

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
John Tuma	Commissioner
Nancy Lange	Commissioner
Daniel Lipschultz	Commissioner
Betsy Wergin	Commissioner

**In the Matter of the Petition of Northern
States Power Company, dba Xcel Energy,
for Approval of Its Proposed Community
Solar Garden Program**

Docket No. E-002/M-13-867

Date: 4/30/2015

**SECOND REPLY COMMENTS OF THE MINNESOTA
SOLAR ENERGY INDUSTRY ASSOCIATION
RE: RESPONSE TO XCEL'S APRIL 28TH REPLY COMMENTS AND
ENDORSEMENT OF SOLAR GARDEN COMMUNITY'S PETITION**

INTRODUCTION

MnSEIA is a membership organization comprised of over 75 solar affiliated organizations. We represent installers, developers, electricians, manufacturers and other ancillary solar services.

**I. RESPONSE TO XCEL'S NOTICE OF ITS INTENTION TO REMOVE
INTERCONNECTED GARDENS FROM ITS QUEUE AND SUPPORT FOR
SOLAR GARDEN COMMUNITY'S PETITION FOR EXPEDITED
COMMISSION RELIEF.**

Xcel's April 28 plan to unilaterally remove "deemed complete" CSG applications from its interconnection queue would be a disaster for the growing Minnesota solar industry. If allowed, the company's noticed actions would remove approximately 80% or more of the gardens in the queue.

This would have a dramatic impact on each subgroup in our membership. While developers would be the most heavily impacted industry sector, the reduction from 560 MW to 80 MW would hurt our installers, manufacturers, electricians, and engineers.¹ It would damage Minnesota's entire

¹ Xcel claims that 80 MW of CSG projects would still be allowed to move forward. But we strongly contest the validity of that assertion. That's because, in most cases, the economics of land contracts, project site development, equipment procurement economies of scale, new distribution lines etc. designed to host multiple 1-MW CSGs would likely fall apart if the developer was only allowed to interconnect a single 1-MW garden at that site.

solar economy, including subscribers, ratepayers, land leasing farmers and other interested companies.

And it would maim those companies that relied upon the promise of co-located 1 MW gardens. Our member companies have invested millions of dollars in this program with the expectation that they could build gardens according to the Commission approved program rules. Some companies have even moved to our state to participate. Now, Xcel may put an end to all of the invested time and money through a single reply comment filing.

But, despite the concern we have for our membership, our primary concern today is for Minnesota as a whole. This is really an issue about Xcel's behavior here. Xcel – a regulated monopoly – has come out directly against the Commission's September 17th Order and its March 10th note.²

The company's only rationale for this radical policy divergence is that it has decided that it will now interpret the September 17th Order to only include interconnected gardens sized under 1 MW.³ This behavior runs contrary to what Xcel itself stated verbally during the August 7th hearing on this issue, to what Xcel posted on its own website, to how Xcel treated its own program until now, and to all parties' common understanding of the Order.⁴ The utility's interpretation argument – articulated in a single sentence - is the only thing preventing Xcel's action from appearing like a blatant disregard for the Commission's authority on this issue.

When factoring in the tone of Xcel's reply comments and the utility's insistence on its own interpretation of our legislature's intent, it seems to us that Xcel is defying Minnesota's established rule of law. It is acting as if it is the regulating agency and is creating its own law through statutory interpretation. But interpreting the Legislature's will is the Commission's job - not the utility's.

We are also concerned that Xcel is attempting to circumvent the rulemaking process by simply instituting its sweeping policy change two days prior to the reply comment deadline. It appears

² See ORDER--ORDER APPROVING SOLAR-GARDEN PLAN WITH MODIFICATIONS, PUBLIC UTILITIES COMMISSION, Docket No. E-002/M-13-867, Doc. ID. 20149-103114-01 at 19-20 (9/17/2014) (stating "Multiple Community Solar Garden Sites may be situated in close proximity to one another in order to share in distribution infrastructure."). See also LETTER--TO AAKASH CHANDARANA, XCEL ENERGY, PUBLIC UTILITIES COMMISSION, Docket No. E-002/M-13-867, Doc. ID. 20153-108054-01 at 1 (reaffirming the September 17th Order.).

³ See COMMENTS--SUPPLEMENTAL COMMENTS AND NOTICE, XCEL ENERGY, Docket No. E-002/M-13-867, Doc. ID. 20154-109756-01 at 3 (4/28/2015) (stating "The Commission's Orders do not address garden co-location resulting in project sizes which exceed 1 MW.").

⁴ See OTHER--PETITION FOR EXPEDITED RELIEF, SOLAR GARDEN COMMUNITY, XCEL ENERGY, Docket No. E-002/M-13-867, Doc. ID. 20154-109847-02 at 1-8 (4/28/2015) (citing several incidents where Xcel has acknowledged that the September 17th Order applies to collocated 1 MW gardens).

that the utility is attempting to bypass the necessary notice and comment proceeding and to silence the opposition.

For the protection of the administrative process and to ensure a similar gambit is never attempted by a regulated utility again, the PUC should take any and all actions available to prevent Xcel from removing gardens from its queue.⁵ As such, we support the Solar Garden Community's Petition for Expedited Relief in its entirety.

But because Xcel filed its "notice" in its reply comments two days before the deadline, we ask that the Commission reasonably consider any comments filed after the April 30th deadline until the hearing for this issue is scheduled. To be clear: we are not asking for a comment extension; we are only asking for consideration of comments submitted in response to Xcel's unorthodox programmatic change, if they arrive after the current reply comment deadline.

II. RESPONSE TO XCEL'S INTERPRETATION OF THE SR*C WORKING GROUP'S ACTION ITEMS.

We generally agree with Xcel's April 28 update of the working group's recent, and somewhat limited, successes and areas of remaining disagreement.⁶ That said, we ask that the Commission take up all of the undecided issues that require specific PUC involvement. For simplicity we have listed them below:

1. Garden Size
2. Queue Transparency
3. RECs for Unsubscribed Energy
4. REC treatment for Made in Minnesota and Solar Rewards Gardens in years 11 through 25
5. Process for transmission system impact studies if needed
6. Tool for developers to be able to request a "snapshot" of substation capacity and Section 10 interconnection applications
7. One-time CSG site location change for a legitimate reason
8. Deposit assignability to third-party lenders

With the exception of the Garden Size issue, which is the issue we are requesting expedited relief for, we ask the Commission to consider these issues at the next regularly scheduled Commission proceeding.

The working group will continue to develop several of these issues. In the next month we expect some resolutions on some of the outstanding issues not listed above. Some of the above listed items may also be resolved. In the event that a suitable resolution is found and formally adopted

⁵ While we are currently unclear on the remedies available for utility violation of the rule of law, MnSEIA would support sanctions, injunctive relief, or any other form of disciplinary action.

⁶ COMMENTS--SUPPLEMENTAL COMMENTS AND NOTICE, XCEL ENERGY, Docket No. E-002/M-13-867, Doc. ID. 20154-109756-01 at 4-8 (4/28/2015).

by Xcel, then, at that time, we will notify the Commission by e-docket letter that we no longer require a Commission intervention on those issues. We will also inform the Commission of any other issues that the working group resolves.

We respect the Commission's time on these issues, and we appreciate the opportunity to work with Xcel, the Department and the Commission to determine resolutions on program items. The process is worthwhile. We appreciate that the Commission provided us with the opportunity to use the working group to resolve some previously problematic programmatic details.

Sincerely,

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