

March 8, 2021

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. G008/M-21-96

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department), in the following matter:

The Petition of 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.

The Petition was filed on January 29, 2021 by:

Seth DeMerritt  
Manager, Regulatory Affairs  
(612) 393-6216  
[Seth.DeMerritt@centerpointenergy.com](mailto:Seth.DeMerritt@centerpointenergy.com)

Pending CenterPoint Energy Minnesota Gas's Reply Comments in the instant docket, the Department expects to recommend that the Minnesota Public Utilities Commission (Commission) **approve CenterPoint Energy Minnesota Gas's Petition, with modifications**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ GEMMA MILTICH  
Financial Analyst, CPA

GM/ja  
Attachment



## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. G008/M-21-96

#### I. INTRODUCTION

On January 29, 2021, CenterPoint Energy Minnesota Gas (CenterPoint or the Company) filed a petition (Petition) requesting that the Minnesota Public Utilities Commission (Commission) grant the Company a continued variance to Minnesota Rule 7820.5300. The requested variance is applicable to the Company's AutoPay program and would allow CenterPoint to continue to print the customer-selected withdrawal date as the due date on AutoPay customer bills, even if the customer's chosen withdrawal date is more than five days before to their next billing date.

#### II. DEPARTMENT ANALYSIS

The Minnesota Department of Commerce, Division of Energy Resources (Department) reviewed the Company's Petition to determine whether the Petition meets the standards required for the Commission to grant a variance to a Minnesota rule.

##### A. BACKGROUND ON CENTERPOINT'S VARIANCE TO MINNESOTA RULE 7820.5300

Minnesota Rule 7820.5300 governs the determination of bill payment delinquency for utility customers. Minnesota Rule 7820.5300, subp. 2 stipulates that "[t]he utility may print a due date on the bill which is not more than five days before the next scheduled billing date."

In its December 12, 2005 *Order* in in Docket No. G008/M-05-603, the Commission granted CenterPoint a four-year variance to Minnesota Rule 7820.5300, subp. 2 to allow the Company to print on certain customer bills a due date that is more than five days before the next scheduled billing date.<sup>1</sup> Specifically, for customers participating in the Company's optional AutoPay program, this variance permitted CenterPoint to print the customer-selected withdrawal (payment) date as a due date on bills, even when the customer chose a withdrawal date that fell more than five days prior to their next billing date. Subsequently, the Commission granted CenterPoint two six-year extensions of the Company's variance to Minnesota Rule 7820.5300 in Docket Nos. G008/M-09-769 and G008/M-15-397. In the instant Petition, the Company has requested a third extension of its variance to Minnesota Rule 7820.5300, subp. 2. However, rather than requesting another six-year extension, CenterPoint requested a perpetual variance.

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<sup>1</sup> The Commission approved CenterPoint's AutoPay program, initially called the Automatic Bank Draft option, in Docket No. G008/M-05-603. The Commission approved the program name change from Automatic Bank Draft to AutoPay in Docket No. G008/M-14-753.

In compliance with the Commission’s June 22, 2015 *Order* in Docket No. G008/M-15-397, CenterPoint filed annual reports on its AutoPay program in the same docket. The information from these annual reports is summarized in the following table:

**Table 1: Select Statistics on CenterPoint’s AutoPay Program (2015 – 2020)<sup>2</sup>**

| <i>Year</i> | <i>Number of AutoPay Participants (at December)</i> | <i>Number of AutoPay Participants Removed from Program</i> | <i>Number of Customers Choosing a Withdrawal Date &gt; 5 Days before Next Billing Date</i> | <i>Percentage of Customers Choosing a Withdrawal Date &gt; 5 Days before Next Billing Date</i> | <i>Number of Complaints</i> |
|-------------|---|--|--|--|-----------------------------|
| 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                          |

Table 1 shows that customer enrollment in CenterPoint’s AutoPay program has increased each year from 2015 through 2020, and the percentage of customers choosing a payment date that is more than five days prior to their next billing date has decreased each year over the same period. Additionally, the annual number of AutoPay-related customer complaints is small relative to the total number of participants.

In its 2015 – 2020 AutoPay program compliance filings, CenterPoint reported the following reasons for customer departures from the program:

- Customer Dissatisfaction
- Customer Moves
- Customer Request (no specific reason stated)
- Non-Sufficient Funds
- Bank Account Closed
- Change Bank Information
- Switch from AutoPay to Online Payments

The Company categorized customer complaints associated with the AutoPay program under the following subject areas:

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<sup>2</sup> Data for 2015 - 2019 in Table 1 retrieved from CenterPoint’s annual AutoPay program compliance filings Docket No. G008/M-15-397 for 2015 – 2019 (compliance filings submitted on January 28, 2016; January 26, 2017; January 29, 2018; January 28, 2019; and January 29, 2020). Data for 2020 in Table 1 retrieved from pages 4 – 6 of the instant Petition.

- Enrollment Issues
- Application of Payments/Withdrawals
- Changing Banks, Account Numbers
- Wants AutoPay to Work with Credit Cards

The Department concludes that the AutoPay program data reported in CenterPoint's compliance filings for 2015 through 2020 do not at this time raise specific issues or concerns about the Company's operation of this automatic payment option.

*B. CENTERPOINT'S REQUESTED VARIANCE TO MINNESOTA RULE 7820.5300*

In its Petition, CenterPoint is seeking an indefinite variance from Minnesota Rule 7820.5300, subp. 2 to accommodate the Company's bill printing convention for its AutoPay program customers. However, if the Commission does not grant an indefinite variance, the Company has requested a six-year extension of its current variance from this rule.<sup>3</sup> CenterPoint explained that an indefinite variance would be appropriate at this point, since it has been operating under this variance since 2005 and has received relatively few customer complaints related to the AutoPay program.<sup>4</sup> 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.

Minnesota Rule 7829.3200 outlines three conditions that must be met in order for the Commission to grant a variance to a Minnesota rule. CenterPoint provided the following supporting reasoning, which is consistent with the Company's reasoning in prior related petitions,<sup>5</sup> to demonstrate that its variance request meets the criteria required for Commission approval:

- **Enforcement of the rule will impose an excessive burden upon the applicant or others affected by the rule.**

Consistent with its prior requests for a variance to Minnesota Rule 7820.5300, CenterPoint stated that "[e]nforcement of the rule imposes an excessive burden on customers since printing a Withdrawal Date and a Due Date on bills would be confusing. This would also pose a burden on CenterPoint Energy for programming costs related to changing the CCS billing system to display both a Withdrawal Date and Due Date."<sup>6</sup>

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<sup>3</sup> Petition, page 1.

<sup>4</sup> Petition, page 3.

<sup>5</sup> Docket Nos. G008/M-05-603, G008/M-09-769, and G008/M-15-397.

<sup>6</sup> Petition, page 4.

- **Granting the variance will not adversely affect the public interest.**

CenterPoint explained that granting the variance would not adversely affect the public interest since customers participate in the AutoPay program voluntarily, and “[i]f a customer has chosen a due date, the customer has thereby consented to a due date that might be more than 5 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.”<sup>7</sup>

- **Granting the variance will not conflict with standards imposed by law.**

CenterPoint indicated that it is not aware of any laws that would be violated by granting this variance.<sup>8</sup>

In its previous orders granting CenterPoint a variance to 7820.5300, subp. 2,<sup>9</sup> the Commission found that the Company’s requests, supported by the same reasoning discussed in the preceding three bullet points, met the criteria set forth in Minnesota Rule 7829.3200.

The Department understands that CenterPoint applies late fees to customer bills based on the actual due date of the bill, per the Company’s billing cycle, and not based on the customer-selected withdrawal date. 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. Therefore, the Company’s determination of when to apply late payment fees is not at issue in this docket. Based on our review of the Company’s variance request in the instant Petition, the Department offers the following discussion of whether the three criteria for a variance have been satisfied. The Department’s current analysis differs from our previous analyses in the earlier dockets where CenterPoint has requested and been granted a variance to 7820.5300, subp. 2:

- **Enforcement of the rule will impose an excessive burden upon the applicant or others affected by the rule.**

The Department understands that the costs associated with making changes to a utility’s billing system can impose a financial burden on a utility. Therefore, to avoid requiring CenterPoint to incur excessive costs, the Department is not advocating for the Company to modify its CCS billing system such that customer bills display both a withdrawal date and due date. However, enforcement of Minnesota Rule 7820.5300, subp. 2, would not require that CenterPoint modify

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Docket Nos. G008/M-05-603, G008/M-09-769, and G008/M-15-397.

its standard billing form to include both a withdrawal date and a due date. CenterPoint would be in compliance with the rule if it simply stopped printing customer-chosen withdrawal dates as due dates on the bills of AutoPay customers, and instead printed due dates that are determined in the same manner as for non-AutoPay customers.

CenterPoint indicated in its Petition that printing both a withdrawal date and a due date on bills would be confusing. However, the Company did not provide specific support for this assertion, and it is not clear that it creates any less confusion to print a customer's chosen withdrawal date as a bill's due date, as these are two separate dates that have different meanings. Therefore, the Department concludes that it is unclear whether printing AutoPay customer bills with a due date determined in the same manner as due dates for non-AutoPay customers would impose an excessive burden (in the form of confusion) on AutoPay customers.

In addition, the Department noted that the standard billing form included in CenterPoint's Rate Book, publicly available on the Company's website, contains the phrase "Enroll in AutoPay today. See form on the back of this stub." The Department requests that CenterPoint explain in Reply Comments whether this note 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 effect of "You are currently enrolled in AutoPay with a self-selected payment date that falls on or before you bill due date."

- **Granting the variance will not adversely affect the public interest.**

As described in the preceding bullet point, it is not clear to the Department that printing the customer-chosen withdrawal date in the field labeled as the due date on AutoPay customer bills is less confusing than printing due dates that are determined in accordance with Minnesota rule, as CenterPoint does for non-AutoPay customers. If printing withdrawal dates, which are really payment dates, as due dates creates more confusion than simply printing actual due dates on customer bills, then granting the variance would adversely affect the public interest.

- **Granting the variance will not conflict with standards imposed by law.**

Minnesota Rule 7820.3500, item G, requires that electric and gas utility bills contain "the date on which the bill will become delinquent." In its bill form changes filing in Docket No. G008/M-14-753, CenterPoint indicated that the portion of its customer bill form labeled "DATE DUE" reflects the date required by Minnesota Rule 7820.3500, item G.<sup>10</sup> For AutoPay customers, however, the Department understands that the Company is printing the customer-selected

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<sup>10</sup> See CenterPoint's September 2, 2014 filing in Docket No. G008/M-14-753 at page 10 (table labeled "7820.3500 Billing Content") and at page 21 (Appendix B).

withdrawal date in the “DATE DUE” section of the customer’s bill. In other words, for AutoPay customers, the customer bill does not reflect the date on which the bill will become delinquent. The Department therefore concludes that the Company’s current variance request conflicts with the requirement set forth in Minnesota Rule 7820.3500, item G.

Because it appears that granting CenterPoint’s requested variance to 7820.5300, subp. 2 would conflict with Minnesota Rule 7820.3500, item G, we propose the following alternatives for Commission action:

(1) Grant CenterPoint a variance to both Minnesota Rule 7820.3500, item G, and Minnesota Rule 7820.5300, subp. 2. This option would eliminate the requirement for CenterPoint to include on AutoPay customer bills the date on which the bill will become delinquent as well as permit CenterPoint to continue to print the customer-selected withdrawal (payment) date as a due date on AutoPay customer bills, even if the customer’s chosen withdrawal date is more than five days before their next billing date.

(2) Deny CenterPoint’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 customer bills, including AutoPay customers. This option would put CenterPoint in compliance with the relevant Minnesota rules and eliminate the need for a variance.

Because the Department’s first alternative for Commission action introduces a new variance in addition to the Company’s requested variance, the Department would prefer that, if the Commission chooses the first alternative, a temporary (six-year), rather than indefinite, variance be granted. Granting a temporary variance will provide both the Department and the Commission an opportunity to review this issue in the future and address any changes that may take place over time. The Department intends to offer a final recommendation to the Commission in this matter after reviewing the additional information requested from CenterPoint in the instant comments.

### *C. CENTERPOINT’S REQUEST TO DISCONTINUE COMPLIANCE FILINGS FOR ITS AUTOPAY PROGRAM*

In its Petition, CenterPoint proposes to discontinue the annual AutoPay program compliance reports required by the Commission in prior related dockets.<sup>11</sup> These compliance filings are required to contain:

- Total number of customers participating in the AutoPay program;
- Number of customers who choose a due date greater than five days from their billing date;
- Number of customers that drop off the Automatic Bank Draft program annually and reasons for their departure; and
- Number and nature of complaints received each year regarding the AutoPay program.

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<sup>11</sup> Petition, page 4.

Fifteen years (2006 – 2020) of the Company’s annual reporting on the AutoPay program has not raised issues or concerns on which either the Department or Commission has taken action. Therefore, the Department recommends that the Commission permit CenterPoint to discontinue its annual AutoPay program compliance reports.

### **III. CONCLUSION AND RECOMMENDATIONS**

Based on our review, the Department concludes that CenterPoint’s request for a variance to Minnesota Rule 7820.5300 conflicts with Minnesota Rule 7820.3500, item G, and therefore does not meet all of the criteria required for granting a rule variance. The Department intends to offer a final recommendation to the Commission in this matter after reviewing the additional information requested from CenterPoint in the instant comments.

The Department requests that CenterPoint provide the following information in its Reply Comments in the instant docket:

Explain 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 effect of “You are currently enrolled in AutoPay with a self-selected payment date that falls on or before you bill due date.”

/ja



## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Comments**

**Docket No. G008/M-21-96**

**Dated this 8<sup>th</sup> day of March 2021**

**/s/Sharon Ferguson**

| First Name     | Last Name                      | Email                                | Company Name                       | Address  | Delivery Method    | View Trade Secret | Service List Name    |
|----------------|--------------------------------|--------------------------------------|------------------------------------|--|--------------------|-------------------|----------------------|
| Steven         | Clay                           | Steven.Clay@CenterPoint Energy.com   | CenterPoint Energy Minnesota Gas   | 505 Nicollet Mall<br>Minneapolis,<br>MN<br>55402                                 | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Generic Notice | Commerce Attorneys             | commerce.attorneys@ag.state.mn.us    | Office of the Attorney General-DOC | 445 Minnesota Street Suite 1400<br>St. Paul,<br>MN<br>55101                      | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Seth           | DeMerritt                      | Seth.DeMerritt@centerpointenergy.com | CenterPoint Energy Minnesota Gas   | 505 Nicollet Mall<br>Minneapolis,<br>MN<br>55402                                 | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Sharon         | Ferguson                       | sharon.ferguson@state.mn.us          | Department of Commerce             | 85 7th Place E Ste 280<br>Saint Paul,<br>MN<br>551012198                         | Electronic Service | No                | OFF_SL_21-96_M-21-96 |
| Erica          | Larson                         | erica.larson@centerpointenergy.com   | CenterPoint Energy                 | 505 Nicollet Avenue<br>P.O. Box 59038<br>Minneapolis,<br>Minnesota<br>55459-0038 | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Amber          | Lee                            | Amber.Lee@centerpointenergy.com      | CenterPoint Energy                 | 505 Nicollet Mall<br>Minneapolis,<br>MN<br>55402                                 | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Generic Notice | Residential Utilities Division | residential.utilities@ag.state.mn.us | Office of the Attorney General-RUD | 1400 BRM Tower<br>445 Minnesota St<br>St. Paul,<br>MN<br>551012131               | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |
| Will           | Seuffert                       | Will.Seuffert@state.mn.us            | Public Utilities Commission        | 121 7th PI E Ste 350<br>Saint Paul,<br>MN<br>55101                               | Electronic Service | Yes               | OFF_SL_21-96_M-21-96 |