



Minnesota Solar Energy Industries Association

We Move Minnesota Solar + Storage Forward

August 8, 2022

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55105

Re: MnSEIA Initial Comments, Docket E-002/M-22-170: Xcel Energy's Petition for approval of a resiliency service program and associated tariff language

Mr. Seuffert,

Please find attached initial comments from the Minnesota Solar Energy Industries Association (MnSEIA). These comments reflect the views of our interested members related to Xcel Energy's resiliency service program outlined in the Company's April 7, 2022 Petition.

Sincerely,

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Enclosure: MnSEIA Initial Comments

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Valerie Means	Commissioner
Matt Schuenger	Commissioner
Joseph K. Sullivan	Commissioner
John Tuma	Commissioner

**IN THE MATTER OF NORTHERN
STATE POWER D/B/A XCEL
ENERGY’S PETITION FOR
APPROVAL OF A RESILIENCY
SERVICE PROGRAM AND
ASSOCIATED TARIFF LANGUAGE**

**MINNESOTA SOLAR ENERGY
INDUSTRIES ASSOCIATION’S
(MnSEIA) INITIAL COMMENTS**

August 8, 2022

Docket No. E-002/M-22-170

MnSEIA’s COMMENTS

The Minnesota Solar Energy Industries Association (“MnSEIA” or “the Association”) is a 501(c)(6) nonprofit trade association that represents our state’s solar and storage businesses, with over 140 member companies, which employ over 4,500 Minnesotans.

BACKGROUND

On April 7, 2022, Xcel Energy (“Xcel” or “the Company” or “the Utility”) submitted a Petition for approval of a resiliency service program.¹

On April 20, 2022, the Minnesota Public Utilities Commission (“the Commission”) filed a notice of comment.²

On July 5, 2022, MnSEIA requested an extension of the comment period.³

¹ Xcel Energy, Petition of Northern States Power Company for Approval of a Resiliency Service Program, Docket No. E002/M-22-170, Doc. Id. 20224-184550-01 (April 7, 2022).

² Notice of Comment Period, Docket No. E002/M-22-170, Doc. Id. 20224-184932-01 (April 20, 2022).

³ MnSEIA, Extension/Variance Request, Docket No. E002/M-22-170, Doc. Id. 20224-187182-01 (May 5, 2022).

On July 5, 2022, the Commission granted the request for an extension.⁴

COMMENTS

We would like to applaud Xcel for recognizing the value of Distributed Energy Resources (DER) for its customers that are highly sensitive to power quality issues, consistency of service, and sustainability.⁵ Many of the customers of MnSEIA's other member companies—and Xcel is a member of MnSEIA—have increasingly sought to pair battery energy storage systems (BESS) with behind-the-meter (BTM) solar installations for similar use cases.

None of those other member companies selling DER are regulated monopolies, however, and our skepticism of Xcel's Petition arises from a desire to nurture a healthy, diverse DER market where non-utility actors can flourish and innovate.

MnSEIA has three concerns with this Petition and its implications. First, we urge the Company and the Commission to demonstrate how this new product offering will not crowd out existing and emerging market actors, or otherwise abuse the Company's state-sanctioned monopoly. Second, we urge the Commission and other interested parties to view this program, if approved, as an *exceptional* entry by the utility into ownership of BTM assets, rather than simply the first, precedential foray into this space. Third, we urge that the Company mitigate any potential market capture by way of its approved vendor list, which should prioritize local companies and ethical business practices.

I. The Commission Should View the Company's Petition with an Eye Skeptical of Monopoly Power.

As a trade association of competitors, MnSEIA welcomes new entrants to any DER or other solar or storage market; however, we are sensitive to *unfair* competition and abuse of monopoly power that undermines the diversity and health of the marketplace.

The Commission's approval of the Company's Resiliency Program would give Xcel Energy the opportunity to establish a new monopoly in an emerging market, or otherwise open the door to potential abuses of monopoly power. The Company's unrivaled access to capital and customer data could create unfair competition and capture this market before it fully materializes. Furthermore, the utility occupies a unique role in the market as both a new competitor—with this new product offering—to Energy Service Companies (ESCOs), and as the EPS operator, the gatekeeper for any such third party projects.

⁴ Notice of Extension/Variance, Docket No. E002/M-22-170, Doc. Id. 20224-187195-01 (May 5, 2022).

⁵ Xcel Energy at 2.

Xcel's access to capital could mean it can broadly implement this program from the moment it is approved. Xcel's lower cost of capital is a hearty advantage—especially when a stated barrier to their implementation is high initial capital costs.⁶ As a further financial competitive advantage, Xcel's filing implies that the Company will be able to be its own tax-equity partner,⁷ which further reduces capital costs and transactional friction. Xcel's ability to deploy at a larger scale with a lower cost of capital could give it a dominant market share. There are also no constraints from Xcel treating the program as a loss leader to capture the market.

A lower cost of capital and a tax appetite that lead to better financial terms are not, in and of themselves, aspects unique to a monopoly. However, in light of other market characteristics, the Company's advantageous financial footing may exacerbate competitive advantages endemic to that monopoly.

Xcel possesses an unrivaled competitive advantage in soliciting customers for this new program: the utility has exclusive data regarding the energy needs of its customers, who are an existing captive market. Without the provision of this data to third parties—and we acknowledge that there are good public policy reasons for at least some of that data to remain private—the Company could better target the specific needs of customers with bespoke solutions on how its offerings might benefit the customer. Indeed, Xcel states in its Petition that its customers have approached it in search of these solutions.⁸

Lastly, and perhaps most importantly, Xcel is a gatekeeper for interconnection of all DER systems in its territory. Once the utility begins implementation of this service, it is a competitor to ESCOs that would otherwise provide DER in response to these same business cases—resiliency, power quality, sustainability objectives, etc. The Commission should strongly consider the impact this relationship may have on a competitive marketplace.

Xcel Energy's unique advantages threaten to crowd out other providers of DER. Without strong oversight, approval of the Company's Resiliency Program could allow Xcel to corner this emerging microgrid and resiliency market in a way that abuses its monopoly powers.

II. The Commission Should be Wary of Setting Precedent for Further Utility Entries into Competitive DER Markets.

MnSEIA is generally concerned with utility ownership of BTM assets. In this Petition Xcel proposes ownership over DG and BESS assets it installs on customers' property until the asset is depreciated, at which point, sale of the asset to the customer becomes an option.

⁶ *Id.* at 19.

⁷ *Id.* at 10.

⁸ *Id.* at 2.

This relationship of the utility to DER assets marks a significant departure from Xcel's current role as owner and operator of assets on the *front* of the meter. We are not aware of other instances of Xcel ownership of behind-the-meter assets, and are chiefly concerned that this program would set a potentially dangerous precedent. For example Xcel could begin a program for rooftop solar as a service. While MnSEIA's core mission includes greater deployment of rooftop solar and behind-the-meter storage, we do not support it at the expense of the third-party marketplace. A healthy marketplace for DER offers a wide variety of solutions from a wide variety of companies.

MnSEIA's members fear that Xcel could control the market through ownership of a broad category of BTM assets beyond this program, and therefore control market access. The conflict of interest that Xcel would have as *both* the interconnecting authority *and* owner of BTM DER is even more ripe for abuse of monopoly powers in other DER contexts where the customer may not be as sophisticated as the customers envisioned by this program.

Utility ownership of BTM resiliency assets like these could very well make the Company the only show in town for other DER. As discussed above, Xcel's mere entrance into a DER market might have significant anticompetitive consequences where third-party manufacturers, developers, and installers may be relegated to an exclusive role as subcontractors for Xcel.

Xcel ownership of BTM assets may create a dangerous precedent that may spread to other market niches represented in other dockets before the Commission. MnSEIA urges the Commission, if it approves the Petition, to not allow this program to become the precedent that allows for further entrance into other DER markets by the Company or other utilities.

III. MnSEIA Is Concerned About Xcel's Vendor Evaluation Process.

Lastly, MnSEIA is concerned with Xcel's preferred vendor list. In its filing Xcel describes a process whereby it offers customers the ability to use other vendors after Xcel goes through their own "contracting and evaluation."⁹ Xcel has not yet specified the qualifications for evaluating vendors. A black box evaluation process for vendors attempting to join the Company's preferred vendors list creates a system ripe for favoritism, and further weakens the competitive marketplace.

The potential for monopoly abuse of power—here, control of which companies install Xcel-owned DER—arises again in the context of the vendor list. The additional possibility of market capture of the DER resiliency market (as we have discussed previously) further worsens the problems created by Xcel's black box process.

⁹ Xcel Energy at 13.

However, the Company could mitigate these concerns through thoughtful and attentive design of the vendor list. MnSEIA hopes that published Xcel qualifications for its preferred vendor list would value integrity and experience working in this space. The Company should also prioritize local Minnesota companies in order to strengthen this growing industry in Minnesota—an interest Xcel, the Commission, and MnSEIA all share.

CONCLUSION

MnSEIA is heartened to see Xcel recognize the value of DER, and welcomes more deployment of solar and storage in Minnesota. Our concerns with the Company's petition stem from its singular position as both market maker—as it is the interconnecting authority—and market participant. We urge the Company and the Commission to demonstrate appropriate caution and oversight into potential abuses of monopoly power that arise from this program. Furthermore, we strongly urge the Commission to delineate this entrance into DER markets as an exception, rather than a beachhead. Finally, we urge the Company and Commission to establish clear guidelines for the Company's vendor evaluation process that prioritize Minnesota businesses.

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