

Subject Solar Production Tax

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Date March 22, 2022

Summary

H.F. 4305 exempts certain community solar gardens from the state solar production tax.

The community solar garden law enacted by the legislature in 2013 limited the capacity of a community solar garden to one megawatt. When the Public Utilities Commission began implementing the program, it defined the gardens in a way that allowed several one-megawatt projects to “co-locate” near to one another to take advantage of economies of scale and to connect to the grid through a single interconnection point. As a result, Xcel Energy, the utility required to develop a solar garden plan, received applications for co-located one-megawatt facilities that, when aggregated, were much larger than one megawatt: in the first month, two-thirds of the applications were for larger co-located systems; 21 percent had an aggregated capacity exceeding ten megawatts.

In June 2015, by which time applications totaling more than 900 megawatts had been received, Xcel and several stakeholders reached an agreement on co-location that was largely approved by the commission in an order issued on August 6, 2015. The order limited the size of co-located community solar gardens that had applied to Xcel prior to the June agreement to five megawatts, and also limited to that capacity applications received after that date but before September 25, 2015. Applications received up to one year after September 25, 2015, were limited to one megawatt, and in September 2016, the commission affirmed the one megawatt cap going forward.

The production tax statute enacted in 2014 has its own method for determining the total size of a solar project. If projects are constructed within a 12-month period and “exhibit characteristics of being a single development” – such as ownership structure, a shared connection, common debt or equity financing – their capacity is to be aggregated. If the aggregated capacity of a single development exceeds one megawatt, it must pay a production tax of \$1.20 per megawatt-hour of electricity generated. Smaller entities are exempt from the tax.

In 2021, the solar production tax raised \$1.8 million statewide, 80 percent of which went to 38 counties, and 20 percent to cities and townships where the gardens are located. H.F. 4305 would exempt those aggregated community solar gardens in excess of one megawatt that executed interconnection agreements with Xcel after the date of the commission’s August 6, 2015, order.



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