

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

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Katie Sieben	Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

In the Matter of the Formal Complaint and
Petition for Relief by Greater Minnesota Gas,
Inc. Against CenterPoint Energy Resources
Corp. d/b/a CenterPoint Energy Minnesota
Gas

Docket No. G-022, G-008/C-20-795

REPLY COMMENTS

On October 23, 2020, the Minnesota Public Utilities Commission (“Commission”) issued a Notice requesting comment in the Complaint docket referenced above which was filed by Greater Minnesota Gas, Inc. (“GMG”) against CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas (“CenterPoint Energy”). The Commission requested Comments on the following topics:

- Does the Commission have jurisdiction over the subject matter of this complaint?
- Is it in the public interest for the Commission to investigate these allegations?
- If the Commission chooses to investigate the complaint, what procedures should be used to do so?
- Do the principles set forth in the Commission’s September 19, 2018, Order, in Docket No. G-999/CI-17-499, (“499 Order”) regarding the unnecessary duplication of natural gas facilities apply? If so, have the principles set forth under ordering paragraph 2 been met?
- Are there other issues or concerns related to this matter?

The Department of Commerce, Division of Energy Resources (Department) filed its Comments on November 5, 2020. CenterPoint Energy and GMG filed Comments on November 6, 2020. CenterPoint Energy will address each of these parties’ Comments below.

I. COMMENTS OF GREATER MINNESOTA GAS

GMG stated that it did not expect contested facts in this proceeding and CenterPoint Energy agrees with this statement.

CenterPoint Energy, however, disagrees with GMG's statement that "the customers at issue herein are already being served by GMG." As will be further described below, the facts as stated in the Complaint demonstrate that in two of the cases at issue, the TriFecta Truck Stop and the property at 3625 Hoffman Road, GMG is not providing service to these customers. GMG has never served the TriFecta Truck Stop. While GMG did provide service to a prior residence at 3625 Hoffman Road, this residence will be torn down and replaced with a commercial structure. CenterPoint Energy restates, as noted in its Comments, that it has made no effort to construct facilities to extend service to the 3625 Hoffman Road address.

II. COMMENTS OF THE DEPARTMENT

CenterPoint Energy concurs with the Department's comments regarding the first and fifth topics identified by the Commission for comment – the Commission's jurisdiction and whether any other issues merit Commission consideration. However, given the uncontested facts of this case, CenterPoint Energy respectfully disagrees with the Department's initial comments regarding the need for an investigation, the procedures to be followed in any such investigation and whether the Commission's principles regarding "unnecessary duplication of facilities" have been met in this instance.

Is it in the public interest for the Commission to investigate these allegations?

As discussed in our prior comments, in the unique circumstances of this case, CenterPoint Energy does not believe the public interest would be advanced by a Commission investigation. The Department states that an investigation is merited, in part, because "It is in the public interest to investigate and determine how service should be provided to avoid unnecessary duplication of facilities." This statement implies that the Commission should investigate and determine in advance how utilities should extend service to new customers. However, such an "up front" determination would expand the Commission's role beyond that set out in the 499 Order. The 499 Order set forth a process for considering situations where one utility was attempting to serve a customer already being served by another utility.¹

In the current matter, GMG's own Complaint establishes that two of the three accounts at issue (TriFecta Truck Stop and 3625 Hoffman Road) were not being served by GMG. As far as the accounts on 192nd Lane, CenterPoint Energy was responding to a customer's request for new service, and is no longer seeking to serve the existing buildings already served by GMG.² Given

¹The 499 Order states, in part, "A Commission-regulated utility is prohibited from extending natural gas service to any customer who is already being served by another Commission-regulated utility through its existing facilities unless (1) the utility with the existing infrastructure does not seek to serve the customer, or (2) the utility seeking to extend service can demonstrate that it would not be duplicating the existing facilities of the other utility or that its duplication of the existing facilities is necessary to serve the customer or further the public interest." *In the Matter of a Commission Investigation into Parameters for Competition Among Natural Gas Utilities Involving Duplication of Facilities and Use of Promotional Incentives and Other Payments*, Docket No. G-999/CI-17-499, Order, pg. 7.

²See CenterPoint Energy's letter response dated October 21, 2020 ("Although CenterPoint Energy was responding to a customer's request for service and no duplication of facilities would result from the

these particular facts, and given the time and expense burden to the Commission, the Department and the utilities involved, the Company continues to assert that the public interest is not advanced by further investigation.

If the Commission chooses to investigate the complaint, what procedures should be used to do so?

CenterPoint Energy agrees with the Department that, should the Commission choose to proceed, it should follow an informal process using the framework of the 499 Order. However, the Company believes that the cost-benefit analysis proposed by the Department in its Comments is unnecessary based on the facts of the current matter. The applicable standard for use in complaints such as this is the Commission's standard as articulated in the 499 Order, ordering paragraph 2:

A Commission-regulated utility is prohibited from extending natural gas service to any customer who is already being served by another Commission-regulated utility through its existing facilities unless (1) the utility with the existing infrastructure does not seek to serve the customer, or (2) the utility seeking to extend service can demonstrate that it would not be duplicating the existing facilities of the other utility or that its duplication of the existing facilities is necessary to serve the customer or further the public interest.

- Determining whether a utility is duplicating the facilities of another will be based on the nature, size and physical proximity of the new facilities relative to the other utility's existing infrastructure, as well as the extent to which the existing facilities need to be expanded to serve the customer.
- To establish that its duplication of existing facilities is necessary, a utility must show that (a) customers cannot obtain the natural gas service they need from the utility with the existing facilities; or (b) such duplication furthers the public interest based on (i) the needs of the customers who would be served by the utility extending service; (ii) the incremental capital expenditures associated with duplicating the existing facilities compared to any incremental capital expenditures needed to expand the existing facilities to serve the customers in question; (iii) any safety concerns associated with constructing and operating the duplicative facilities; and (iv) any other factors showing that the duplication would advance the public's interest in adequate, reliable and economical access to natural gas service.

In the event the Commission chooses to pursue further investigation of this matter, the Company believes this framework can resolve this docket, without the need for the Department's proposed cost-benefit analysis.

installation of facilities to serve the new Web Construction shop, in light of Commission resources, and to prevent the time and expense of litigating and investigating this Complaint, CenterPoint Energy will cease the installation of facilities to the existing buildings located along 192nd Lane that are currently being served by GMG.”).

Do the principles set forth in the Commission's September 19, 2018, Order, in Docket No. G-999/CI-17-499, (Order) regarding the unnecessary duplication of natural gas facilities apply? If so, have the principles set forth under ordering paragraph 2 been met?

CenterPoint Energy agrees that the principles set forth in the 499 Order provide guidance in situations such as the current matter. However, the 499 Order specifically applies when a utility seeks to serve customers "already being served by another Commission-regulated utility through its existing facilities." As discussed in more detail in CenterPoint Energy's letter of October 21, there can be no dispute that the TriFecta Truck Stop was a new construction project not already being served by GMG and no further analysis or investigation is warranted. A similar analysis can be applied to the proposed memory care facility at 3625 Hoffman Road. While GMG has existing facilities at this premise to serve a residential customer, in order to make way for the memory care project the existing residence will be demolished, and the existing gas facilities abandoned or removed. Finally, as the Company has noted, this new customer has yet to request gas service from CenterPoint Energy. As such, no further investigation is necessary.

In the case of the accounts on 192nd Lane, CenterPoint Energy extended nearby facilities serving an existing CenterPoint Energy customer along 192nd Lane in response to the request of Web Construction and Jerry Williams, the company's owner. The request was for a new commercial building not yet served by either utility, plus two existing commercial buildings and Mr. Williams's residence, currently served by GMG. Although not noted in GMG's complaint, GMG would need to install a service line to serve the new commercial building should Web Construction request its service. At the time of the Complaint, CenterPoint Energy would have been able to serve either just the new commercial facility or all of the accounts without a contribution in aid of construction from the customer, rendering it a cost-effective extension of the Company's facilities.

While CenterPoint Energy believes customer choice was a proper basis for extending service to the 192nd Lane accounts, it ceased its extension of service upon the filing of the Complaint and has indicated it will not pursue extending service to any of the accounts served by GMG. Since CenterPoint Energy is no longer seeking to serve these customers, there is no need to evaluate whether such an extension would have been in the public interest. According to the framework of the Commission's 499 Order, since the new commercial building is not a customer "already being served by another Commission-regulated utility through its existing facilities" the principles cited by the Department and the prohibitions of Minn. Stat. § 216B.01 do not apply.

III. CONCLUSION

As discussed herein, CenterPoint Energy respectfully submits that the undisputed facts of the GMG Complaint demonstrate that further investigation in this matter is unnecessary under the framework of the 499 Order and would not serve the public interest.