

**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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Chair  
Commissioner  
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Commissioner

April 25, 2005

In the Matter of ALL ELECTRIC  
COMPANIES Establishing Generic  
Standards for Utility Tariffs for  
Interconnection and Operation of  
Distributed Generation Facilities Under  
MN Law 2001, Chapter 212

DOCKET No. E999/CI-01-1023

In the Matter of Northern State Power  
d/b/a Xcel Energy petition for approval  
of a new Distributed Generation Tariff

DOCKET No. E002/M-04-2055

In the Matter of Interstate Power and  
Light Company for approval of a new  
Distributed Generation Tariff

DOCKET No. E001/M-04-2041

In the Matter of Minnesota Power  
Petition for Approval of Rider for  
Distributed Generation Service & Rider  
for Standby Service

DOCKET No. E015/M-04-2030

In the Matter Otter Tail Power Company  
for Approval of a modified Standby  
Tariff and a new Distributed Generation  
Service Rider

DOCKET No. E017/M-04-2057

In the Matter Dakota Electric  
Association for approval of a new  
Distributed Generation Tariff

DOCKET No. E111/M-04-2049

## **RE: INITIAL COMMENTS OF THE DG COALITION**

The following are comments of the DG Coalition, a group of organizations representing a wide range of energy interests. The DG Coalition presents the consolidated view from representatives of environmental groups, distributed energy developers, renewable energy advocates, natural gas utilities, economic development interests, a large business association, and a county government who are interested in promotion of distributed generation in Minnesota. Individual groups signing on to these comments include: CenterPoint Energy, Frauenschuh Power Development, Hennepin County – Department of Environmental Services, Institute for Local Self-Reliance, Izaak Walton League of America - Midwest Office, Korridor Capital Investments LLC, Minnesota Chamber of Commerce, and The Minnesota Project.

These initial comments pertain to all dockets outlined above. To minimize the duplicative efforts, the DG Coalition has consolidated the initial comments in one document instead of multiple filings. Most of the comments apply to all proposed DG tariffs, but we have identified and outlined comments that are specific to any particular electric utility in this document.

## **BACKGROUND**

These dockets exist pursuant to MN Stat. §216B.16, subd. 1 and §216B.1646 and the Minnesota Public Utilities Commission order in Docket No. E-999/CI-01-1023, issued September 28, 2004 [*In the Matter of Establishing Generic Standards for Utility Tariffs for Interconnection and Operation of Distributed Generation Facilities under Minnesota Laws 2001, Chapter 212*]

The September 28, 2004, order from the PUC directs electric utilities in the state to submit DG Tariffs that are consistent with their order and meeting statutory provision in Minnesota Statutes §216B.1611, subdivision 3.

Eight areas were to be considered in the new DG tariffs:

1. Availability – DG must be connected in parallel to the utility system
2. Qualifications to Access the Tariff – Ownership and Size
3. List of Services to Be Priced
- 4 and 5. Setting Rates for Services Provided by DG Customers to Utilities
6. Calculation of Avoided Costs for Energy and Capacity Payments
7. Firm and Non-Firm Stand-By Rates and Physical Assurance
8. Transmission, Distribution and Renewable and Emissions Credits

## **GENERAL COMMENTS**

### **Missing Filings from Electric Distribution Cooperatives and Municipally-Owned Utilities**

Minnesota Statutes §216B.1611, subdivision 3, reads as follows:

Subd. 3. Distributed generation tariff. Within 90 days of the issuance of an order under subdivision 2:

(1) each public utility providing electric service at retail shall file a distributed generation tariff consistent with that order, for commission approval or approval with modification; and

(2) each municipal utility and cooperative electric association shall adopt a distributed generation tariff that addresses the issues included in the commission's order.

As far as the DG Coalition is aware, only five utilities have submitted DG tariffs for consideration by the PUC (Xcel Energy, Minnesota Power, Otter Tail Power, Dakota Electric Association and Interstate Power and Light/Alliant Energy.) While the cooperatives and municipally utilities are typically not subject to PUC oversight, the statutory directive is clear that they need to establish specific DG tariffs. The DG Coalition urges the PUC to request a copy of each of the cooperative and municipal utilities' tariffs and post them on the PUC web site along with the final version of the tariffs filed by the above mentioned utilities.

### **Reporting Requirements Do Not Appear to Be Met:**

Minnesota Statutes §216B.1611, subdivision 4, reads as follows:

Subd. 4. Reporting requirements. (a) Each electric utility shall maintain records concerning applications received for interconnection and parallel operation of distributed generation. The records must include the date each application is received, documents generated in the course of processing each application, correspondence regarding each application, and the final disposition of each application.

(b) Every electric utility shall file with the commissioner a distributed generation interconnection report for the preceding calendar year that identifies each distributed generation facility interconnected with the utility's distribution system. The report must list the new distributed generation facilities interconnected with the system since the previous year's report, any distributed generation facilities no longer interconnected with the utility's system since the previous report, the capacity of each facility, and the feeder or other point on the company's utility system where the facility is connected. The annual report must also identify all applications for interconnection received during the previous one-year period, and the disposition of the applications.

The DG Coalition is not aware of any progress reports regarding interconnection of DG projects on the utilities' systems. If these reports do not exist, the DG Coalition asks the PUC to order that these reports be filed immediately. If (or when) these reports have been submitted, the DG Coalition asks the PUC to post the reports (or link to them) from the PUC web site. It is important that we have a baseline of information so that we can determine if the DG standards, process and tariffs are achieving the goal that the Legislature originally set out to accomplish – to promote distributed generation.

**Excessive Metering Charges for Small DG Projects:**

The DG Coalition is aware of complaints directed at utilities related to excessive metering charges and other fees charged to small-scale projects in Minnesota. Minimizing metering and other customer charges is an important factor in DG project development especially for smaller scale projects. Excessive and unnecessary requirements and fees can quickly eat up the economic value of the kWhs produced by these smaller units.

The DG technical interconnection standards adopted by the PUC in September 2004 allows DG projects of 40 kW and under to use single bi-directional metering at the point

of common coupling. The DG Coalition believes that DG projects eligible for net metering (Qualified Facilities (QF)) should be exempt from monthly metering fees as a way to encourage DG. For non-QF facilities 40kW and under, only a single, reasonable monthly metering fee should be allowed. If the utility would like utilize the option of installing two separate meters, each one to record the flow of energy in one direction, then the utility must be responsible for all costs associated with the second meter and there should be no monthly charges imposed on the DG project for the second meter.

A DG project should be considered a single account in terms of utility billing. The DG Coalition has heard reports that a utility was imposing two separate monthly customer charges (eg. two electric accounts) on a single net metered project – one for power being delivered by the utility and one for the power being delivered to the grid by the customer. Utilities should not be allowed to impose two customer charges on a single DG project and we urge the PUC to make sure that DG Tariffs have fees that make sense and do not impose barriers to DG project deployment.

Using Minnesota Power's (MP's) proposed DG Tariff as an example of how double charges may have been slipped into the DG Tariffs. On page 6 of the MP's December 23, 2004, *Petition for Approval of Rider for Distributed Generation Service and Standby Service*, the have section covering Rates (monthly) that reads:

*The DG Rider's charges and credits apply **in addition** (emphasis added) to all charges for service taken under the customer's standard rate schedule.*

The DG Coalition is concerned that this section indicates that DG customers will be assessed two monthly service charges simply because they have installed on-site generation. MP proposed a service charge of \$15.83 in addition to charges for service being taken under MP's standard rate schedule. This double charging is unfair and represents a significant barrier to DG development, especially for small-scale projects. A single customer should only be responsible for a single monthly service charge and that the fee itself should be justified and reasonable.

## **Prices for Capacity Payments and Buyback Energy Should Be Clearly Stated In the Tariffs and Should Not Be Considered Proprietary**

The DG Coalition believes that the utilities' assertion that the information on pricing for energy buyback and capacity payments are not public information is unnecessary and puts up a barrier to DG project development. A basic tariffed service should have a base price, with a statement that indicates that negotiated rates may be available where applicable. A potential DG project developer should be able to easily look at the DG tariff and see what the base buyback rates for electricity will be and what the payments for accredited capacity will be. Requiring a DG project developer to make an additional contact with the utility and to sign a non-disclosure agreement is an impediment to DG development.

The DG Coalition asks the PUC to immediately require the utilities to publicly disclose their pricing for capacity and energy supplied by the DG project to the utility. It would be most useful if the information deemed "proprietary" was available to parties in this proceeding before the Reply Comments in this docket are due so that a complete examination of these prices is possible. At a minimum, the DG coalition asks that the final numbers (excluding the calculation) be stripped of their proprietary shielding.

Disclosing this information is supported by a new requirement by the Midwest Independent System Operator (MISO). As of April 1, 2005, MISO will provide price transparency of the transactions involving the sales and purchase of wholesale electricity. Buyers and sellers of power can now see real-time prices for electricity at five minute intervals at approximately 1400 points along the power grid<sup>1</sup>.

### **Standby Service**

The standby charges, particularly the reservation fees, represent a barrier for the DG development, and they will continue to represent a major hurdle for the DG development in Minnesota if charges are allowed at the same level.

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<sup>1</sup> Midwest ISO Integrates Energy Market, *Transmission and Distribution World*, April 1, 2005.

Although it declined to initiate another industry-wide proceeding at this time, the Commission has stated, “*Questions about how they will apply to any given utility will be addressed as each utility files its proposed tariff conforming to these guidelines.*”<sup>2</sup> The Commission also noted in its September 28, 2004 Order that all of the parties involved in the development of the standard interconnection tariffs and guidelines agreed that these guidelines do not contemplate every circumstance in which a party might desire standby service from a utility.

The electric utilities’ existing Standby Service riders will continue to pose barriers in the development of DG in Minnesota. For instance, Xcel's current Standby Service Rider states in Section 10 under Conditions and Terms of Service heading states that “...in the event customer requires unscheduled Standby Service at the time of Company's system peak hours in which the Company would have insufficient accredited capacity under the Mid-Continent Power Pool (MAPP) Agreement, if not for additional capacity purchases, and the Company incurs additional costs as a result of such unscheduled Standby Service, customer shall pay peak demand charges, etc," which are essentially penalty charges (which could be very high) and which are not defined as fixed demand charges in any tariff.

This provision treats DG customers unlike Xcel's own generators which incur no capacity penalty when their generators are forced out of service during peak loads because these generators remain as accredited capacity, and Xcel only purchases capacity and energy under short -term arrangements rather than after-the-fact capacity for up to six months to make up for accredited capacity seasonal shortfall. A similar provision should be made for DG's under any Standby Service Rider purporting to be firm.

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<sup>2</sup> Commission Order, September 28, 2004, Page 15.

## COMMENTS ON PROPOSED DG TARIFFS

### **Xcel's Small Wind Tariff**

The following are comments of the DG Coalition specific to Xcel Energy's proposed DG Tariff (Docket No. E002/ M-04-2055) filed on December 27, 2004:

Xcel Energy notes in its filing of December 27, 2004 that it has several related tariffs including this proposed DG tariff, the 2 MW DG tariff and the Small Wind tariff. We concur with Xcel's judgment to not open a proceeding with all related tariffs. We concur that there is merit to closing the 2 MW DG tariff once this proposed tariff is finalized and adopted. There may be merit to harmonizing the interconnection standards in this tariff with the Small Wind tariff, but as Xcel noted, that should be addressed in a separate proceeding. We are, however, very doubtful that the DG tariff will be sufficiently applicable to Xcel's need to bring on additional small wind projects. We do not anticipate that this tariff will be able to replace the Small Wind tariff.

### **Qualifications**

The following are comments of the DG Coalition specific to Xcel Energy's proposed DG Tariff (Docket No. E002/ M-04-2055) filed on December 27, 2004:

Xcel's Minnesota Electric Rate Book, Section 10, revised sheet number 73 under Qualifications states that:

*"The distribution generation facility must be operable, permanently installed or mobile facility and shall be owned by the customer receiving retail electric service from the Company at the same site."*

The ownership provisions and requirements were thoroughly discussed during the Rate Work Group discussions. At the end, all parties agreed (including the regulated electric utilities) that DG facility may be owned by a customer, utility, third party or any combination thereof as long as the DG ownership is clearly identified. The



Commission's September 28, 2004 Order<sup>3</sup> consequently asked to adopt the following language:

*"The DG facility must be operable, permanently installed or mobile facility serving the customer receiving retail electric service at the same site."*

The Xcel Energy tariff must adhere to Commission's stated language for DG ownership qualification.

### **Standby Service Requirements**

The following are comments of the DG Coalition specific to Xcel Energy's proposed DG Tariff (Docket No. E002/ M-04-2055) filed on December 27, 2004:

Xcel's Minnesota Electric Rate Book, Section 10, revised sheet number 74 under Standby Service Requirements states that:

*All customers eligible for this DG tariff who use their generation to serve on-site load shall be required to contract for Standby Service from the Company.*

Contrary to above statement, the Commission's September 28, 2004 Order states:

*"A physical assurance customer is a customer who agrees not to require standby services and has a mechanical device to insure that standby service is not taken. The cost of the mechanical device, which must be reasonable, is to be paid by the DG customer. A utility's tariff may deal with other issues not addressed here."*

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<sup>3</sup> Commission's September 28, 2004 Order for Establishing DG Standards, Docket No. E-999/CI-010-1023, Page 7.

Since the Commission agrees that a physical assurance customer does not require standby service, then Xcel's filing is incomplete because it does not provide for the necessary standby service exemption for such a customer. Also, Xcel's Standby Service Rider does not provide truly firm standby service as it was noted in preceding section.

In response to Department's Information Request No 1, dated February 25, 2005 on the same issue, Xcel Energy defines "standby power"<sup>4</sup> as a generation portion of the standby service and refers as a "carefully chosen wording" of the Rate Work Groups definition, and thus requires a customer to sign a standby service. The DG Coalition disagrees with this interpretation. The Rate Work Group did not adopt this language. The DG Coalition believes the scope is intended to cover the entire standby power requirements including generation, transmission, and distribution reservation charges.

Xcel's Minnesota Electric Rate Book, Section 10, revised sheet number 74 under Standby Service Requirements item 2 and 3:

Xcel should explain the rationale of charging these costs in the standby Demand and Reservation Fee charges.

### **DG Accreditation**

The DG Coalition is concerned by URGE test requirements as outlined in the proposed DG Tariffs.

The Commission Order of September 28, 2004 dropped the specification that capacity be accredited through the URGE test. The change was made based on the Regulated Utilities statement that "the URGE test is not the only relevant test for determining a generator's capacity". It is not clear if this language requires URGE testing.

The URGE test can be excessively onerous for small generators as well as combined heat and power systems in which electric power production follows steam load. The purpose

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<sup>4</sup> In reference to Commission's September 28, 2004 Order, Page 16.

of the DG tariff is to facilitate the installation of distributed generation. The Commission should remove the specific reference to the URGE Test and allow the method of accreditation to be subject to negotiation.

1. DG Accreditation issue in Xcel's Docket:

Xcel's Minnesota Electric Rate Book, Section 10, revised sheet number 78 under Terms and Conditions of Service, number 14 states:

*“In order to be eligible to receive a capacity payment, the facility must meet the minimum requirements for capacity accreditation in the MAPP, including performing an annual uniform rating of generation equipment (URGE) test”.*

The DG Coalition is concerned by Xcel Energy's URGE test requirements as outlined. The effect of company's proposed language requires all DG customers to meet a different standard than required by MAPP for capacity accreditation. MAPP's capacity accreditation manual requires URGE testing solely for dispatchable thermal facilities including coal, natural gas, and nuclear-based generation. For variable resources, such as wind, hydro, and solar, MAPP prescribes a separate testing method that is more appropriate for these types of generators. Co-generation facilities that primarily serve steam loads as well as other variable resources, must be allowed to follow MAPP's testing for variable generation.

The DG Coalition offers the MAPP's "Generation Reserve Sharing Pool Handbook" accreditation requirements in a separate attachment. The coalition has included the introductory portion of MAPP's accreditation requirements below:

**4.2.2.1. Generation Accreditation Requirements**

“Before a new unit, or additional capability at an existing unit, can receive authorized accreditation, it shall have received temporary accreditation for MAPP notification purposes. As soon as practicable thereafter, the owner/operator should perform an URGE test and the Pool Participant shall seek authorized accreditation from the AWG. The initial accreditation for all new generating units and additional

capability at existing units, except variable capacity generation, shall be authorized before the fact pursuant to the procedures in Section 4.2.2.2. Variable capacity generation shall comply with the requirements in 4.2.2.2, except that the initial accreditation for variable capacity generation shall be authorized after-the-fact pursuant to Section 4.2.2.7.2.7 rather than use the temporary accreditation process specified in 4.2.2.2.1. The Form K shall be distributed before any production output is to be applied for accreditation purposes and shall include all pertinent notification information except test results.” (emphasis added)  
(MAPP Generation Reserve Sharing Pool Handbook, RRC Approved April 30, 2003, p. 27.)

The DG Coalition offers the following language to rectify and correct Xcel Energy’s tariff conditions for capacity accreditation. The DG Coalition proposes that Xcel Energy’s Terms and Conditions, #14 should read:

“In order to be eligible to receive a capacity payment, the facility must meet the minimum requirements for capacity accreditation in the MAPP as specified by the most recently approved version of the MAPP Generation Reserve Sharing Pool Handbook.”

The DG Coalition’s language simply links capacity accreditation to MAPP’s stringent and generator appropriate requirements rather than a one size fits all approach using the URGE testing method. In addition, integrating the DG Coalition’s language will ensure that the tariff requires the most recent, up to date methodology for capacity accreditation.

Xcel’s Minnesota Electric Rate Book, Section 10, revised sheet number 76, first paragraph also states:

*"procedure to determine monthly accredited capacity is defined in the PPA..."* .

The method of accreditation should be subject to negotiation. The URGE test can be excessively onerous for small generators as well as combined heat and power systems in which electric power production follows steam load. The purpose of the DG tariff is to facilitate the installation of distributed generation. We believe that the language included

in Section 10, Sheet 78 Item 14 should reflect the language on Sheet 76 of Section 10 and remove the specific reference to URGE testing.

DG Accreditation issue in Alliant/Interstate Power and Light Docket:

Original Volume No. 8, Original Sheet No. 47 of the Interstate Power and Light Company DG Tariff filed on December 22, 2004 states:

*“Firm Power Definition: To qualify for firm power capacity under this Rider, the Customer shall have supplied power to the Company accredited by MAIN’s URGE test, regardless of when the power is delivered to the system.”*

The effect of company’s proposed language would require all DG customers to meet a different standard than required by the Mid-America Interconnected Network (MAIN) for capacity accreditation. MAIN is the NERC reliability council for IPL’s service territory in Minnesota. MAIN’s capacity accreditation manual –currently in revision – will require URGE testing solely for dispatchable thermal facilities including coal, natural gas, and nuclear-based generation. For variable resources, such as wind, hydro, and solar, MAIN’s draft procedure found in MAIN GUIDE NO.3B “Procedure for the Uniform Rating and Reporting of Non Dispatchable Resource Capability” prescribes a separate testing method that is more appropriate for these types of generators. The DG Coalition believes that co-generation facilities that primarily serve steam loads be allowed to follow MAIN’s testing for variable generation.

The DG Coalition offers the following language to rectify and correct Interstate Power and Light’s draft tariff conditions for firm power and capacity accreditation. The DG Coalition proposes that IPL’s definition of firm power should read:

*“Firm Power Definition: To qualify as firm power capacity under this Rider, the Customer shall have supplied power to the Company accredited by MAIN’s guidelines for rating and reporting of resource capability regardless of when the power is delivered to the system”.*

The DG Coalition seeks to add language to the tariff to for capacity credit qualification:

Capacity Credit Qualification: To qualify for a capacity credit under this tariff, the Customer shall follow MAIN criteria for rating electrical generation equipment (the MAIN Guide) at chapter 3 for dispatchable or non-dispatchable generation equipment. The Customer will be compensated for the capacity made available to IPL.

The DG Coalition's language simply links capacity accreditation to MAIN's stringent and generator appropriate requirements rather than a one size fits all approach using the URGE testing method. Integrating the DG Coalition's language will ensure that the tariff requires the most recent, up to date methodology for capacity accreditation.

### **Renewable Resource Credits**

The following comments pertain to all proposed DG tariffs.

The proposed DG tariffs largely follow the renewable credits language established by the Rate Work Group and adopted by the Commission on September 28, 2004. The minor exception is the replaced "green power" with renewable energy. While part of regulated utilities' statutory obligations to implement renewable energy is spelled out in terms of capacity, the fact is that they are contracting for that power on the basis of energy supplied. Overall this departure seems reasonable.

However, the Commission did note in its Order that "where these guidelines leave matters unresolved, the parties may address them in the context of a utility's DG tariff filing." (Page 26) Three significant matters unresolved are:

- Who owns the Green Credits or tradable renewable credits (TRCs).
- Who decides if the DG customer receives the renewable energy avoided cost or the regular avoided cost.

- How to determine the avoided cost of renewable energy.

Ownership of TRCs: The TRCs must remain the possession of the DG customer/owner if they are paid the regular avoided cost established in the tariff. If however, the utility pays the DG customer/owner a renewable energy avoided cost that is higher than the regular avoided cost it is clear that the utility is actually paying for the TRCs. If the utility does not explicitly pay for the TRCs, the DG owner must be allowed to independently market that asset.

Choice of Renewable or Regular Avoided Cost: The DG customer/owner should have the option of choosing between the regular or renewable avoided cost. As renewable energy costs have declined and traditional fossil fuel costs have increased, it is conceivable to anticipate that the avoided cost of renewables will be less than the regular avoided cost. Wind prices are falling to sub-3 cent levels, and new power plants proposed by the utilities will be increasingly expensive. This already appears to be the case for Great River Energy, where the avoided cost of wind has been identified as 2.5 cents per kWh and the regular avoided cost is 3.4 cents per kWh. The legislative intent of the DG tariff is to facilitate the deployment of clean energy resources. The DG developer should have the power to choose options that compensates for the full value of the project.

Determination of Renewable Avoided Cost: The DG coalition has argued in its initial and reply comments that the price of avoided renewable costs should be tied to the green pricing program, less administrative and marketing costs. As we have pointed to through out the DG Docket, tying the value of the renewable energy credit to the utility's Green Pricing is fair and in the public interest. As we noted in our Reply comments of July 27, 2003:

The legislatively mandated green pricing program requires utilities to offer its customers renewable energy for a price premium. This premium, by law, is set at the utility's cost of acquiring the energy and must: "reflect the difference between the cost of generating or purchasing the renewable energy and the cost of generating or purchasing the same amount of

nonrenewable energy.” Although the statute does not mention the cost of administering a green pricing program, utilities have been allowed to capture these costs in the process. Thus, if these costs are subtracted out, the green pricing premium reflects the incremental costs the utility actually pays to acquire renewable energy.

The other departure specifically in Minnesota Power’s proposed Rider for DG Service, Attachment A, under Renewable Credits heading states:

*“...be net of payment for capacity and energy identified above.”*

The DG Coalition assumes that this means that the regular avoided cost is rolled into the renewable avoided cost. This may or may not be appropriate depending upon how the renewable credit is applied.

We also noted in the Minnesota Power and Interstate Power and Light Company’s DG Dockets comments that the REO includes a Biomass sub-objective. Until such time as the utility has meet the biomass obligation, the price of biomass DG projects including the renewable portion of co-fired facilities should reflect the utility’s incremental price of biomass energy and capacity rather than lower cost wind projects. We presume this is what Minnesota Power means by saying they “will reflect the avoided cost of a comparable renewable addition or purchase” on page 8 of their filing.

### **Otter Tail Power's Renewable Energy Credit**

On April 5, 2005, Otter Tail Power (OTP) submitted an addendum to their original DG tariff filing. The addendum contained a line item indicating that OTP is offering a \$2 per MWh credit for DG projects using renewable energy technologies. OTP's public filing offers no explanation for this figure and the DG coalition asks the PUC to make this calculation public information. The DG coalition believes that this figure is low by as much as \$24 per MWh.

OTP has a green pricing program that requires customers to pay \$26 per MWh premium for renewable electricity. OTP offers this explanation on their web site:



*Although the cost to produce wind-generated electricity is decreasing, it still costs more than traditional generation. The extra \$2.60 per 100-kilowatt-hour block will cover these costs and includes no additional profit for Otter Tail Power Company.*

Based on limited information on the calculation of their renewable energy credit for DG, the DG Coalition asks the PUC to examine the large discrepancy between OTP's renewable energy credit for DG and OTP's premium for its green pricing program. The DG Coalition believes that Otter Tail Power has yet to meet its renewable energy goals of 10 percent renewable energy by 2015 and therefore must invest in more renewable energy development in the coming years. DG projects that help OTP meet their renewable objectives should be compensated fairly by the utility. Their proposed renewable energy credit does not

In a February 22, 2005, response from OTP to a Department of Commerce information request, OTP outlines their definition of the avoided cost for green power. OTP wrote:

*"Otter Tail defines the avoided cost of green power as Otter Tail's avoided cost plus the renewable energy credits. The arrangement pays the DG customer Otter Tail's avoided cost and the estimated market value of renewable energy credits. By paying the DG customer the renewable energy credit, Otter Tail owns the credits to the renewable energy resource and is able to apply those credits to Otter Tail's Renewable Energy Objective."*

Using the definition above, OTP has proposed that argues that the value for the green attributes of a renewable DG project is \$2 per MWh. The Department of Commerce and/or the PUC staff, with their access to proprietary regulatory filings, should find many examples covering the pricing related to green attributes of renewable energy project. The DG Coalition believes that an examination will indicate a much higher value for green attributes from renewable energy projects. The DG Coalition is aware of at least

one renewable energy project where a utility was willing to sell back the green attributes to a renewable energy project owner for a price approaching \$10 per MWh.

### **Minnesota Power, Alliant Energy (Interstate Power and Light), Xcel Energy and Dakota Electric's Renewable Energy Credit**

The utilities listed above have proposed DG tariffs that do not contain a calculation or a price per MWh that they will use as a renewable energy credit for qualified DG projects. The DG Coalition asks the PUC to immediately order that these calculations be completed and filed with the PUC and with parties on the service lists so that parties are able to address this issue in reply comments. Based on the Otter Tail Power calculation of its renewable energy credit, the DG Coalition is concerned that similar problems related to the calculation of renewable energy credits with these other utilities will arise. The issues need to be worked out before any of these proposed DG tariffs are approved.

### **Terms and Conditions of Service**

The following are comments of the DG Coalition specific to Xcel Energy's proposed DG Tariff (Docket No. E002/ M-04-2055):

Xcel Energy Rate Book, Section 10, revised sheet number 77 under Terms and Conditions of Service, number 4. The paragraph should read:

“Customer is responsible for any applicable study fees and interconnection costs and any **sales** tax-impact of the foregoing on the company. The customer must pay all such costs as specified in the interconnection agreement”

The word “sales” is added to clarify what can be charged the DG customer, as sales tax would be the only appropriate or applicable tax that could be added to the cost of a study or interconnection. Other taxes are recovered through rates being paid by the DG customer.

Xcel Energy Rate Book, Section 10, revised sheet number 77 under Terms and Conditions of Service, number 6:

The DG Coalition recommends that the costs of metering and billing should be clearly stated and tariff based instead through an assessment as outlined in Xcel Energy's proposed tariff.

Xcel Energy Rate Book, Section 10, revised sheet number 77 under Terms and Conditions of Service, number 10:

Although the disconnection of unit language stated here is general, the DG Coalition understands that Xcel will adhere to detail language as outlined in Section 10 – Revised sheet number 114, item F.

Xcel Energy Rate Book, Section 10, revised sheet number 77 under Terms and Conditions of Service, number 11 states:

*Distributed generation customer shall be responsible for any expense incurred by the Company on behalf of the customer or as a result of the customer's DG facility, which is not covered in the terms of the Interconnection Agreement.*

The costs should be apparent to DG customers before they pursue any DG projects and should be included in the Interconnection Agreement. Attachment 5 (Proposed Interconnection Agreement), Exhibit B of the Commission's September 28 Order is supposed to outline all of the costs.

### **Limitation of Liability**

In the Commission's order the language was not changed because the DG Coalition did not provide comparisons to what is traditionally included in agreements. Specifically, the DG Coalition now has the following comments:

**A.** Attachment 5, part IX (“Limitation of Liabilities”), paragraph A, in all proposed DG tariffs and Section 10, Revised sheet number 114 specifically in Xcel’s Minnesota Electric Rate Book. The following language should be deleted from the limitation of liability:

*“except to the extent that such damages, losses or claims were caused by the negligence or intentional acts of the other party.”*

Language such as this is ordinarily included to expand a limit on liability, i.e.: X is **not** liable to Y **except** for negligent or intentional acts. The way it is used in this instance does not make sense, if read literally the section would mean that Xcel **is** liable for acts of ordinary care but **not** for intentional acts of wrongdoing. If we leave this language in essentially it would have the opposite effect of what is intended, to have Parties obligated on acts of ordinary care but not in the instance of negligence or with intentional wrongdoing. This simply is not reasonable in a business context. No developer or customer would enter into such a business arrangement without having remedy against the wrongful acting party. The result of leaving the language will be to deter a Developer’s participation, as there would be an unreasonable allocation of risk for recovery for their investment.

Other jurisdictions often limit liability for losses in instances of ordinary care but not in instances of negligence or for acts of intentional wrongdoing. See, Texas Public Utility Commission’s standard “Agreement for Interconnection and Parallel Operation of Distributed Generation”, Wisconsin Public Service Commission’s “Distributed Generation Interconnection Agreement (20kW to 15 MW)”.

**B.** Attachment 5, part IX (“Limitation of Liabilities”), paragraph B, in all proposed DG tariffs and Section 10, Revised sheet number 115 of Xcel’s Minnesota Electric Rate Book, paragraph B.

This referenced Paragraph B should be deleted from the proposed DG tariffs.

By including this language there would be a disproportionate risk put upon the developer as utilities are able to recover losses from ratepayers while the developer cannot do so. Further, the size of the respective parties is vastly different. The Parties are unable to absorb risks the same way simply because the utility is so much larger than the developer. This language forces DG project owners to assume all risks of other parties' wrongful acts without remedy. Developers are unable to recover damages as a result of being shut down by the area EPS operator. This is an inappropriate risk for a developer and will deter DG projects. Developers would have problems obtaining project financing and interest in entering into DG projects. These tariffs are intended to stimulate growth of distributed generation to benefit ratepayers. However, the result of these tariffs as they are is the opposite; the effect would be stifling the growth of distributed generation in Minnesota.

## **Conclusion**

The DG Coalition respectfully requests that the Commission take strong actions in these dockets to promote DG development in Minnesota, through adopting the recommendations we have outlined above.

Please contact the DG Coalition representatives if you or your staffs have any questions:

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