

Ex Parte Communication Report

Date:

To: Public Ex Parte Communication File

Docket No:

Case Name:

From: PUC Staff:

RE: Permissible Ex Parte Communications Pursuant to Minn. Rules, Part 7845.7400.

1. Type of communication: (Oral or Written)

If written, attach the document.

If oral, Date:

Time:

NOTE: In both instances, please notify the Maker the communication has been submitted for inclusion in the record.

2. Maker of the Communication:

3. Recipient of the Communication:

4. For communications involving the setting of interim rates or the review of compliance filings, the topic was:

5. For all other permissible communications that are prohibited for the Commissioners under Minn. Rules, part 7845.7200, the substance of the communication was:

6. For oral permissible ex parte communications, has a copy of this memo been sent to the assigned Administrative Law Judge? Yes No N/A

From: [Katherine Hinderlie](#)
To: [Harsch, Trey \(PUC\)](#)
Cc: [Nikitas, Sophie \(She/Her/Hers\) \(PUC\)](#)
Subject: RE: PUC Ex Parte for Docket 23-215
Date: Tuesday, June 4, 2024 4:01:37 PM

Mr. Harsch,

Below please find the Office of the Attorney General, Residential Utilities Division's response to your question. Please let me know if you need further information.

Question:

- How do you anticipate your recommendation to limit Pilot C's budget to only what is necessary to reach the 50% budget threshold for low-carbon fuel pilots will interact with your recommendation to permit CenterPoint to request modification of Pilot I to include additional costs? If the Commission approved both recommendations, is it your understanding that a budget increase for Pilot C will need to accompany the requested modification of Pilot I? Please explain.

The OAG believes that the 50% threshold for low-carbon fuels for utilities initial plans, Minn. Stat. 216B.2427, subd. 2(d), applies to the costs comprising the Commission's approval of the initial plan, rather than to the actual costs expended by the utility at the end of the five-year plan term. As you know, subdivision 2(d) direction that the Commission "may not approve a utility's initial plan filed under this section unless" at least 50% of the costs are for low-carbon fuels. This determination appears directed at the Commission's approval, modification, or rejection of a plan under subdivision 2(b), rather than some later, unspecified time.

This interpretation aligns with the statutory structure and other provisions of the statute, and differing interpretations would lead to absurd results. For example, reading the 50% threshold to constrict the Commission's authority to modify, cancel, or approve new pilot programs in its review of annual reports is problematic. Minn. Stat. 216B.2427, subd. 2(g). For example, should the Commission approve Pilot C and CenterPoint not succeed in executing RNG contracts for the full 50%, the Commission would be required to either approve the full amount for recovery despite CenterPoint not expending the funds or cancel other non-low-carbon fuel pilots even if these pilots are operating successfully. It would similarly lead to absurd results to apply the 50% low-carbon fuel requirement at the cost recovery stage in CenterPoint's PGA, in a rate case, or through a rider authorized by subdivision 2(c). For example, CenterPoint could conceivably include pilot costs for a non-low-carbon fuel pilot in its current multi-year rate plan. But is conceivable that in Year 4 of CenterPoint's NGIA, it will not have procured sufficient RNG through Pilot C to meet the 50% threshold. At that point, in this hypothetical, some type of retroactive ratemaking may be required to reduce the costs of non-low-carbon fuel pilots included in CenterPoint's rates.

The OAG does not believe the Legislature intended such outcomes. Instead, the OAG believes the Legislature sought to guide the Commission to prioritize certain resources in the utilities

initial plans, but it did not intend to handcuff the Commission's ongoing oversight of pilot projects or determinations of appropriate rate recovery.

As such, the OAG's recommendation to authorize no more in Pilot C than what is required to meet the 50% threshold should be based on a total plan cost only including feasibility study costs for the district energy system in Pilot I.

Katherine Hinderlie (she/her)
Assistant Attorney General
Manager, Residential Utilities Division

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katherine.hinderlie@ag.state.mn.us

From: Katherine Hinderlie
Sent: Tuesday, May 28, 2024 11:44 AM
To: Harsch, Trey (PUC) <trey.harsch@state.mn.us>
Cc: Nikitas, Sophie (She/Her/Hers) (PUC) <sophie.nikitas@state.mn.us>
Subject: RE: PUC Ex Parte for Docket 23-215

Works great. Thank you.

Katherine Hinderlie (she/her)
Assistant Attorney General
Manager, Residential Utilities Division

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From: Harsch, Trey (PUC) <trey.harsch@state.mn.us>
Sent: Tuesday, May 28, 2024 11:35 AM
To: Katherine Hinderlie <Katherine.Hinderlie@ag.state.mn.us>
Cc: Nikitas, Sophie (She/Her/Hers) (PUC) <sophie.nikitas@state.mn.us>
Subject: RE: PUC Ex Parte for Docket 23-215

You don't often get email from trey.harsch@state.mn.us. [Learn why this is important](#)

Would next Friday (June 7) work?

Trey Harsch

Rates Analyst III | Economic Analysis Unit

Pronouns: He/Him

Minnesota Public Utilities Commission

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O: 651-201-2232

From: Katherine Hinderlie <Katherine.Hinderlie@ag.state.mn.us>

Sent: Tuesday, May 28, 2024 11:32 AM

To: Harsch, Trey (PUC) <trey.harsch@state.mn.us>

Cc: Nikitas, Sophie (She/Her/Hers) (PUC) <sophie.nikitas@state.mn.us>

Subject: RE: PUC Ex Parte for Docket 23-215

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Thank you, Mr. Harsch. Do you have a date you would like the response by?

Katherine Hinderlie (she/her)

Assistant Attorney General

Manager, Residential Utilities Division

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From: Harsch, Trey (PUC) <trey.harsch@state.mn.us>

Sent: Tuesday, May 28, 2024 11:28 AM

To: Katherine Hinderlie <Katherine.Hinderlie@ag.state.mn.us>

Cc: Nikitas, Sophie (She/Her/Hers) (PUC) <sophie.nikitas@state.mn.us>

Subject: PUC Ex Parte for Docket 23-215

You don't often get email from trey.harsch@state.mn.us. [Learn why this is important](#)

Hello Katherine,

I was hoping to receive some additional information regarding recommendations made in your supplemental comments for Docket No. 23-151 (CenterPoint's NGIA). Please note, Staff intends to file this discussion in the docket as an ex-parte communication.

Question:

- How do you anticipate your recommendation to limit Pilot C's budget to only what is necessary to reach the 50% budget threshold for low-carbon fuel pilots will interact with your recommendation to permit CenterPoint to request modification of Pilot I to include additional costs? If the Commission approved both recommendations, is it your understanding that a budget increase for Pilot C will need to accompany the requested modification of Pilot I? Please explain.

Best,

Trey Harsch

Rates Analyst III | Economic Analysis Unit

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