ENERGY
CENTS
COALITION

Commit Energy Now To Survive

April 1, 2016

Mr. Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101

RE: **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. E002/M-13-867

Dear Mr. Wolf:

Enclosed please find the Energy CENTS Coalition's Comments in the above-captioned matter. An Affidavit of Service is also enclosed.

If you have any questions, please contact me at 651-774-9010.

Sincerely,

Pam Marshall

Pam Marshall

AFFIDAVIT OF SERVICE

Pam Marshall, being duly sworn, says that on the 1st day of April 2016, she served the Energy CENTS Coalition's (ECC) Comments via electronic filing In the Matter of the Petition by Northern States Power, d/b/a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program, Docket No. E002/M-13-867, to the individuals on the attached service list.

Pam Marshall

Pam Marshall

Subscribed and sworn to before me
1st day of April, 2016

Patricia M. Fischer

PATRICIA M. FISCHER
NOTARY PUBLIC - MINNESOTA
My Commission Expires
January 31, 2017

Notary Public

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STATE OF MINNESOTA BEFORE THE PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	**Chair**
Nancy Lange	**Commissioner**
Dan Lipschultz	**Commissioner**
Matt Schuerger	**Commissioner**
John Tuma	**Commissioner**

In the Matter of the Petition of Northern States Power, d/b/a Xcel Energy, for Approval of its Proposed Community Solar Garden Program

COMMENTS OF THE ENERGY CENTS COALITION

DOCKET NO. E002/M-13-867

April 1, 2016

The Energy CENTS Coalition (ECC) appreciates the opportunity to respond to the Commission's request for Comments in the above-captioned matter. As co-signers to these comments, the Legal Services Advocacy Project (LSAP) and Dayton's Bluff Neighborhood Housing Services indicate their support for the positions and recommendations made by ECC. LSAP is a statewide division of Mid-Minnesota Legal Aid, engaging in research and advocacy on behalf of low-income Minnesotans, including elders and persons with disabilities. DBNHS has been delivering housing programs in St. Paul for more than 35 years. Since its inception, DBNHS has been directly responsible for the rehabilitation, new construction, and assisted purchase of 3,281 affordable housing units (ownership and rental), primarily in the City of St. Paul, Minnesota's East Side neighborhoods.

I. INTRODUCTION

In these comments, ECC respectfully requests that the Commission initiate a broader discussion about Xcel Energy's ("Xcel" or "the Company") Solar*Rewards Community (S*RC) program. ECC recommends that the Commission temporarily suspend any additional solar developer applications until important consumer protection issues and other policy considerations are addressed. ECC recommends that now, before the adverse impact on ratepayers grows, is an appropriate time to deliberate about these concerns. Through a stakeholder process, Commission investigation, or some other means, ECC recommends addressing the current topics and others *before* continuing to modify or to further develop the current Community Solar Garden (CSG) model.

The current topics on which the Commission seeks comment seem to be based on the assumption that Xcel's current CSG program is developing in a manner that is consistent with the public interest. At this time, however, ECC does not believe that premise is accurate. Much more information is available today than was available when Xcel's program was first filed. ECC believes the Commission should evaluate that information before allowing the current program to expand.

In addition, ECC recommends that Xcel develop a CSG specifically for low-income customers. The easiest way to ensure low-income participation in an Xcel CSG would be to allow Xcel customers who participate in the Low Income Home Energy Assistance Program (LIHEAP) to benefit from that CSG. Ahtough, LIHEAP assists less

than 30% of Minnesota's income-eligible population, there are a significant number of Xcel customers that receive LIHEAP (about 64,000) each year.[1] ECC believes this number far exceeds the number of low income customers that will subscribe to current CSG offerings. ECC will discuss this recommendation further below.

II. THE CURRENT CSG MODEL IS NOT IN THE PUBLIC INTEREST

Minn. Stat. § 216B.1641(e)(4) requires that any community solar program approved by the Commission be consistent with the public interest and provides that the Commission may "approve, disapprove, or modify a community solar garden program."[2]

Much of the CSG discussion, to date, has involved ensuring that private, solar developer interests are satisfied—e.g. rates, Renewable Energy Credits (RECs), ease of financing, interconnection issues, contract provisions, etc.—while very little discussion has focused on the impact of CSG on subscriber and non-subscriber ratepayers.

In the early stages of the CSG development, the Commission was concerned about potential delays in the development of the solar garden industry and found that "allowing maximum garden development in the early years of the program is particularly critical to allow developers to take advantage of the federal Investment Tax Credit before it expires."[3] At this time, the tax credit has been extended (30% until 2019) and proposed developments have increased. In April 2015, Xcel reported 431 MW of garden applications."[4] One year later, Xcel reports that 754 MWs at 214 project sites are in the interconnection process.[5] Given the level of planned projects, the Commission's initial concern about delayed CSG should no longer be a concern. In fact, the Commission's finding that "the premium paid for solar-garden power appears to be a major driver of the program's popularity with developers" is truer today than it was in mid-2015.[6]

It seems, therefore, that the private interests of solar garden developers have been met but, in ECC's opinion, a number of public interests have not.

A. Current Costs

In April 2015, Xcel "provided the Commission with a detailed rate impact analysis for customers, showing a nearly two percent bill increase for customers, if the original 431 MW of garden applications were to come online at current rates. As of the date of this filing, [Xcel has] applications representing more than 500 MW of planned projects. Less than thirty percent of sites are for stand-alone gardens of one MW or less."[7]

Because of the extension of the energy production tax credit and the growth in the number of active applications (754 MW as of March 2016), non-subscriber residential ratepayers will experience rate increases of more than two percent. This level of rate increase, particularly for low-income people who are least likely to benefit from CSGs, is not just and reasonable.

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[1] Xcel Energy, Annual Report, Low Income Discount Program, Docket Nos. 04-1956 and 10-854, December 1, 2015, p. 19.
[2] Minn. Stat. § 216B.1641(e).
[3] Order Rejecting Xcel's Solar-Garden Tariff Filing and Requiring the Company to File a Revised Solar-Garden Plan, April 7, 2014, Docket No. 13-867, p. 7.
[4] Xcel Energy Comments, Docket No. 13-867, April 2, 2015, p. 2.
[5] Xcel Energy, Monthly Report (March 9, 2016), Docket 13-867, p. 4.
[6] Order Adopting Partial Settlement as Modified, August 6, 2015, Docket No. 13-867, p. 7.
[7] Xcel Energy Comments, Docket No. 13-867, April 2, 2015, 2.

Xcel billing records from December 2009 to March 2012 show that lower income and renter households use less electricity than higher income households and homeowners. Xcel's report shows that "throughout the year, *lower income customers' electric use is consistently lower than their higher income counterparts*" and that "given the relatively smaller dwellings of renters . . . *the amount of electricity used during any given month is significantly less for renters compared to customers who own their home*" (emphasis added).[8] Importantly, the Xcel report defined "low-income" customers as those living on annual incomes of $50,000 or less. As discussed further below, ECC believes the difference in electric consumption would be even more striking if Xcel had defined low-income as 50% of State Median Income ($38,687).

Because low-income household electric usage is lower than higher income household electric usage, even if low-income customers participated in CSGs, their subscriptions would be smaller and their savings would be lower. Under the current CSG model, all residential ratepayers, including low-income Xcel residential customers who do not participate in CSGs, are subsidizing the bill credits received by higher income Xcel customers (or commercial customers) who can more significantly benefit from CSG.

According to a recent MIT study, "cost shifting has already produced political conflicts in some cities and states—conflicts that can be expected to intensify as residential solar penetration increases. Because of these conflicts, robust, long-term growth in distributed solar generation likely will require the development of pricing systems that are widely viewed as fair."[9] The chief author of the study cited above, also stated – and ECC agrees – that "subsidizing the high-cost path to solar power more than lower-cost solar alternatives simply makes no economic or policy sense. In order to promote the expansion of solar energy… at a reasonable cost, public policies must place a greater emphasis on rewarding the lowest-cost sources of solar electricity, not providing extra subsidies to the highest-cost sources as current policies do."[10] As Xcel has stated,

> We have observed that utility-scale solar resources can be obtained for roughly half of the current bill credit rate approved in this docket. We conclude that the program rules coupled with the high bill credit rate have created an environment where a few customers and developers reap substantial benefits, at the expense of all other customers, who pay far more than what they might otherwise for the same resource.[11]

ECC recommends that the Commission evaluate the impact of all the additional costs that CSGs may be imposing on Xcel's residential ratepayers, including, for example costs associated with:

- Developer contract negotiation
- Billing system changes
- Costs to credit customer bills
- Costs associated with customer notices
- Application tracking/development, implementation and ongoing
- Web site updates
- Regulatory reporting
- Staffing the Implementation Work Group

[8] Xcel Energy, "2012 Residential Energy Use Survey: Minnesota Service Area," June 2012, pp. 60, 61.
[9] Richard Scmalensee, et. al., "The Future of Solar Energy: An Interdisciplinary MIT Study," 2015.
[10] Richard Schmalensee, "Pricing Solar so it Doesn't Raise Everyone's Energy Rates," Opinion Page, *Boston Globe*, March 23, 2016. Richard Schmalensee is professor emeritus of management and professor emeritus of economics at MIT and former director of the MIT Center for Energy and Environmental Policy Research.
[11] Xcel Energy Comments, Docket No. 13-867, April 2, 2015, p.2.

- Administering unsubscribed REC checks
- Legal fees/engineering disputes, etc.
- Potential adders
- Smart inverters and other distribution system upgrades

As the Commission has noted, "Xcel will incur significant costs in developing the solar-garden application and subscriber-management system, processing applications, and administering bill credits. It is fair that the bulk of these program costs be borne by solar-garden developers and subscribers and not ratepayers generally."[12]

Rather than simply adjusting the Applicable Retail Rate or the Renewable Energy Credit amounts or adopting the Value of Solar methodology, ECC believes the Commission should first evaluate the level of costs associated with CSG development and determine how these costs should be allocated. ECC does not believe we should continue to simply assign rates and shift costs.

B. Scale of current projects

According to Xcel, commercial customers represent 71% of the subscriptions for current applications. Residential customers only represent 29% of those subscriptions.[13] It is likely, therefore, that the majority of current applications are 5MW projects. ECC believes the Commission should review the current size of the pending projects and, because of the current disproportionate number of commercial customers and larger projects, should suspend further CSG applications until that review is completed. If the Commission determines that the current CSG model should continue, at no time should the Commission allow projects larger than 1MW.

C. Location of development

ECC agrees with Xcel that the

> Commission should consider the public policy implications of encouraging the development of community solar at the fringes of our service territory, rather than near load and urban centers. The expectation when Minnesota began its journey with community solar was that smaller arrays would be planned near the urban core and customer load. Development of community solar generation nearer load minimizes line losses and other inefficiencies. In reality, this pattern has not borne out. We believe the Commission should give consideration to whether or not to encourage developers building on the literal fringes of our service territory (and beyond).[14]

[12] Order Rejecting Xcel's Solar-Garden Tariff Filing and Requiring the Company to File a Revised Solar-Garden Plan, April 7, 2014, 13-867, p. 9.
[13] OAG Information Request N. 133, Attachment A, February 24, 2016, Docket No. 13-867.
[14] Xcel Energy Comments, Docket No. 13-867, March 22, 2016, p. 5.

D. Inadequate consumer protections

Discussions about solar consumer protections are taking place nationally. Low income consumer advocates recommend that regulatory commissions "develop a model Customer Disclosure Template and require solar energy providers [to provide that model] to all prospective customers . . .in a manner [that would allow] a comparison of impacts on the customer's electricity bills and obligations under the applicable financial arrangement."[15]

Rather than discuss the wide array of specific consumer protection policies included in the report referenced above, ECC recommends that a stakeholder or investigatory process should include an evaluation of those policies (Registration or Licensing, Disclosures about savings estimates, fees, transfer terms, etc., Contract Provisions, Sales and Marketing Conduct, Consumer Complaints, Enforcement). Stakeholders could then provide the Commission with further consumer protection recommendations.

The authors of this report also recommend that regulatory commissions "adopt consumer protection policies reflected in the . . . Minnesota public advocate (OAG) proposals" submitted in this docket.[16]

The Commission did not adopt the OAG's recommendations and concluded "that subscribers' interests will be adequately protected by the disclosures . . .[and that] the OAG's proposals would provide a marginal increase in consumer protections but would greatly increase the burden on developers and risk significantly delaying the solar-garden program's start.[17] Since the CSG development is apparently robust and because CSG marketing is expanding rapidly, ECC believes the Commission should re-evaluate this decision. It is ECC's understanding that the disclosure requirements that the Commission has required to date exist in contracts between Xcel and solar developers. It is not clear to ECC if solar developers are disclosing that type of information to potential subscribers. If not, ECC believes the Commission should require developers to disclose that information directly to potential CSG subscribers. ECC believes direct disclosure is more consistent with the CSG statute, which requires any approved plan to "identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions" (Minn. Stat. § 216B.1641,(e)(5).

E. Marketing Concerns

ECC believes the Commission should establish marketing conduct protocols. Developers often provide a "savings calculator" to encourage customers to subscribe. Some solar developers are basing savings claims on annual four percent electric rate increases. At times, it is not clear on what data those savings claims are based. Of course, the savings diminish appreciably when a customer uses a minimal amount of electricity. Low-income customers (and low-income renters) in particular, need consumer protections against marketing materials that offer sign-up gifts and promise savings that may not be realized.

Further, as these marketing efforts become more pronounced, Xcel's Call Center is receiving inquiries from customers questioning the promises made in CSG promotional materials. As Xcel states, "the utility is in a

[15] Barbara Alexander and Janee Briesemeister, "Solar Power on the Roof and in the Neighborhood: Recommendations for Consumer Protection Policies, March 2016, p. 30.
[16] Id. at 39.
[17] Order Rejecting Xcel's Solar-Garden Tariff Filing and Requiring the Company to File a Revised Solar-Garden Plan, April 7, 2014, 13-867, p. 19.

difficult position as the marketing and contract is between the subscriber and developer although the customer is ours as well. Xcel Energy is directing these issues to the Office of the Attorney General."[18]

As the Commission has noted,

> The statute contemplates that additional restrictions will be placed on a solar-garden program to protect the public interest and for consistency with other laws. It requires that any solar-program approved by the Commission be consistent with the public interest and provides that the Commission may 'approve, disapprove, or modify a community solar garden program' accordingly. And the statute recognizes that further restrictions may be placed on a solar-garden program by other laws or regulations."[19]

ECC believes it is an appropriate role for the Commission to provide regulatory oversight regarding CSG marketing practices and savings claims.

F. Customer Complaints

ECC also recommends that the Commission establish a specific process for addressing customer complaints and a requirement that CSG developers provide potential subscribers with information about how to file a complaint.

III. NEED FOR INVESTIGATION AND EVALUATION

The rapid growth of the CSG marketplace has outpaced the establishment of necessary consumer protections. Further, as the marketplace has grown, barriers to low-income participation that have not been (and are not likely to be) resolved and are becoming even more inequitable. Moreover, market expansion will create ongoing, adverse cost impacts on other ratepayers, including low- and fixed-income ratepayers.

For these reasons, ECC believes an additional stakeholder or investigatory process is necessary in order to answer the question the Commission has posed: "*What steps could the Commission take to ensure that CSGs are accessible to and benefit a broad cross-section of customers and customer classes?"*

Additional evaluation is necessary, particularly since the Commission's expectation that "the 1 MW limit will help 'throttle down' the initial rush of solar-garden applications to a level more consistent with the statute and give the parties and Commission an opportunity to consider holistic adjustments to the program"[20] has not been met.

ECC recommends that the Commission consider convening additional stakeholder meetings or some other process—to which the input of additional public interest organizations and ratepayers (particularly those with limited resources and those who are unfamiliar with the regulatory process) should be solicited. The range of

[18] Xcel Energy, Stakeholder Meeting (February 10, 2016) Minutes Compliance Filing, Docket 13-867, March 11, 2016, Attachment A, p. 4.
[19] Order Adopting Partial Settlement as Modified, Docket 13-867, August 6, 2015, p. 7.
[20] Order Adopting Partial Settlement as Modified, Docket 13-867, August 6, 2015, p. 14.

issues that ECC recommends addressing in that process would not duplicate the existing Implementation Workgroup because that group is primarily concerned with technical aspects of implementing the current model, not with broader consumer-related issues. As Xcel has stated,

> the Workgroup has adopted voting practices to facilitate orderly meeting conduct and record progress on key issues. The structure of the voting, however, includes some voices and excludes others. For example, not included are non-profit advocates, state agencies, and other interested stakeholders. By its very nature, the Implementation Workgroup's activity is advisory to the Company's program administration.[21]

ECC also believes the additional stakeholder process should include considerations about how to provide solar energy benefits to low-income customers. These considerations could include alternative models such as an Xcel-sponsored project dedicated specifically to low-income (LIHEAP) customers or a project dedicated to a particular low-income neighborhood. Pursuing alternative models would also allow for comparing the costs and benefits associated with different models.

For example, if Xcel developed a solar project dedicated (either geographically or to LIHEAP customers particularly), some of the current concerns about CSG do not apply. There may be several advantages to considering this model as one of the alternatives to the current S*RC program. First, Xcel can already identify a significant number of low-income households (receipt of LIHEAP). Second, with a utility-owned project, no costs or data privacy concerns associated with third-party ownership would occur. Third, Xcel could provide information about the interaction between the customers' LIHEAP benefit and the bill credit from a community solar subscription. Fourth, customers would retain all of the current, regulated consumer protections and would not be subject to third-party marketing activities. Fifth, the credit score or up-front cost barriers to the current CSG would be removed. Sixth, customers would continue paying just their Xcel Energy bill rather than paying one bill to Xcel and one to a CSG developer. Finally, such a project could provide important information about how to ensure that low-income customers can participate in solar projects without the risks or barriers inherent in the current model. [22]

IV. LOW INCOME PARTICIPATION IN CSGs

ECC's constituency is directly affected by CSG decisions. Until this comment period, ECC has not been involved in this docket. However, ECC has been engaged in a number of discussions with a variety of organizations regarding equity and accessibility concerns. In addition, two of ECC's low-income Board members received two different CSG solicitations. After discussing the S*RC program, ECC's board members elected to decline a CSG subscription. The primary reasons they did so included: the impact on other ratepayers, the belief that there are more cost-effective approaches, the duration of the contract, their wariness about the savings, and their suspicions about unregulated marketing activities (e.g. prepaid VISA cards).

When considering the information offered by CSG companies, these customers did not feel there was sufficient information on which to base a decision to subscribe. And, even if they did "qualify" to subscribe, their low electric usage would not provide the same level of bill credits as a higher usage household would

[21] Xcel Energy Reply Comments, Docket No. 13-867, November 3, 2015, p. 4.

[22] The issue about rate impacts on non-LIHEAP low-income customers (and rate impacts generally) would need to be addressed if this model is explored further.

receive. Further, if they receive LIHEAP, additional complications may arise. Combination natural gas and electric Xcel customers (East Metro) that receive LIHEAP can, at times throughout the year, carry a credit balance on their Xcel Energy bills. It is not clear if customers with credit balances would choose to pay their CSG monthly subscription fee in order to receive (potential) additional credits. In certain circumstances, receipt of a LIHEAP grant may provide a larger benefit than a CSG subscription, without the risk of a CSG default or, in some instances, forfeiture of up-front costs.

Therefore, ECC believes the Commission's question about low income customers, "*what steps could the Commission take to encourage developers to include low-income and minority subscribers in CSGs?"* needs to be re-framed to include broader policy considerations and alternative models. Under any model, however, the Commission should first establish an appropriate definition of "low-income." As the Commission is well aware, Minnesota's LIHEAP income-eligibility is set at 50% of State Median Income (SMI). Over the past five years, 150,000 Minnesota households have received LIHEAP financial assistance (Attachment A). In ECC's opinion, it is most appropriate to define low-income consistent with the State's largest low-income energy program. Doing so can also ensure that policy considerations will include a significant number of the lowest income households in the State.

The following income information is based on a three-person household:

FY 15 Minnesota State Median Income (SMI)	$77,400

Minnesota Energy Assistance Program Information[23]

Minnesota Energy Assistance Program (eligibility set at 50% of SMI)	$38,687
Actual Average LIHEAP household income	$17,424
Actual Average LIHEAP homeowner annual income	$19,328
Actual Average LIHEAP renter average annual income	$15,808
100% of federal poverty level	$20,160*

*One-half of all MN LIHEAP households live at or below the federal poverty level

As the above information shows, there is a significant income range even within a "low-income" program (LIHEAP). ECC recommends that the Commission define low-income as households living at or below 50% of SMI. Defining low-income at any higher threshold would likely lead to "cherry-picking" of households that are more accurately defined as moderate income. For example, some programs administered by the U.S. Department of Housing and Urban Development (HUD) define low-income as 80% of SMI.

Housing and Urban Development (HUD) programs	
"Low-income" (80% of SMI)*	$55,750
"Very low-income" (50% SMI)**	$38,687
30% of SMI**	$20,900

*It is ECC's understanding that this income level is used for housing rehabilitation (homeowner programs).
**These two lower income levels are used to determine eligibility for public housing (Section 8 and subsidized housing programs).

[23] See Attachment A

There is a significant difference in household income levels between 50% and 80% of SMI. Even if the Commission defines low-income as 50% of SMI however, it is important for parties to acknowledge that the lowest income households will be the least likely to participate in, and benefit from, current CSGs.

V. RECOMMENDATIONS

ECC respectfully recommends that the Commission initiate an investigation, stakeholder process or some other method to ensure that any CSG program is in the public interest. This investigation should include each of the issues raised in these comments:

- All costs associated with S*RC and the impact of those costs on Xcel's residential ratepayers
- The scale and location of current projects
- Consumer protections
- Marketing conduct
- Customer complaints
- Alternative CSG models

ECC believes that the Commission should address these public policies and alternative community solar programs before allowing the current program to expand further.

Respectfully submitted,

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MINNESOTA DEPARTMENT OF COMMERCE

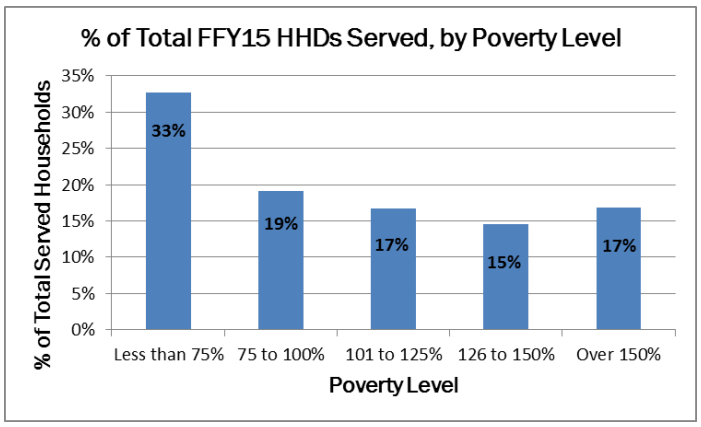
Response to Request for EAP Information

Average Income (FFY15 Data)

Average Income (all EAP eligible households)	Average Income (Homeowners)	Average Income (Renters)
$17,424	$19,238	$15,808

The following table illustrates the number of households in the HHS Poverty Guideline intervals who received Primary Heat payments FFY2000 through FFY2015. These figures come from the Household Report, a required report submitted to the U.S. Department of Health and Human Services in draft on September 1 and as a final version on December 1.

Winter Heating Season	Total Households Served[1]	Under 75% poverty[2]	75%-100% poverty	101%-125% poverty	126%-150% poverty	Over 150% poverty
2014 - 2015	138,877	45,469	26,489	23,246	20,199	23,474
2013 – 2014[4]	156,020	50,680	28,724	24,831	21,218	30,567
2012 - 2013	147,621	47,639	31,697	24,491	20,432	23,362
2011 - 2012	163,195	54,712	32,702	25,672	21,843	28,266
2010 - 2011	172,065	53,699	34,116	27,597	23,624	33,012

Average LIHEAP household income broken down by the five poverty categories required by the HHS Household Report (FFY15 data):

Poverty Level	Average Income
<75%	$8,435
75 – 100%	$14,987
101 – 125%	$19,723
126 – 150%	$24,104
>150%	$29,561