

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Hwikwon Ham
Valerie Means
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Consumer Appeal of
Consumer Complaint 82340

ISSUE DATE: October 17, 2024

DOCKET NO. G-008/C-24-191

ORDER AUTHORIZING INFORMAL
COMMISSION PROCEEDING ON
CONSUMER APPEAL

PROCEDURAL HISTORY

On October 16, 2023, the Complainant,¹ a residential customer of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas (CenterPoint), made an informal complaint to the Commission's Consumer Affairs Office (CAO) after CenterPoint disconnected her natural gas service. The Complainant questioned whether it was proper for CenterPoint to apply portions of her payments toward an appliance repair plan and a furnace she had previously purchased from CenterPoint, despite the fact that her account had past-due balances for natural gas service putting her at risk of disconnection. The Complainant alleged that, if CenterPoint had applied her payments toward charges for gas service first, allowing her to pay off her full gas balance before applying any remaining payment toward non-utility charges, she never would have been deemed in default and had her gas service disconnected.

CAO assigned Case ID 82340 to the consumer complaint.

CAO worked to mediate the case but was unable to reach a mutually agreeable resolution. CAO concluded the Complainant was entitled to the requested relief, but CenterPoint disagreed and refused to take the action CAO recommended.

On April 14, 2024, the Complainant filed a consumer appeal under Minn. Stat. § 216B.172, subd. 3(a), asking the Commission to review the matter.

On October 4, 2024, the Chair of the Commission determined under Minn. Stat. § 216B.172, subd. 3(b)(2), that the matter should be resolved by the full Commission through an informal proceeding.

¹ Private data on individuals is omitted from this order and all public filings in the record consistent with the Minnesota Government Data Practices Act, Minn. Stat. ch. 13.

FINDINGS AND CONCLUSIONS

I. Legal Standard

Under Minn. Stat. § 216B.172, subd. 3(b), the Chair must decide on behalf of the Commission whether the appeal of consumer complaint 82340 should be:

- (1) dismissed because there is no reasonable basis on which to proceed,
- (2) resolved through an informal Commission proceeding, or
- (3) referred to the Office of Administrative Hearings for a contested case proceeding.

II. The Complaint

A. Timeline of Payments and Disconnection

The Complainant is a residential natural gas customer of CenterPoint. In 2020, she bought a furnace from CenterPoint to be paid in monthly installments with her gas bill payments. Her gas bills also included monthly charges for an appliance repair plan through CenterPoint's Home Service Plus (HSP) program, in addition to charges associated with regulated gas utility service.

In March 2023, the Complainant had a past-due balance for gas service. She enrolled in a payment plan in which she would pay \$25 toward gas arrears plus her current gas charges each month. Her gas balance was \$495.65.

On April 4, 2023, the Complainant made a \$131.24 payment. CenterPoint applied none of this payment toward gas charges; it all went to HSP.

The Complainant missed her next payment due in May 2023. CenterPoint therefore considered her to be in default and canceled her gas payment plan, making her gas balance due in full. On June 2, 2023, CenterPoint also canceled her HSP plan for nonpayment.

On June 6, 2023, CenterPoint mailed the Complainant notice that her gas service would be disconnected unless she paid her full gas balance of \$853.73 or enrolled in a new payment plan and made a payment under that plan before June 16.

On June 15, 2023, the Complainant made a \$100 payment. CenterPoint applied this full payment to gas charges, bringing her gas balance to \$773.61. However, because the Complainant did not first enroll in a new payment plan and did not pay the full gas balance, CenterPoint considered this payment insufficient to prevent disconnection.

On June 23, 2023, CenterPoint disconnected the Complainant's gas service.

On July 4, 2023, CenterPoint generated a final bill and closed the Complainant's account, making all outstanding merchandise and HSP charges due in full. The July 4 bill thus included over \$4,000 for the furnace purchase and HSP balance.

On July 21, 2023, the Complainant made a payment of \$175.44. CenterPoint applied this payment entirely to gas service, bringing her gas balance to \$634.09.

On October 16, 2023, the Complainant called CAO. CAO then contacted CenterPoint. CenterPoint reconnected the Complainant's gas service on October 17, assessing a \$28 reconnection fee and reopening her account with the \$634.09 past-due gas balance.

B. Order of Applying Payments

According to CenterPoint, each customer payment is applied to the various components of a gas customer's account in the following order:

1. Gas arrears installment plan
2. Gas arrears not included in an installment plan
3. Home Service Plus arrears
4. Current gas charges
5. Current Home Service Plus charges

When a customer enrolls in an installment payment plan for gas arrears and submits a payment, CenterPoint applies that payment toward only the gas arrears currently due at the time of payment, and only in the amount required by the payment plan. Thus, when the Complainant made her first payment after enrolling in a payment plan on April 4, 2023, CenterPoint did not apply any of that payment to gas arrears because the first installment payment did not become due under her payment plan until the next bill.

No Commission-approved tariff specifically addresses the order in which CenterPoint applies customer payments between charges for regulated utility service and charges for unregulated business such as HSP or appliance sales.

C. Requested Relief

The Complainant requests that the Commission require CenterPoint to recalculate her account by applying each past payment to gas charges first, before applying any amount to merchandise sales or HSP, and by removing all late fees associated with gas charges that would not have been assessed had payments been applied in this order. She also asks to be credited for reconnection fees that would not have been assessed if CenterPoint had allowed her to pay off her full gas balance before applying any of her payments toward non-utility-service charges.

Further, the Complainant requests that the Commission require CenterPoint to change the order in which it applies payments for all customers going forward so that no portion of any gas customer's payment is applied toward charges for unregulated business until the customer's gas balance has been fully paid.

III. Positions of the Parties

The Complainant argued that CenterPoint should have applied her payments first toward past-due charges for gas service and then toward current charges for gas service, until gas charges were fully paid off, before applying any payment toward CenterPoint's unregulated, non-utility business. The Complainant asserts that, if CenterPoint had applied payments in this order, she would not have been subject to late fees under Minn. R. 7820.5600 and 7820.5100 because there would not have been a "delinquent amount" for utility service as defined by the rules. She also asserted she would not have defaulted and had her gas service disconnected if her payments had

been applied in this order, because a utility may not disconnect service for nonpayment of charges such as HSP or merchandise sales that are not approved by the Commission as an integral part of utility service.²

The Complainant raised policy arguments rooted in cost-separation principles established by Commission order, the rule prohibiting disconnection of utility service for nonpayment of non-utility-service charges, and the Commission's general statutory authority to require public utilities to observe just and reasonable practices. These arguments are discussed in further detail below.

A. Order Requiring Cost Separation Between Regulated and Unregulated Activities

The Complainant and CAO contended that CenterPoint's practice of applying portions of a customer's payment toward merchandise and HSP charges before the gas balance is fully paid off effectively forces ratepayers to subsidize the utility's unregulated, nonessential business activities to avoid having their essential utility service disconnected. The Complainant and CAO thus argued that the order in which CenterPoint applies payments violates the cost-separation principles underlying Commission orders in Docket No. G,E-999/CI-90-1008.

The Commission has long recognized the importance of cost separation between a utility's regulated activities (such as providing gas service to retail customers) and any unregulated activities (such as selling and servicing appliances) to ensure that ratepayer revenues from regulated utility service are not used improperly to subsidize a company's unregulated business activities. Discussing this principle in Docket No. G,E-999/CI-90-1008, the Commission required utilities to adopt certain accounting standards to allocate costs between regulated and unregulated activities to protect ratepayers from subsidizing non-utility business.³

CenterPoint countered that the accounting standards required in Docket No. G,E-999/CI-90-1008 do not prescribe a particular practice for applying a customer's payments between utility and non-utility charges. Further, CenterPoint asserted that no Commission order prohibits a public utility from applying customer payments toward appliance sales or non-utility services before the customer's charges for utility service are fully paid.

B. Rule Against Disconnection for Nonpayment of Non-Utility Charges

This case also raises questions about whether CenterPoint's practice is inconsistent with Minn. R. 7820.1300. The rule prohibits a utility from disconnecting service to any customer for failure to pay for merchandise, appliances, or services not approved by the Commission as an "integral part of the utility service."⁴ It is undisputed that the furnace purchase and HSP charges at issue in this case are not services approved as an integral part of the utility service, so failure to pay those charges is not a permissible reason for CenterPoint to disconnect a customer's gas service.

² Minn. R. 7820.1300(B).

³ Docket No. G,E-999/CI-90-1008, *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Order Setting Filing Requirements (September 28, 1994).

⁴ *Id.*

CenterPoint maintained that it was the default on gas charges, not failure to pay HSP or merchandise charges, that prompted the Complainant's disconnection.

The Complainant and CAO, however, argued that CenterPoint's practice of applying portions of each payment to merchandise and HSP before gas charges are paid off contravenes the rule by making it impossible for a customer to pay off her gas charges (and thus avoid disconnection) unless she also pays HSP charges. The Complainant and CAO asserted that as long as the customer's account reflected HSP arrears, CenterPoint would apply a portion of each payment to HSP arrears—thus forcing her to pay for unregulated CenterPoint business before she could protect herself from disconnection by clearing her gas balance. Thus, the Complainant and CAO contended, CenterPoint's practice effectively created a situation in which a customer's gas service could be disconnected because of failure to pay for appliances or services that are not an integral part of utility service.

C. Commission Authority to Require Just and Reasonable Practices

The complaint also draws on the Commission's general authority to require public utilities to follow just and reasonable practices. The Commission has broad authority under Minn. Stat. § 216B.09, subd. 1, to "ascertain and fix just and reasonable standards, classifications, rules, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished." The Commission has exercised this authority in adopting rules governing the calculation, timing, and content of customer bills, and the resolution of billing errors⁵—though it has not adopted rules directly addressing the order in which a utility may apply customer payments between charges for regulated utility service and charges for unregulated business.

The Complainant and CAO argued that CenterPoint's practice of applying customer payments toward unregulated business activities while gas charges remain unpaid is unjust and unreasonable. They noted that gas utility service is a critical service and the Complainant has no option other than CenterPoint to obtain this critical service. They argued that it contravenes public policy for a public utility to apply a utility customer's payment toward charges for non-essential appliance sales or repair plans while the customer is at risk of having their critical utility service disconnected due to a past-due gas balance. They contended that protecting consumers from utility-service disconnection should be the paramount concern and that any other unregulated business a utility company chooses to engage in must be separate and secondary to the provision of utility service.

CenterPoint disagreed and contended that its current practice is reasonable.

IV. Commission Action

Under Minn. Stat. § 216B.172, subd. 3(b), the Chair on behalf of the Commission finds that there is a reasonable basis to refer consumer complaint 82340 to the full Commission for review. The Complainant has raised significant questions about whether CenterPoint's practices in applying customer payments between utility-service and non-utility-service charges are just, reasonable, and consistent with applicable orders, rules, and law. The Commission will consider both the

⁵ Minn. R. 7820.3200 to 7820.3600, 7820.3800, 7820.4000.

Complainant's request for relief with respect to her own account and the request that CenterPoint change its practice for all customers going forward.

Based on the issues presented, the Chair finds contested-case procedures unnecessary in this case. An informal Commission proceeding under Minn. R. 7829.1200 is appropriate to develop the record.

To begin the informal proceeding, the Commission will require CenterPoint to file and serve a response to the consumer appeal within 20 days of this order. A notice of comment period will follow, and the matter will be scheduled for a future agenda meeting.

ORDER

1. The Commission will review consumer complaint 82340 through an informal proceeding.
2. Within 20 days, CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas must file a response to the appeal in this docket and serve the response on the Complainant, the Department of Commerce, and the Office of the Attorney General.
3. This order shall become effective immediately.

This decision is issued on behalf of the Commission by the Chair of the Commission under Minn. Stat. § 216B.172, subd. 3(b).

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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CERTIFICATE OF SERVICE

I, Mai Choua Xiong, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission
ORDER AUTHORIZING INFORMAL COMMISSION PROCEEDING ON
CONSUMER APPEAL

Docket Number **G-008/C-24-191**

Dated this 17th day of October, 2024

Complainant (Identifying information has been redacted)

/s/ Mai Choua Xiong

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-191_G008-C-24-191
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_24-191_G008-C-24-191
Sherry	Kemmetmueller	Sherry.Kemmetmueller@CenterPointEnergy.com	CenterPoint Energy	505 Nicollet Mall F3 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_24-191_G008-C-24-191
Kathryn	Lloyd	Kathy.Lloyd@centerpointenergy.com	CenterPoint Energy	N/A	Electronic Service	No	OFF_SL_24-191_G008-C-24-191
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_24-191_G008-C-24-191
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-191_G008-C-24-191
Emily	Suppes	emily.suppes@centerpointenergy.com	CenterPoint Energy Minnesota Gas	505 Nicollet Mall Minneapolis, MN 55402	Electronic Service	No	OFF_SL_24-191_G008-C-24-191
Nicole	Westling	nicole.westling@state.mn.us	Department of Commerce	85 7th Place E Suite 280 St Paul, MN 55001	Electronic Service	No	OFF_SL_24-191_G008-C-24-191