, and file the draft RFP with the Commission. The Order states that a draft RFP would allow the Commission an opportunity to review the proposal and move toward

¹Order Approving Pilot Program With Modifications, July 27, 2016, Ordering Paragraph 8, p. 12.

²*Id.*, p. 10.

opening MP's CSG program offerings in a deliberate manner and consistent with customer demand.³

A. MP's Compliance Filing and its Competitive Bidding Process

To comply with Order Point 8 of the Commission's July 27, 2016 Order, MP stated it retained an independent facilitator to host multiple stakeholder meetings in each region of its service territory: North (Virginia, Minn.), Central (Baxter, Minn.) and East (Duluth, Minn.). MP stated further that it convened a 5-member selection committee to choose the independent facilitator and this committee chose Greenfield Communications (Greenfield) as the independent facilitator for the stakeholder engagement process.⁴

According to MP, Greenfield was tasked with gathering ideas and suggestions from stakeholders for the draft RFP for three non-utility CSGs. Specifically, MP stated that Greenfield was directed to convene and manage a series of open forum public meetings across MP's service territory during the month of September 2016 with the intention of gathering input for a draft RFP.⁵

MP stated further that more than 320 individuals were invited by Greenfield to the stakeholder meetings held in Duluth, Virginia, and Baxter, MN on September 20-22 and MP posted a schedule of meetings on its website and noted the meetings were open to any interested stakeholders. Ultimately, MP noted that 49 stakeholders attended the meetings in person and customers were also invited to submit input electronically to Greenfield up until 5:00 PM. on September 27.⁶

According to MP, meeting attendees expressed a desire to have an RFP that allowed for flexibility and innovation in proposals and that was not overly prescriptive. According to MP, some key components identified for inclusion in the draft RFP and affirmed through the stakeholder process include: scope of services, clearly identifying roles between the Company and CSG operators, location and siting requirements, technical installation information, economic development plan, program details, subscriber information and project financial information.⁷

MP filed a draft RFP for non-utility CSGs and attached it to its October 2016 Compliance filing.⁸ MP asserted that the draft RFP was designed to encourage innovative projects and many components were drafted as open-ended questions. Some of these attributes considered in the evaluation process for an RFP could include: CSG Program and CSG Project completeness;

³ *Id.*

⁴ Minnesota Powers' Compliance Filing Meeting the Requirements of Order Points 8 and 10 of the Commission's July 27, 2017 Order, October 1, 2016, p. 2.

⁵ *Id.*, p. 3.

⁶ *Id.*

⁷ *Id.*, p. 4.

⁸ *Id.*, Exhibit B.

bidder's past experience, management and financial strength; proposal economics; community benefits; innovation, and others.⁹

According to MP, insights gained from the Pilot program on costs to administer the program, billing procedures, customer preferences will be useful for the RFP review process. MP noted further that it will report on the status of the program annually in its Solar Energy Standard Progress Report, filed each June and unknown implementation details may be provided through the Company's experience with the Pilot Program in 2017 that will also prove helpful in evaluating future CSG RFPs.¹⁰

B. NCSC

The Northland Community Solar Coalition (NCSC) provided two sets of Comments: One on the stakeholder process and the other on the draft RFP. According to NCSC, the RFP should ensure a transparent, fair and flexible pathway to solar garden participation for nonutility CSGs. In addition, NCSC stated that the RFP should allow for market innovation and address issues such as energy poverty among low-income populations and bringing energy jobs and dollars directly into surrounding communities.¹¹

1. Stakeholder Process

NCSC stated it had attended all five stakeholder meetings and it had numerous concerns with aspects of the facilitation process, including issues with timeliness, inclusiveness, and transparency. NCSC stated that the timeframe for the stakeholder process was short and did not give adequate time for robust participation. In addition, NCSC asserted that the facilitator did not allow for remote participation in stakeholder meetings and did not make public announcements for the stakeholder meetings. Finally, NCSC claimed that the minutes from the meetings did not accurately reflect the discussions and that MP was presented as "just another stakeholder" in this process.¹²

NCSC offered the following recommendations to improve future stakeholder processes:¹³

- **Provide notice of meetings at least two weeks in advance;**
- **Provide at least one week of response time to Company or facilitator for drafts or meeting notes;**
- **Allow the possibility of remote participation or advance submission of concerns and recommendations;**
- **Provide opportunity for public participation with appropriate public announcement;**
- **Record actual comments by participants rather than generalize them;**

⁹ *Id.*

¹⁰ *Id.*, pp. 4-5.

¹¹ NCSC Comments on Draft RFP, November 14, 2016, pp. 4-5.

¹² NCSC Comments on Stakeholder Process, November 14, 2016, pp. 1-2.

¹³ *Id.*, p. 3.

- **Identify comments specifically made by the Company, given the power imbalance between the Company and other participants in determining the end-product; and**
- **Identify the Company as the primary stakeholder and its relationship to the facilitator as employer.**

2. Non-Utility Draft RFP

NCSC addressed six areas of disagreement on the Draft RFP for non-utility CSGs.

a) Energy Compensation

NCSC suggested that MP use a Value of Solar (VOS) tariff as compensation for non-utility CSG's, instead of a bill credit. NCSC argued that using the same bill credit for non-utility CSGs as MP uses for its CSG pilot program is unreasonable because it creates uncertainty for developer and subscriber, it creates a strong disincentive for energy, and it does not factor in the demand contribution of the solar resources.¹⁴

According to NCSC, compensating subscribers to Non-utility CSGs using a VOS would alleviate the uncertainty of a variable solar compensation structure, continue to incentivize efficiency and conservation, and fully recognize the cost benefit structure of solar to the grid. If the Commission does not choose the VOS as the compensation structure for non-utility CSG, NCSC recommended using a net metering value of electricity for CSG compensation.¹⁵

b) S-RECs

NCSC asserted that SRECs should belong to developer, organization, or subscriber-owners, depending on the CSG structure, and not to MP. In addition, NCSC stated that unsubscribed energy and capacity should be directed by the developer, organization, or owners, as part of the CSG proposal, and should not automatically revert to the utility.¹⁶

c) Interconnection

NCSC stated that the RFP should provide a clause that allows 3rd party review of potential interconnection disagreements. Further, NCSC recommended that a streamlined process of CSG interconnection similar to rooftop interconnection should be incentivized when a CSG is placed behind a consumption load of equal or greater value to the production of the proposed CSG and is smaller than 250 kW. According to NCSC, this would recognize the decreased risk of this type of CSG to grid operation and acknowledge the increased distributed energy resource value of rooftop deployment for CSG. Further, NCSC stated that MP should provide a range of time to interconnect in a schedule of steps and NCSC recommended that the Company should share details of interconnection costs with the community organization as well as the developer.¹⁷

¹⁴ NCSC Comments on Draft RFP, November 14, 2016, p. 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, p. 3.

d) Company Administrative Duties

NCSC stated that MP should administer virtual net metering of bill credits with uniform methodology and technology for transferring meter data from CSG to utility to subscribers. Additionally, NCSC stated that MP's market resources create an uncompetitive advantage over non-utility CSG in terms of the ability to use public money for utility-specific CSG marketing. NCSC recommended that MP should provide a baseline of public information sharing about all non-utility CSG projects that win CSG bids.¹⁸

e) Evaluation Criteria

NCSC recommended the MP use several evaluation criteria for a project bidding process, including that the bidding should:¹⁹

- Not include MP's rights to eliminate any and all proposals in the evaluation process;
- Establish clear definitions of bid evaluation metrics, including the definitions of site attractiveness, site control, implementation plans, subscription interest, and so forth;
- Include a price of energy compensation and SREC's known ahead of time and not part of an evaluation process; and
- Only include the cost of CSG proposals as one of many factors that determine the worthiness of a project.

f) Reservation of Rights

NCSC stated it opposed the large reservation of rights in the draft RFP, which includes:²⁰

- Right to modify or reject proposals as it wishes;
- Right to not purchase power, capacity, and SRECs from a CSG project;
- Right to require additional information beyond what is specifically included in the RFP;
- Right to waive bidder noncompliance;
- Right to terminate negotiations; and
- Right to modify or supplement the RFP process at any time

NCSC asserted that a reservation of rights this sweeping does not create confidence in a pilot process that is clear, fair, and transparent throughout. As a consequence, NCSC recommended a reduction of the reservation of rights of the Company to protect integrity of the RFP process within the pilot.²¹

¹⁸ *Id.*

¹⁹ *Id.*, pp. 3-4.

²⁰ *Id.*

²¹ *Id.*

3. Recommendations:

NCSC did not provide a list of recommended language changes to the draft RFP but did give a list of suggested characteristics that an RFP for non-utility CSGs should support, which included the following:²²

- The RFP should allow the right to own solar vs. only a leasing arrangement;
- The RFP should allow for a variety of developer financing options and no options should be unduly restricted;
- The RFP should prioritize CSG projects that provide opportunities for direct low income participation;
- The RFP should include a consistent pricing structure that could create cost certainty for a solar developer/owners and provide a known financial return;
- The RFP should prioritize CSG projects that are geographically close to subscribers to take full advantage of the benefits that distributed generation (DG) provides to the grid;
- The RFP should prioritize locations that are not degrading to natural systems, i.e. avoiding wetlands or sensitive habitat;
- RFP should consider giving developers the option to allow individuals to purchase subscriptions at lower amount (200w) for nonutility CSG proposals;
- Evaluation criteria and a copy of a developer agreement should be included in the RFP; and
- Install costs should not be a predominant factor in project evaluation.
- Owner/developer should assume ownership of their SRECs of nonutility community solar arrays;
- Owner/developers should be able to transfer SREC ownership to the utility in exchange for fair compensation;
- Unsubscribed SREC ownership should reside with the owner/developer.
- The CSG subscription should move with subscribers within the service area and should be available for sale if a person leaves the service area;
- Subscribers should be allowed to back out without penalty for a certain period of time;
- Developers should be able to choose their own sites (on a roof or on a site without a meter)
- There should not be subscriber participation restrictions within the service territory (all Minnesota Power customers should be able to subscribe to any project within Minnesota power service territory);
- Interconnection costs, based on size and distance, should be transparent and equally known to all CSG developers to ensure a fair pilot study;
- Shared community arrays that are connected behind a meter or to a load that is equal or greater than solar production should have a simplified interconnection process with streamlined study requirements to interconnect that must not be more restrictive than code;
- MP should determine geographic locales for the CSG pilot that would have low interconnection costs and provide value to the grid;

²² NCSC Recommendations, November 28, 2016.

- A transparent metric to determine engineering and grid upgrade costs should be made available by MP;
- Owner/Developer should be able to request interconnection costs at a given site and Minnesota Power should respond with an estimate of cost within 15 days;
- Commercial subscriptions should be capped at 50% participation;
- Individual accounts should be uncapped (except for existing cap of 120% of a customer's average consumption at the time of subscription);
- Developers should be able to choose to stay with the current pilot 1 kW participation size if they thought that would give them a cost advantage;

C. Fresh Energy

Fresh Energy stated in its Comments that to be successful in realizing successful bids, the RFP must be clear that the proposals for non-utility CSG's will be projects participating in MP's CSG program. However, Fresh Energy claimed that the Draft RFP is unclear on this point and does not explicitly lay out the subscriber bill credit terms and other elements of MP's program that would apply to the non-utility CSG subscribers from the selected RFP projects. According to Fresh Energy, the purpose of the RFP is not to create a separate, non-utility CSG program for MP customers, but to facilitate non-utility CSG projects in MP's CSG program.²³ In addition, Fresh Energy requested that the Company must address how it plans to incorporate the non-utility CSG subscribers into its program administration software and/or billing systems.²⁴

Fresh Energy recommended that a section needed to be added to the RFP describing aspects of MP's CSG program that will apply to non-utility CSG subscribers. This section should include the bill credits for subscribers, a contract between the non-utility CSG operator and the Company, and relevant provisions in the applicable Tariff sheets.²⁵

Fresh Energy also recommended that the RFP describe other program rules that would apply to non-utility CSG projects as well as clearly indicate all information that is required and any information that is optional from the developer.²⁶

Finally, Fresh Energy recommended an assortment of changes to the Draft RFP that were also reflected in its filing of a Red Line Draft RFP.²⁷

1. Bill Credit

In its Initial Comments, Fresh Energy argued that the bill credit for non-utility CSGs should be in the same form as MP's CSG program. Specifically, Fresh Energy recommended that the draft RFP should be modified by striking the language in the Draft RFP under the Subscription cost

²³ Fresh Energy Comments, November 14, 2016, pp. 2-3.

²⁴ *Id.*, p. 4.

²⁵ *Id.*, p. 3.

²⁶ *Id.*, pp. 4-5.

²⁷ Fresh Energy Comments by, November 14, 2016 and Fresh Energy Redline Draft RFP.

and credit section: “What is the structure of the bill credit to the subscriber? (Dollars or kWh?).” Fresh Energy recommended that instead the RFP should reflect that the bill credits for non-utility CSGs will be in the same form as the Company in its CSG program.²⁸

However, in its Reply Comments Fresh Energy agreed with NSCS that the draft RFP should be revised to reflect that the VOS should be used as the form of compensation for nonutility CSG subscribers. Fresh Energy recommended that the Commission order that the RFP state that the bill credit for non-utility CSG will be MP’s VOS rate. In the alternative, Fresh Energy stated that, if the Commission declines to order MP to use a VOS bill credit rate, then the RFP should reflect that the bill credits for non-utility CSGs will be in the same form as the Company in its CSG program, as Fresh Energy recommended in initial comments.²⁹

Fresh Energy stated it agreed with NSCS, because a VOS bill credit will likely yield more responses to the Company’s RFP and projects that are ultimately more successful. In addition, Fresh Energy argued that a VOS bill credit meets the concern that any CSG projects not result in non-participant harm. Finally, MP stated that the Commission has already contemplated the use of VOS bill credit for MP’s CSG program, in its July 27, 2016 Order, and the VOS bill credit rate is ready for Commission consideration in this RFP.³⁰

In addition, Fresh Energy, recommended changes to the Responsibilities matrix in the Draft RFP. Fresh Energy recommended the addition to MP’s column that it will administer bill credits on subscribers bills based on production information from the non-utility CSG and that the language in the developer’s column “[if] applicable, distributes credits against subscription” should be stricken.³¹

2. Billing

Under the Billing section of the Draft RFP, Fresh Energy recommended striking the bullet points “What methods shall be used to integrate with Minnesota Power’s billing system?” and “What data is required to be transferred to/from Minnesota Power?” Instead, Fresh Energy stated Minnesota Power should provide this information in the non-utility CSG supporting materials. Fresh Energy also recommended that the bullet point under the same section stating “Have you explored the impact to your program upon a change in Minnesota Power’s rates or rate structure?” should be stricken from the RFP. Because the non-utility CSG operator will be signing a contract with the Company, which includes the bill credits for the 25-year project term

²⁸ *Id.*, pp. 3-4. The suggested stricken language is found in the Redlined Draft RFP under Scope of services, CSG Program Design, Design basis, Subscription cost and credit: Section 2. b) 1), bullet 3, sub-bullet 5 of the Draft RFP (page 5).

²⁹ Fresh Energy Reply Comments, November 28, 2016, p. 4.

³⁰ *Id.*, pp. 2-3.

³¹ Fresh Energy Comments, November 14, 2016, p. 5. The suggested stricken language is found in the Redlined Draft RFP under Scope of services, Responsibilities matrix, in the Developer’s column: Section 2. a) (page 4)

(per the terms of MP's CSG program), Fresh Energy explained that this information is irrelevant.³²

3. Unsubscribed Energy and Capacity

Fresh Energy argued that treatment for unsubscribed energy and capacity should be established as part of the program rules and not treated differently from how the company treats unsubscribed energy in its CSG Pilot program. In addition, Fresh Energy stated that it should be made clear in the RFP that MP is responsible for buying all energy produced by the CSG project and how reimbursement for excess generation is handled. Fresh Energy recommended changes to the draft RFP to reflect the fact that unsubscribed energy and capacity will receive the same treatment as in Xcel Energy's CSG program to encourages fully subscribed CSGs.³³ In addition, Fresh Energy recommended that the language under the section, Evaluation criteria, "Bid economics: Requested price of unsubscribed capacity and energy" should be stricken from the draft RFP.³⁴

4. SRECs

Fresh Energy also maintained that SRECs should be established as part of the CSG program rules and that SRECs should be treated similarly as SRECs are treated in for the Company's CSG pilot program. In that case, Fresh Energy maintained that the SREC price should mirror the pricing in MP's CSG pilot, unless the SRECs would be coming from a CSG that is smaller than 20 kw. Therefore, Fresh Energy recommended that the second bullet point under Bid economics, "Requested price of SRECs if the proposal is offering SRECs to Minnesota Power," in the Draft RFP be eliminated, also.³⁵

5. Interconnection

Under the Interconnection section in the Draft RFP, Fresh Energy recommended that bidders should not have to provide cost estimates allocated towards constructing the interconnection and this language should be eliminated. Fresh Energy suggested that MP could provide a matrix of ballpark cost estimates along with its system information in supporting materials.³⁶

6. Data Formats

³² *Id.* p. 4. The suggested stricken language is found in the Redlined Draft RFP under CSG Program Design, Billing: section 2. B) 3), bullets 2, 3 and 4 (page 6).

³³ *Id.* The Unsubscribed energy and capacity section is found in the Redlined Draft RFP under Scope or services, CSG Program Design, Design basis: Section 2. B) 1) bullet 7 (page 6).

³⁴ *Id.* The suggested stricken language is found in the Redlined Draft RFP under Bid evaluation, Evaluation criteria: Section 5. a) bullet 3, sub-bullet 1 (page 10).

³⁵ *Id.* The suggested stricken language is found in the Redlined Draft RFP under Bid evaluation, Evaluation criteria: Section 5. a) bullet 3, sub-bullet 2 (page 11).

³⁶ *Id.*, pp. 4-5. The suggested stricken language is found in the Redlined Draft RFP under CSG Project, Project Development; Section 2. c) 1) bullet 8, sub-bullet 3 (page 8).

Fresh Energy stated that MP should provide all of the data format options compatible with its systems and any data security requirements in the RFP materials. Fresh Energy recommended that the first bullet point under Data requirements section in the draft RFP should be stricken: “Identify the method and technology required for transferring metering data from the community solar site to Minnesota Power’s system.”³⁷

7. Developer Costs

Fresh Energy argued that, if bidders are providing subscription pricing, MP does not need detailed equipment information, and project viability can be determined through other information. Fresh Energy recommended that the Bullet Point “Cost Information,” under the Proposal requirements section in the draft RFP, should be stricken from the draft RFP.³⁸

In addition, Fresh Energy recommended striking the language under the Project cost section: “How is the project being financed?” Fresh Energy explained that, above and beyond overall project cost information for the purposes of project selection, the financing structure and partners is often the most proprietary information and is not needed.³⁹

8. Cost-Shifting

Under the Evaluation criteria section in the Draft RFP, Fresh Energy recommended striking the language “Cost shifting to non-subscribers and equitability to participating customers are paramount considerations to any CSG program.” Fresh Energy reasoned that, since these non-utility CSGs are participating in MP’s CSG program, there is no rate impact or cost-shifting that would differ from MP’s CSG projects. Therefore, Fresh Energy argued the language on cost-shifting is an unnecessary and irrelevant inclusion in the draft RFP.⁴⁰

9. Community Benefits

In addition, Fresh Energy argued that a statement expressing a preference for smaller CSGs in the draft RFP is also unnecessary and irrelevant. Therefore, under the community benefits section in the draft RFP, Fresh Energy recommended striking the language “Preference for smaller, multiple projects distributed throughout Minnesota Power’s territory, rather than for one project.” Fresh Energy explained that, if such a project can demonstrate other community

³⁷ *Id.*, p. 5. The suggested stricken language is found in the Redlined Draft RFP under Data Requirements: Section 2. c) 2) bullet 8, sub-bullet 3 (page 8).

³⁸ *Id.*, p. 7. The suggested stricken language is found in the Redlined Draft RFP under Proposal Requirements: Section 3, bullet 5 “Cost proposal” (page 9).

³⁹ *Id.*, The suggested stricken language is found in the Redlined Draft RFP under CSG Program Design, Design basis, Project cost: section 2. B)1), bullet 1, second sentence (page 6).

⁴⁰ *Id.*, p. 6. The suggested stricken language is found in the Redlined Draft RFP under Bid evaluations, Evaluation criteria: section 5. A) bullet 3 (page 10)

benefits, it already would receive preference considering maximum size allowed in the RFP is 1 MW.⁴¹

Fresh Energy stated further that it supported MP including an option for smaller, community organization-based projects, where the Company would manage subscriptions and billing. If MP agreed to such an option, Fresh Energy recommended that it should separately describe the mechanics for the community organization-based CSG options in the RFP and accompanying documents (e.g., tariff sheets, contracts).⁴²

10. Trade Secret

According to Fresh Energy, the draft RFP seeks various cost elements that would be borne entirely by the non-utility project. Fresh Energy stated that while it makes sense to consider projects that provide reasonable terms for subscribers as a project evaluation component, the proposals would also come from private businesses competing with MP and each other. Accordingly, Fresh Energy stated that proposals from developer/owners should be required to submit only the customer-facing costs and enough financial information to provide confidences that the project can be executed. Fresh Energy argued that, not only is this information sensitive to other non-utility competitors, MP will also compete with developers in solar resource acquisitions and in CSG offerings, and therefore should receive only the information necessary to evaluate project viability. Moreover, Fresh Energy recommended that the RFP should be clear that this information will be protected as trade secret.⁴³

Fresh Energy recommended the draft RFP note that the information requested under the “Subscription cost and credit” and “Project cost” sections will be protected as trade secret.⁴⁴ Similarly, Fresh Energy recommended that the draft RFP note, under the Program Administration & Management section, that the information requested in regard to the “marketing and outreach plan, if any (e.g. web based portal, marketing materials” will be protected as trade secret.⁴⁵ Finally, Fresh Energy recommended that the draft RFP note that bidders may request that information provided to MP under the Proposal requirements section in the RFP will be protected as trade secret.⁴⁶

11. Reservation of Rights

Fresh Energy stated it was concerned that certain provisions in the Reservation of Rights section of the draft RFP reserve the authority of the Company to the extent that it may deter

⁴¹ *Id.*, p. 5. The language can be found at section 5 a), bullet 4, sub-bullet 8 (page 11) of the draft RFP

⁴² *Id.*

⁴³ *Id.* p. 6.

⁴⁴ *Id.*, p. 7. This language can be found in the draft RFP under section 2.b)1), bullet 3 “Subscription cost and credit” (page 5) and section 2. B)1), bullet 5 “Project cost” (pages 5-6)

⁴⁵ *Id.* This language can be found in the draft RFP under section 2.b)1), bullet 5 “provide marketing and outreach plan, if any (e.g. web based portal, marketing materials” (page 6).

⁴⁶ *Id.* This language can be found in the draft RFP under section 3, Proposal requirements (pages 9-10).

RFP participation. Fresh Energy requested that the Department analyze the reservation of rights section, to ensure that it is not more onerous than RFP best practices in Minnesota and does not undermine the purpose of the RFP.⁴⁷

D. The Department of Commerce

In its Comments, the Department recommended the Commission order MP to provide additional detail on, and proposed weighting for, its evaluation criteria in the RFP for 3-1 MW solar gardens. The Department stated it had reviewed the draft RFP, and concluded that it is generally comprehensive, with the exception of identifying the evaluation criteria in the RFP.⁴⁸

E. MP Reply Comments

In Response to NCSC's Comments, MP stated that best efforts were made to work within the timeline afforded by the Order. MP maintained that quality input and diverse perspectives were gathered using a transparent and open process, which was used to develop the draft RFP in compliance with the Commission's Order.⁴⁹

MP noted that Fresh Energy was not a participant in the stakeholder meetings that informed the draft RFP and therefore cautioned against adopting Fresh Energy's edits to the draft RFP. MP explained that the RFP was developed based on the diverse input of meeting participants throughout the Company's service territory and is supported by a report from an independent meeting facilitator.⁵⁰

In response to the Department's Comments, MP stated that evaluation criteria can be best developed after the goal of the RFP has been established and further lessons have been learned from implementation of the CSG Pilot Program. MP stated further that it is not standard practice to make evaluation criteria public at the time an RFP is issued, and explained that this is to ensure bids are innovative and competitive. Finally, MP noted that, while there were potential categories of evaluation criteria identified during the stakeholder meetings, there was no consensus on the complete list of considerations, on how different categories would be weighed, or on how the evaluation criteria would be administered.⁵¹

F. Staff Comments

The Commission's Order Point 8, in its July 27, 2016 Order, required MP to consult with interested stakeholders to draft an RFP for three non-utility community solar gardens, each up

⁴⁷ *Id.* This language can be found in the draft RFP under section 7, Reservation of rights (page 12).

⁴⁸ Department of Commerce Comments, November 14, 2016, pp. 1-2.

⁴⁹ MP Reply Comments, November 28, 2016, pp. 4-5.

⁵⁰ *Id.* p. 4.

⁵¹ *Id.* p. 1-2.

to 1 MW, and file the draft RFP with the Commission by October 1, 2016. MP filed its draft RFP on October 3, 2016.

Staff notes that neither the Department, Fresh Energy nor NSCS has recommended that the Commission find that MP has not met the requirements of Order Point 8. While NSCS raised concerns over the stakeholder process, it made recommendations for future improvements in stakeholder processes and did not make a recommendation that MP should be required to begin a new stakeholder process to draft a new separate RFP for three 1 MW non-utility CSGs.

Interpretation of Order Point 8 and Next Steps

If the Commission determines that MP has met the requirements of Order Point 8, it must decide what, if any, next steps to take in regard to the draft RFP. The Commission's July 27, 2016 Order states that CSGs represent an opportunity to explore new frameworks for providing customers with affordable, renewable, and distributed electric generation and that failing to take advantage of that opportunity would be inconsistent with the public interest.

The Commission required MP to draft an RFP to balance the interest in opening the program to new ownership and development models with the interest in a controlled roll-out of this pilot program. The Order states that a draft RFP would allow the Commission an opportunity to review the proposal and move toward opening Minnesota Powers' community solar garden program offerings in a deliberate manner and consistent with customer demand.

The next step for the Commission to decide is whether it should require MP to send out the RFP, and if so, when MP should be required to send it out. The Commission's Order did not specifically address whether the RFP should be sent out or whether MP should be required to allow third parties to develop CSGs; rather, the Commission appeared to have an interest in keeping CSGs open and accessible, and wanted further information gathering. Staff notes that while there is the CSG statute requiring Xcel to allow third parties to own and operate CSGs, the Commission very specifically stated that the statute does not apply to MP. Thus, the decision to issue the draft RFP or allow third party developers is entirely a policy decision that is based on the Commission's judgment.

If the Commission believes it is ready to make a decision on third party CSG developers for MP CSGs, it would then need to decide if it should modify the draft RFP. Both Fresh Energy and NSCS recommend that the Commission should require modifications to the Draft RFP before MP sends it out. NSCS did not recommend specific language changes to the draft RFP, and instead suggested that the RFP must support certain characteristics of a program for non-utility CSGs. NSCS did not specifically recommend how the draft RFP should be modified to meet these conditions.

VOS

Fresh Energy provided specific recommended language changes to the draft RFP, with the aim of making MP's non-utility CSG consistent with, or identical to, MP's current CSG pilot program. In Reply Comments, Fresh Energy did change its recommendation for a different compensation method for subscribers to the non-utility CSG than MP's current CSG pilot program. Specifically,

Fresh Energy agreed with NSCS that the Commission should use the VOS for compensation to subscribers of non-utility CSGs.

Staff notes that MP, in compliance with Order point 14 of the Commission's July 27, 2016 Order, submitted a VOS calculation on January 27, 2017. No party filed an objection to MP's VOS calculation, which determined that the total VOS is \$0.126/kWh.

In the alternative, if the Commission declines to order MP to use a VOS bill credit rate, then Fresh Energy recommended that the RFP should reflect that the bill credits for non-utility CSGs will be in the same form as the Company in its CSG program, as Fresh Energy recommended in initial comments. Outside of the bill credit, Fresh Energy recommended that non-utility CSGs should have similar or identical rules as MP's current CSG pilot program.

Because MP is not subject to the Xcel CSG statute, and because the VOS statute is voluntary, staff is uncertain whether the record is clear on the ability of the Commission to mandate that MP use the VOS.⁵² In addition, from a policy standpoint, the Commission has had a number of debates in the Xcel CSG docket about the effect of the VOS rate on residential subscribers. The Commission will need to decide if it has enough information to make a decision on a VOS rate for MP CSGs at this time.

Pending Interconnection Docket

Commenters suggested that the draft RFP should reflect modified interconnection standards or allow for different interconnection standards for third party CSGs. The Commission's pending interconnection standards docket, E999/CI-16-521, is exploring updates to the Commission's interconnection standards. The docket includes a large number of stakeholders, including Fresh Energy. Staff urges the Commission to maintain all interconnection-related topics in the pending docket and encourages any interested party to file comments in that docket.

Option of Further Monitoring and Analysis of Existing CSGs

While MP did not offer an opinion on the exact timing for issuing an RFP for non-utility CSGs, MP repeatedly stressed the relevancy of MP's experience with its approved CSG Pilot program and the insights that will be gained from the Pilot program on costs to administer the program, billing procedures, customer preferences and more. MP noted further that it will report annually on the status of the program, filed each June and unknown implementation details may be provided through its Solar Energy Standard Progress Report. MP asserted that the Company's experience with the Pilot Program in 2017 will prove helpful in evaluating future community solar RFPs.

Therefore, MP suggested that the Commission would benefit from additional information on its current pilot program, before evaluating non-utility CSGs and approving the expansion of the program to include more CSGs in MP's CSG pilot program. Before requiring MP to issue an RFP

⁵² Under the CSG statute that applies to Xcel, the statute mandates the use of the VOS.

for three, 1 MW non-utility CSGs, the Commission may wish to consider if it currently has enough information and lessons learned from MP's current CSG pilot program.

In MP's June 1, 2017 Solar Energy Standard Progress Report, MP described the status of its CSG program at that time. MP stated that it expected final construction of the 1MW array to be complete and subscribing customers to start receiving solar energy bill credits sometime in 2017. In addition, MP stated that on June 1, 2017 there were over 300 individuals on the Company's CSG Pilot Program interest list. MP stated further that the conversion rate of customers on the interest list who subscribe to the program will be tracked in future SES progress reports.⁵³

MP also stated in its SES Progress Report, its intent to scale the program based upon customer demand and that it has developed a thorough set of evaluation criteria to help ensure successful development and launching of future CSG offerings. MP maintained that pilot projects are critical tools to test customer preferences and for utilities to offer new products and services that their customer's desire and its CSG program can provide for learning, program adjustments, alignment with customer expectations, and process refinements before broader implementations occur.⁵⁴

The Commission may wish for MP to provide an update on the current status of its CSG Pilot, or wait for MP's 2018 SES Report before further consideration for requiring MP to issue the non-utility CSG RFPs. Staff observes that in the Xcel CSG program, the Commission has issued nineteen (19) Orders to date clarifying the design of the program, setting and adjusting the rate, establishing dispute resolution processes, and deciding other issues.

G. Decision Options

1. Has Minnesota Power met the Requirements of Order Point 8 from the Commission's July 27, 2016 Order?

- a) Find that Minnesota Power has met the requirements of Order Point 8 of the Commission's July 27, 2016 Order.
- b) Find that Minnesota Power has not met the requirements of Order Point 8 of the Commission's July 27, 2016 Order.

2. What other action should the Commission take in regard to Order Point 8?

- a) Require MP to issue its Draft RFP for three non-utility community solar gardens, each up to 1 MW by March 1, 2018 (or, some other date).
- b) Require MP to issue its Draft RFP, with modifications, for three non-utility community solar gardens, each up to 1 MW by March 1, 2018 (or, some other date).

⁵³ Minnesota Power's 2016 Solar Energy Standard Progress Report, June 1, 2016, p. 6.

⁵⁴ *Id.*

- c) Require MP to discuss modifications to its draft RFP with representatives from NSCS and Fresh Energy and file a revised draft RFP with the Commission by May 1, 2018 (or, some other date).
- d) Take other action
- e) Take no action at this time.

IV. Order Point 10 – Pricing Information

Order point 10 of the Commission’s July 27, 2016 Order required MP to discuss with interested stakeholders whether and how pricing information on public-facing programs can be made public in the future.

A. MP’s Compliance Filing and Pricing Information

To comply with order point 10, of the July 27, 2016 Order, MP included the question “[H]ow pricing information on public-facing programs can be public in the future?” in the independent facilitator’s list of issues open for discussion at the CSG Stakeholder meetings in September 2016. MP stated its position is that it will make pricing information on public-facing programs available once contract negotiations are complete.⁵⁵

MP explained that, in its CSG Pilot Program, it publicly filed program pricing once the Power Purchase Agreement (“PPA”) was executed with the developer. According to MP, releasing pricing information prior to the conclusion of a competitive bidding process or contract execution would likely negatively affect the negotiation process, and potentially create higher costs or increased risk for customers.⁵⁶

MP stated further that there were no specific suggestions related to public pricing of programs and it will continue its process of making public-facing program pricing available once contract agreements are executed.⁵⁷

B. Fresh Energy

Fresh Energy stated that order point 10 was included because MP first filed its proposed CSG program customer pricing, included its SREC compensation proposal, on April 14, 2016. Fresh Energy noted that there were public comment opportunities where customer pricing and compensation were unknown, during the seven-month period between the Company’s initial program filing and April 14.⁵⁸

⁵⁵ Minnesota Powers’ Compliance Filing Meeting the Requirements of Order Points 8 and 10 of the Commission’s July 27, 2017 Order, October 1, 2016, p. 5.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Fresh Energy Comments, November 14, 2016, p. 9.

Fresh Energy stated it had not anticipated MP would address order point 10 through the RFP development stakeholder process the Company instituted with an independent facilitator. Instead, Fresh Energy stated it envisioned the Company being proactive by making public as much pricing information as possible and working specifically with regulatory stakeholders on protection agreements regarding trade secret information. Fresh Energy expressed its disappointment that MP chose not to engage any conversation on this topic with Fresh Energy as part of the requirements of order point 10 and that it will not make any changes to its current practice.⁵⁹

C. Staff Comment

Staff notes that Fresh Energy requested in its December 15, 2015 Supplemental Comments that “[i]n the future we would like to work with the Company to find a way to provide the public with pricing information for its public-facing programs.” Order Point 10 was drafted using similar language in an attempt to address Fresh Energy’s request. Staff had anticipated that MP would have reached out to Fresh Energy directly as part of complying with Order point 10. However, Staff also notes that MP’s practice for revealing pricing information after contract negotiations have been completed appears reasonable. Staff notes further that Fresh Energy did not offer a specific suggestion for modifying this practice in a way that would not negatively impact the negotiating process. The Commission may wish to encourage MP to work closer with Fresh Energy and other stakeholder to address concerns about non-public pricing information, which may be useful for evaluating MP’s programs in the future.

D. Decision Alternatives

1. Find that Minnesota Power has met the requirements of Order Point 10 of the Commission’s July 27, 2016 Order.
2. Find that Minnesota Power has not met the requirements of Order Point 10 of the Commission’s July 27, 2016 Order.

⁵⁹ *Id.*