August 22, 2022

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

Re: MnSEIA Reply 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 reply 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 and associated initial comments filed August 8, 2022.

Sincerely,

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Enclosure: MnSEIA Reply Comments

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Valerie Means	Commissioner
Matt Schuerger	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) REPLY COMMENTS

August 22, 2022

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

MnSEIA's REPLY 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") 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]

[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).

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

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

On August 8, 2022, MnSEIA,[5] the Department of Commerce Division of Energy Resources (Department),[6] All Energy Solar (AES),[7] and Target Corporation[8] filed initial comments.

COMMENTS

MnSEIA was initially wary of the Company's Resiliency Services Program. After a review of the parties' initial comments, MnSEIA strongly urges the Commission to deny the Petition. MnSEIA is interested in an expansion of solar and storage across Minnesota, but not at the expense of the open market.

MnSEIA has two major concerns: first, Xcel's plan will crowd out better offerings against the public interest; and second, Xcel seems to plan to give itself unfair advantages over competitors. The Petition attempts to capture the existing market through the Company's unique position as a monopoly utility, and should therefore be denied.

I. Xcel Is Not Selling a Resiliency Service; Xcel is Buying the Resiliency Market

The core issue with Xcel's Petition is its disruption of an existing marketplace of competitors. The Company would leverage its advantages as a monopoly to outcompete the Energy Service Companies (ESCOs) in the existing energy services market, as we detailed in our initial comments. The public interest would be harmed in two distinct, but related ways if the Commission were to approve the Petition. First, unfair competition in the unregulated DER marketplace is on its face contrary to the public interest in that it may quash existing businesses and diminish the diversity of the marketplace. Second, that unfair competition may succeed in crowding out *better* offerings that deliver more value with less risk to consumers. As such the program will harm both competition and customers.

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[3] MnSEIA, Extension/Variance Request, Docket No. E002/M-22-170, Doc. Id. 20224-187182-01 (May 5, 2022).
[4] Notice of Extension/Variance, Docket No. E002/M-22-170, Doc. Id. 20224-187195-01 (May 5, 2022).
[5] MnSEIA, Initial Comments, Xcel's Petition for approval of a resiliency service program and associated tariff language, Docket No. E002/M-22-170, Doc. Id. 20224-188214-01 (August 8, 2022).
[6] Dep't of Com., Div. of Energy Res., Initial Comments, Xcel's Petition for approval of a resiliency service program and associated tariff language, Docket No. E002/M-22-170, Doc. Id. 20224-188185-01 (August 8, 2022).
[7] AES, Initial Comments, Xcel's Petition for approval of a resiliency service program and associated tariff language, Docket No. E002/M-22-170, Doc. Id. 20224-188213-01 (August 8, 2022).
[8] Target Corp., Initial Comments, Xcel's Petition for approval of a resiliency service program and associated tariff language, Docket No. E002/M-22-170, Doc. Id. 20224-188189-01 (August 8, 2022).

Through a series of Information Requests, the Department asked Xcel how this program would affect the existing market. After agreeing that this service already exists, Xcel stated, “These businesses will be able to utilize the Resiliency Service Program to sell their products to customers and partner with the Company to provide these services.”[9] Xcel later stated, “Vendors will be encouraged to partner with the Company and become a preferred program vendor.”[10] Existing providers *already* partner with the Company inasmuch as they share customers and interconnect projects with Xcel’s equipment; status as a “preferred program vendor” is simply not equivalent. In an echo of *It’s a Wonderful Life*, Xcel isn’t *selling*, Xcel’s *buying*.[11] Xcel is buying the entire resiliency market.

The ESCOs that are MnSEIA members provided some feedback about the Petition, notably by comparison with industry standard offerings. It is clear that Xcel’s proposed program delivers less value to customers—and adds more risk—than the competition it would crowd out.

Xcel customers can and do contract with ESCOs for the same benefits, more flexibility, and less risk than this Xcel resiliency program. Energy Services contracts typically do not require upfront capital, though Xcel would require at least 10% capital outlay. Rather, the savings pay for the resiliency asset *with a negotiated energy savings guarantee*. Whereas in the Xcel program, the customer pays for the resiliency asset over time with no such commitments that the savings exceed the cost of participation; or, in the case of customers that value power quality and uptime more than energy savings, there is no guarantee for a tighter voltage variation or reliability.

Furthermore, an ESCO typically pays for all operations and maintenance costs (O&M), not just planned O&M; whereas under the Xcel program, the customer would get billed for any unplanned O&M. Equipment failures that are out of warranty fall to the customer.

It is not clear who operates the battery energy storage systems (BESS) under the Xcel program, as the Petition only notes that the customer makes discharge decisions with Xcel input.[12] This ambiguity gives rise to further questions. Is there a guarantee that the assets are being operated to the customer’s best interest? If not, and discharge decisions are made to the benefit of the grid or Area EPS, is the customer compensated accordingly?

Lastly, under the current Investment Tax Credit (ITC) regime,[13] MnSEIA understands that the asset may not just be transferred to the customer at the end of the term—it cannot be a foregone conclusion that the customer will become the owner of the asset. Rather they must purchase it at

[9] Dep’t. of Com. at 9.; Xcel Response to IR 6.
[10] *Ibid.*
[11] *See,* It’s a Wonderful Life (Frank Capra dir., 1946) (https://www.youtube.com/watch?v=iPkJH6BT7dM&t=107s).
[12] Xcel Energy, Petition at 17.
[13] Some ambiguity exists in this regard, given the recent passage of the Inflation Reduction Act.

fair market value. The Company supposes that its contract will not have the same requirement,[14] which gives it an advantage over an outside party.

These existing offerings from third-party ESCOs are, on the whole, more flexible and less risky for customers than Xcel's offering. Target, who is generally supportive of the Petition, notes that Xcel's program is worse than the service Target currently uses.[15] Target goes on to state that it would be unlikely to use Xcel's Resiliency Services Program unless drastic changes are made to the program's core components: financial risk, tax and environmental credits, and asset ownership.[16] This lack of support for the fundamentals of the program raises the question of why Xcel introduced this program other than an interest in an expansion of the Company's reach into a new market. If the Commission allows the Company to wield its natural advantages in customer data, its captive customer base, and its self-given advantages in interconnection, then the monopoly utility will crowd out existing competitors, who are already providing customers a better service. And the future of ESCOs will be in a bidding war on Xcel's vendor list. This result will not be in the public interest, and therefore the Commission should deny the Petition.

II. Xcel's Interconnection Advantage Is Unfair and Bad Public Policy

Interconnection delays have, for several years, plagued DER developers in Xcel service territory. Under its proposed Resiliency Services Program, it seems that Xcel would give itself an unfair advantage by speeding interconnection for its own BTM projects. Xcel states that "the interconnection process will take place alongside construction,"[17] rather than prior to construction, which is a significant departure from the MN DIP,[18] as AES notes.[19] The section on Interconnection and Permitting does not seem to align with MN DIP practices:

> Projects brought online and interconnected through Resiliency Service will go through *the standard interconnection process*. An interconnection application will be submitted upon the project being awarded to a vendor and will be tracked using existing processes. *The interconnection process will take place alongside construction.* Applications and approvals will be aligned with construction timelines to allow for a seamless customer experience and to avoid project delays. All permitting, interconnection, and generation emission compliance costs will be managed by the Company and included in the Customer's Resiliency Charge as capital.[20]

[14] Xcel Energy, Petition at 6.; *Id.*, Attach. A at 4.
[15] Target Corp. at 2.
[16] *Ibid.*
[17] Xcel Energy, Petition, Attach. A at 3.
[18] MN DIP §§ 5.6-5.8.
[19] AES at 5.
[20] Xcel Energy, Petition, Attach. A at 3 (emphasis added).

The MN DIP specifies that interconnection take place *after*, not *alongside* construction.[21] Perhaps the apparent contradiction with MN DIP—which is, or at least should be standard practice—arises from a distinction between Minnesota and Colorado, because elsewhere in Attachment A Xcel refers to itself as "PSCo," or the Public Service Company of Colorado.[22] Either Xcel has not considered what processes need to be changed for this program to work in Minnesota, or believes that its own DER should not follow the interconnection rules that competing DER need to.

This kind of preferential treatment demonstrates MnSEIA's concerns over potential abuse of Xcel's monopoly. So long as Xcel plans to give itself advantages (even in addition to its advantages as a natural monopoly), the business of existing ESCOs and other developers will be harmed.

Expedited interconnection of its own projects raises a second, related concern, in that Xcel DER may crowd out capacity for third-party DER. This resource has become increasingly scarce,[23] and also remains comparatively opaque to third-parties. By contrast the Company knows exactly where to find both the capacity and the demand for these offerings.

The public interest is poorly served by the monopoly utility giving preferential treatment to interconnection of its own DER. At the least, the Commission should require any resiliency projects under this program to follow MN DIP with appropriate reporting requirements; however, the danger of preferential treatment remains a dangerous pitfall, and the public interest would be better served if the Commission were to deny the Company's Petition.

CONCLUSION

The Commission should deny Xcel's Petition as currently stands. Approval would allow the Company to enter and dominate the existing market. Extant competitors will become subcontractors. Xcel's established customer base and data would be used to crowd out existing market actors that already provide customers a superior service. The Company would further leverage its control over the grid to approve interconnection of its own projects while other DER applications languish in queue. MnSEIA strongly urges the Commission to deny the Petition, and encourages Xcel to pursue resiliency through other means.

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[21] MN DIP §§ 5.6-5.8.

[22] Xcel Energy, Petition at 6 n.4.; *Id.*, Attach. A.

[23] *See*, Objection of Minnesota Solar Energy Industries Association, Fresh Energy & Interstate Renewable Energy Council to Implementation of Xcel's DER Technical Planning Limit Before Commission Review, In the Matter of Updating the Generic Standards for the Interconnection and Operation of Distributed Generation Facilities Established Under Minn. Stat. §216B.1611, Docket No. E999/CI-16-521 (September 28, 2021) (discussing impact of the then-proposed Technical Planning Limit).

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