

Staff Briefing Papers

Meeting Date June 24, 2021 Agenda Item *2

Company CenterPoint Energy

Docket No. **G-008/M-21-96**

In the Matter of a Petition by CenterPoint Energy Minnesota Gas for Approval of a Variance from Minnesota Rule 7820.5300 Determination of Delinquency Related to its Automatic Bank Draft Plan for Customer-Selected Due Dates

- Issues
1. Should the Commission grant CenterPoint Energy an indefinite variance from Minnesota Rule 7820.5300 for its Autopay program?
 2. Should the Commission discontinue annual compliance reporting related to the variance of its Autopay program?

Staff Sally Anne McShane sally.anne.mcshane@state.mn.us 651-201-2224

Relevant Documents

Date

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| CenterPoint Energy Initial Filing – Petition for Approval of a Variance Related to its Automatic Bank Draft Plan | January 29, 2021 |
| Department of Commerce – Division of Energy Resources Comments | March 8, 2021 |
| CenterPoint Energy Compliance Filing | March 18, 2021 |
| Department of Commerce – Division of Energy Resources Reply Comments | April 5, 2021 |

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

1. Should the Commission grant CenterPoint Energy an indefinite variance from Minnesota Rule 7820.5300 for its Autopay program?
2. Should the Commission discontinue annual compliance reporting related to the variance of its Autopay program?

II. Background

In its December 12, 2005 Order¹ in Docket No. G-008/M-05-603, the Commission approved a four-year variance for CenterPoint Energy Minnesota Gas (“CenterPoint Energy”, “CenterPoint”, or “Company”) from Minnesota Rule 7820.5300 Subp. 2 to operate their AutoPay program. The Commission granted two subsequent six-year variances in Docket Nos. G-008/M-09-769 and G-008/M-15-397.

Per the Commission’s June 22, 2015 Order² in 15-397, CenterPoint must file annual reports on the following items about its AutoPay program:

- 1) Total number of customers participating in the AutoPay program;
- 2) Number of customers who choose a due date greater than five days from their billing date;
- 3) How many customers drop off the AutoPay program annually and the reasons for their departures; and
- 4) Number and nature of complaints received each year regarding the AutoPay program.³

III. Request for Variance

CenterPoint Energy is requesting a variance of indefinite length to allow the Company to “operate its AutoPay program, which allows customers to select a due date for their bill which may be more than five days before the next scheduled billing date.”⁴ If the Commission does not grant an indefinite variance, CenterPoint Energy is requesting a six-year extension to the existing variance.

CenterPoint asked for a variance from Minn. Rule 7820.5300, Subp. 2.⁵ This rule requires utilities to print a due date on customers’ bills that is not more than five days before the next

¹ Docket No. G-008/M-05-603, Order Approving Tariff Changes, Granting a Variance and Clarifying that Disconnection Must be Separate from Bill, p. 1.

² Docket No. G-008/M-15-397, Order, p. 1.

³ CenterPoint Energy request, January 29, 2021, p. 1.

⁴ CenterPoint Energy request, January 29, 2021, p. 3.

⁵ Minn. Rule 7820.5300 Determination of Delinquency. (<https://www.revisor.mn.gov/rules/7820.5300/>) Subp. 2. **Residential customer.** If a residential customer's bill payment is not received by the utility by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility. The utility may print a due date on the bill which is not more than five days before the next scheduled billing date.

scheduled billing date. CenterPoint's AutoPay program⁶ allows customers to choose their own due dates, and some customers chose a due date greater than five days before the next scheduled billing date. Approximately 20,000 CenterPoint customers, i.e. those customers that currently participate in the AutoPay program and have requested a withdrawal date more than five days before the next billing due date, will be affected by the decision in this docket.

In its request, CenterPoint says that there have been few complaints relating to the program since 2005. In the Company's last request for variance, the Department of Commerce ("Department") said that there have been no unintended adverse consequences related to the variance, and no parties have expressed concerns with the compliance filings. CenterPoint says that the program continues to grow and that they have received no complaints related to customer choice billing due dates. CenterPoint writes that there is no possibility of adverse customer impacts because the customer selects their own payment date.

The Department has suggested a decision modification in which the Commission would instead grant another six-year variance. However, they would not be completely opposed to an indefinite variance either.

IV. Annual Compliance Filings

CenterPoint is requesting discontinuance of annual reporting on the AutoPay program. They say that they have received no comments on their annual compliance filings, and therefore, believe there are no concerns with the program. They affirm that the Commission could end the variance, resume reporting, place time limits, or set other conditions upon the variance if issues arise in the future.

CenterPoint Energy is arguing that Minn. Rule 7829.3200, Subp. 1⁷ states that a Rule may be granted a variance if three conditions are met to the satisfaction of the Commission:

- 1) **Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule.** CenterPoint says that enforcement of the rule imposes an excessive burden on customers, because displaying a Withdrawal Date and a Due Date on bills would be confusing. This would also pose a burden on CenterPoint Energy for programming costs by changing the billing system to display both a Withdrawal Date and Due Date.
- 2) **Granting the variance would not adversely affect the public interest.** CenterPoint writes that granting of the proposed variance request would not adversely affect the

⁶ CenterPoint's AutoPay program was previously called the Automatic Bank Draft and was approved in Docket No. G-008/M-15-397.

⁷ Minn. Rule 7829.3200 Other Variances. (<https://www.revisor.mn.gov/rules/7829.3200/>)

Subpart 1. **When granted.** The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

public interest since this is a voluntary program. If a customer has chosen a due date, the customer has thereby consented to a due date that might be more than five days before the customer's next billing date. However, and more importantly, there is no change to when CenterPoint Energy will impose late payment charges. Thus, the true intent of the rule is not diminished.

- 3) **Granting the variance would not conflict with standards imposed by law.** CenterPoint Energy is not aware of any laws that would be violated by granting the variance.⁸

CenterPoint provided the 2020 compliance report in their variance request:⁹

- 1) Number of customers participating in AutoPay as of December 2020: 325,482 participants
- 2) Number of customers who choose a due date greater than five days from their billing date: 20,532 customers
- 3) How many customers drop off AutoPay annually and their reasons for departure in 2020: 30,585 customers
 - Customer dissatisfaction
 - Customer moving residences
 - Customer request (No specific reason stated)
 - Insufficient funds
- 4) Number of complaints received regarding AutoPay and their nature: 76 complaints noted
 - Enrollment issues: 16 complaints
 - Application of payments/withdrawals: 36
 - Changing banks or account numbers: 24

V. Parties' Comments

A. Department Comments

The Department simplified the Commission's decision as such:

By granting CenterPoint's requested extension to its variance from Minnesota Rule 7820.5300, Subp. 2, the Commission would be allowing the Company to continue to print the customer-selected withdrawal (payment) date as the due date on bills, even if the customer's chosen withdrawal date is more than five days prior to their next billing date.¹⁰

The Department proposed the following alternatives for Commission action:

- 1) Grant CenterPoint a variance to both Minn. Rule 7820.3500, item G¹¹ and 7820.5300, Subp. 2, which would eliminate the requirement to include on AutoPay bills the date on

⁸ CenterPoint Energy request, January 29, 2021, p. 4.

⁹ CenterPoint Energy request, January 29, 2021, pp. 4-6.

¹⁰ Department comments, March 8, 2021, p. 3.

¹¹ 7820.3500 BILLING CONTENT. (<https://www.revisor.mn.gov/rules/7820.3500/>)

which the bill will become delinquent as well as permitting CenterPoint to continue to print the customer-selected payment date as a due date, even if the customer's due date is more than five days before their next billing date; or

- 2) Deny CenterPoint's request for a variance to Minn. Rule 7820.3500, item G and require printing of the date on which the bill will become delinquent in the "DATE DUE" section, which would put CenterPoint in compliance with Minn. Rules and eliminate the need for a variance.

The Department would prefer that if the first option is chosen, that the Commission grant a six-year variance instead of an indefinite variance. The Department believes this would provide the Department and the Commission time to review the issue in the future and make changes as needed.

The Department analyzes the three conditions in Minn. Rule 7829.3200 that must be met before the Commission grants a variance:

- 1) **Enforcement of the rule imposes an excessive burden upon the applicant or others affected by the rule.** The Department is not recommending that CenterPoint modify its billing system, so customer bills display both a withdrawal date and a due date, in the interest of not imposing a financial burden on the Company. In its request, CenterPoint stated that it would be confusing for the customer to print two due dates on the bill, but the Department says that the Company did not include any evidence of this, so whether it would actually be confusing or not is inconclusive.
- 2) **Granting the variance will not adversely affect the public interest.** Again, the Department is unsure whether printing the customer-chosen withdrawal date instead of the normal payment due date is more or less confusing for customers. The Department says that by printing the customer-chosen withdrawal dates, the variance would adversely affect the public interest.
- 3) **Granting the variance will not conflict with standards imposed by law.** Minn. Rule 7820.3500, item G requires utilities to include on the bill the date on which the bill will become delinquent. For AutoPay customers, the customer-selected due date is printed

Bills rendered periodically to customers for electric and gas service shall include, but are not limited to, the following information:

- A. the present and last preceding meter readings;
- B. the date of the present reading;
- C. identification of the applicable rate schedule;
- D. the number and kinds of units metered;
- E. a complete itemization of all charges incurred at each level of customer usage;
- F. the amount of the bill;
- G. the date on which the bill will become delinquent;
- H. any late fee, if applicable;
- I. if an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;
- J. the amount of state and local taxes separately itemized;
- K. fuel or power adjustment clause separately itemized, if applicable; and
- L. the information required by part 7820.0200, item C.

in the “DATE DUE” section of the bill. Therefore, the Department says that the customer bill does not reflect the date on which the bill will become delinquent. The Department concludes that this would cause CenterPoint’s request to conflict with Minn. Rule 7820.3500, item G.

The Department finds that CenterPoint’s determination of when to apply late payment fees is not at issue in this docket since the Company applies late fees not based on the customer-selected payment date, but on the actual due date of the bill per their billing cycle:

For example, if a customer is billed on March 15 and has selected an April 1 withdrawal date, CenterPoint would apply late payment charges only if the customer failed to pay the March 15 bill before the Company calculates the customer’s April 15 bill; the Company would not apply late payment charges if the customer failed to pay on April 1, so long as the customer paid prior to CenterPoint calculating the April 15 bill.¹²

The Department’s comments asked CenterPoint to provide in their reply comments “whether and why the phrase ‘Enroll in AutoPay today. See form on the back of this stub.’ is printed on the bill of AutoPay customers, and, if it is, whether (1) that creates confusion for AutoPay customers, and (2) whether the statement can be modified on the bills of AutoPay customers to communicate something to the effect of ‘You are currently enrolled in AutoPay with a self-selected payment date that falls on or before your bill due date.’”¹³

The Department’s comments summarized CenterPoint’s compliance filings from 2015-2020:

Table 1: Statistics on CenterPoint’s AutoPay Program (2015-2020)¹⁴

| Year | Number of AutoPay Participants at December | Number of Participant Departures | Number of Participants Choosing a Withdrawal Date More than 5 Days Before Next Billing Date | Percentage of Customers Choosing a Withdrawal Date > 5 Days Before Next Billing Date | Number of Complaints |
|------|--|----------------------------------|---|--|----------------------|
| 2015 | 234,305 | 16,396 | 30,531 | 13% | 33 |
| 2016 | 257,838 | 21,632 | 29,008 | 11% | 31 |
| 2017 | 275,690 | 24,635 | 27,010 | 10% | 48 |
| 2018 | 292,020 | 25,759 | 27,297 | 9% | 101 |
| 2019 | 296,102 | 30,686 | 21,980 | 7% | 73 |
| 2020 | 325,482 | 30,585 | 20,532 | 6% | 76 |

This summary shows that AutoPay program participation has increased each year from 2015 to 2020, while the percentage of customers choosing a payment date more than five dates before their billing date has decreased each year. The annual number of customer complaints about all aspects of the AutoPay program is small relative to the total number of participants.

The Department reviewed CenterPoint’s compliance filings and found that they do not raise any specific issues or concerns about the Company’s operation of the automatic payment option.

¹² Department comments, March 8, 2021, p. 4.

¹³ Department comments, March 8, 2021, p. 7.

¹⁴ Department comments, March 8, 2021, pp. 2-3.

B. CenterPoint Reply Comments

CenterPoint supports the Department's first option of granting the variance.

CenterPoint also would support the Department's second option of a temporary six-year variance but has some concerns. The Company reiterates that if they are required to adjust the due date on bills, customers may confuse the due date with the date of withdrawal, because the 325,000 AutoPay customers are used to the current practice.

CenterPoint responded to the Department's question about the bill language. The Company says that AutoPay customers see a section labeled "Has your AutoPay bank account changed?", instead of "Enroll in AutoPay today. See form on the back of this stub." This section walks AutoPay customers through the process of how to update their bank account information.

C. Department Reply Comments

In reply comments, the Department said that the language on CenterPoint's AutoPay bills is reasonable.

The Department continues to propose two options and does not have a strong preference between them but continues to recommend that CenterPoint be allowed to cease its annual compliance filings on the AutoPay program.

VI. Staff Analysis

There are three Minnesota Rules cited in this docket: 7820.3500 Billing Content, 7820.5300 Determination of Delinquency, and 7829.3200 Other Variances. Minn. Rule 7829.3200, which covers when the Commission shall grant a variance, is discussed by the Department. Item C allows granting of the variance if it does not conflict with standards imposed by law. The Company was not aware of any laws that conflict with the request, while the Department found that CenterPoint is in conflict with 7820.5300, Subp. 2, which says that the due date printed on the bill may not be more than five days before the next scheduled billing date. Additionally, Minn. Rule 7820.3500 lays out the items that must be included in a customer's bill. Item G states that the date on which the bill will become delinquent must be included. Since AutoPay customers' bills list their withdrawal date in the "Due Date" section, not the date on which the unpaid bill will be considered delinquent, the Department says that the AutoPay program is in conflict with 7820.3500 as well.

In its request, CenterPoint says that "since the customer selects the payment date, and if no date is selected by the customer, the Company-selected date complies with the rule, there is no possibility of adverse consumer impact from the indefinite variance."¹⁵ The AutoPay bill section walks AutoPay customers through the process of how to update their bank account information. However, a customer could possibly be impacted negatively if they have issues with their bank account, i.e. not being able to update the routing number accurately or quickly

¹⁵ CenterPoint Energy request, January 29, 2021, p. 3.

enough, in which case, a customer could incur late fees by not having an account available to the Company to bill in the next billing cycle.

It should be noted that the Department does not actually find any issues with the late payment fees themselves, because of the way CenterPoint bills them. A customer is assessed a late fee if they have not paid a bill by the time the Company assesses the next month's bill, so a customer has extra time to pay if they are having issues with their AutoPay account.

CenterPoint Energy has been operating the AutoPay program for 16 years with relatively few issues. In every year since 2005, of the total customers participating in the AutoPay program, only 0.01 – 0.03% of the total participants made complaints to the Company about the program. Since 2018, the Commission's Consumer Affairs Office ("CAO") has received and resolved nine complaints about CenterPoint's AutoPay system. The complaint topics include:

- Inability to change addresses;
- Inability to change banking information;
- Incorrectly applied late fees or double payments; and
- Broken meters affecting billing.

None of the complaints that CAO received were about due dates that were within five days of the billing date.

The Department's preferred decision is for the Commission to grant another six-year extension. Their reasoning is that this will give the Commission and the Department time to look for any issues that may arise. If there were any issues though, they would already be evident after 16 years of program operation and compliance filings. In fact, the Department has not found any issues to date nor commented on any compliance filings.

VII. Decision Options

1. Grant CenterPoint Energy a variance of indefinite length to both Minnesota Rule 7820.3500, item G, and Minnesota Rule 7820.5300, Subp. 2 for its Autopay program. *(CPE)*

OR

2. Grant CenterPoint Energy a six-year extension of its current variance to both Minnesota Rules 7820.3500, item G, and Minnesota Rule 7820.5300, Subp. 2 for its AutoPay program. *(DOC, CPE does not object)*

OR

3. Deny CenterPoint Energy's request for a variance to Minnesota Rule 7820.5300 and require that CenterPoint print the date on which the bill will become delinquent in the "DATE DUE" section of all AutoPay customers' bills. *(DOC)*
4. Authorize CenterPoint Energy to discontinue annual compliance reporting for its Autopay program. *(CPE, DOC)*