

December 18, 2020

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-20-838

Dear Mr. Seuffert:

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

In the Matter of a Petition for Approval of a Variance to Minnesota Rules Regarding Supplier (Pipeline) Refunds submitted by CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (CenterPoint or the Company).

The Petition was filed on November 23, 2020 by:

Marie M. Doyle  
Regulatory Analyst, Regulatory Services  
CenterPoint Energy  
505 Nicollet Mall  
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission):

- **approve** the Company's requested variance to Minn. R. 7825.2700, subp 8 relating to the use of 4 months of customer data to determine the refund per unit amount.
- **require** CenterPoint to report on the status and provide a reconciliation of the refund's disbursement.

The Department will provide supplemental comments and additional recommendations regarding CenterPoint's request once it has had a chance to review the information the Department has asked the Company to provide in its Reply Comments. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ JOHN KUNDERT  
Financial Analyst

JK/ar  
Attachment



Before the Minnesota Public Utilities Commission

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Comments of the Minnesota Department of Commerce  
Division of Energy Resources

Docket No. G-008/M-20-838

**I. INTRODUCTION**

On November 23, 2020 CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (CenterPoint or the Company), submitted a filing (*Petition*) requesting a variance from the requirement in Minn. R. 7825.2700, Subp. 8 which requires the Company to use 12 months of individual usage as the basis for the refund amount per unit within classes. The Company is proposing to use four months of actual customer data as the basis for refunds related to interstate pipeline costs for service on the Northern Natural Gas Transmission (NNG, Northern) and Viking Gas Transmission (Viking, VGT) Pipelines. The Company estimates the amount of the NNG refund (NNG Refund) for CenterPoint's Minnesota jurisdiction is to be \$7,627,578.<sup>1</sup> The amount of the Viking refund (Viking Refund) for CenterPoint's Minnesota jurisdiction is estimated to be \$130,282.<sup>2</sup> The combined total refund amount including interest is \$7,757,860. CenterPoint estimates that the average customer refund will be \$5.00 or greater.

According to the Company, the source of the NNG Refund was the difference between Northern's interim and final rates related to two dockets NNG filed with the Federal Energy Regulatory Commission (FERC). The first was Docket No. RP-19-59-000 filed on October 11, 2018. This docket was related to the impacts of the federal Tax Cuts and Jobs Act of 2017 on the cost of service for interstate pipelines. The second was Docket No. RP19-1353-000 filed on July 1, 2019. This docket was filed as a Section 4 rate case. On July 21, 2020 the Administrative Law Judge (ALJ) in the FERC proceeding issued a *Certificate of Uncontested Settlement* certifying a settlement to FERC in the combined dockets. FERC's Office of Energy Market Regulation issued a letter order accepting Northern's compliance filings to implement the settlement on October 28, 2020 for both proceedings.

The source of the Viking refund was the difference between VGT's interim and final rates related to a rate case Viking filed with FERC on June 28, 2019. On July 1, 2020 FERC approved a final rate settlement with rates effective as of March 1, 2020 and required a refund for the difference between the rates collected from January 1, 2020 through February 29, 2020 and the final approved settlement rates.

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<sup>1</sup> Petition at page 6.

<sup>2</sup> Petition at page 5.

CenterPoint proposes to:

- Combine the refunds into one credit per active customer.
- Refund the amounts to customer accounts in mid to late January 2021.
- Determine the per-customer refund using their actual usage from January through April 2020.
- Provide refunds only to sales customers.

The Department provides its analysis in the following section.

## II. ANALYSIS

CenterPoint's filing is the fourth interstate pipeline refund petition the Department has reviewed in the past three months.<sup>3</sup> Thus, the Department has a comparable group of filings which it can use to evaluate the Company's proposal. The Company's *Petition* focuses on its request to vary the requirement that it use 12 months of customer usage data to calculate the per unit refund amount included in Minn. R. 7825.2700, subp. 8 (the Refund Rule). The Department addresses this request first in its comments.

CenterPoint did not provide a section in its *Petition* that specifically discusses its refund plan explicitly. Information related to the Company's refund plan is scattered throughout the *Petition*. The Company also did not provide any supporting documentation in the attachments to the *Petition*. The Department discusses these issues in greater detail later in these Comments.

The Refund Rule describes the process for a returning a natural gas supplier refund to ratepayers.

Refunds and interest on refunds, that are received by suppliers or transporters of purchased gas and attributable to the cost of gas previously sold, must be annually refunded by credits to bills, except that cumulative refund amounts equal to or greater than \$5 per customer must be refunded within 90 days from the date the refund is received from a supplier or transporter. Refunds must be allocated to customer classes in proportion to previously charged costs of purchased gas. Within classes, the refund amount per unit must be applied to bills on the basis of individual 12-month usage. The utility shall add interest to the unrefunded balance at the prime interest rate.

In its *Petition*, CenterPoint requested variances to two of the requirements included in the Refund Rule. Table 1 summarizes the requirements included in the Refund Rule and compares them to CenterPoint's proposal. Items that require a rule variance are italicized.

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<sup>3</sup> See Docket Nos. G011/M-20-700, G011/M-20-702, and G004/M-20-813

**Table 1 – Comparison of Refund Rule Requirements and CenterPoint’s Proposal**

<b>Topic</b>	<b>Requirement</b>	<b>CenterPoint’s Proposal</b>
Refund Amount and Timing of Refund	Greater than \$5 per customer must be refunded within 90 days	CenterPoint estimates the combined refund to be \$5.91 for an average residential customer. The Company has also asked for expedited treatment so that refunds can be issued by mid to late January 2021.  <i>If treatment is not expedited, then the Company requests a variance to the 90-day refund requirement.</i>
Allocation to Customer Classes	In proportion to previously charged cost of gas	CenterPoint’s stated that this allocation is not necessary since it is using 4 months of actual customer data to calculate the refund per unit amount.
Refund amount per unit within customer classes	Based on 12 months of individual usage	<i>Will be based on four months of actual sales (January through April 2020).</i>
Interest on refunds	Prime rate	Company stated in the Petition that it is using the Prime rate as the interest rate to calculate interest on the refund.

The Department notes that the Company is agreeing to comply with the requirement that refunds greater than \$5 per customer be refunded within 90 days conditionally if the *Petition’s* review can be expedited. CenterPoint is proposing to provide the refund in mid to late January 2021 if the Commission can grant the requested Purchased Gas Adjustment (PGA) rule variances prior to that time period. If not, CenterPoint is requesting a variance to the 90-day limit included in the Refund Rule.

**A. REQUEST FOR VARIANCES**

*1. Twelve Months of Individual Usage Requirement*

CenterPoint is requesting a variance to the requirement that it use 12 months of customer data as the basis of the Refund. The Company explains “because CenterPoint Energy can pinpoint customer use for the four-month period and it is possible to use that information to allocate the refund to customers, CenterPoint Energy seeks to match the refund to that timeframe, rather than a strict use of the rule’s 12-month customer-use period”.<sup>4</sup> CenterPoint’s rationale for requesting the variance is that the use of 4 months of actual usage is reflective of the time period the pipeline interim rates were in effect.

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<sup>4</sup> *Petition* at page 6.

Minn. R. 7829.3200, delineates the decision criteria for evaluating a request for a rule variance.

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.

*Enforcement of the Rule Would Impose an Excessive Burden Upon the Applicant or Others Affected by the Rule*

In its *Petition*, CenterPoint stated the following:

- Enforcement of the requirement found in Minn. R. 7825.2700, subp. 8, that the Company is required to use 12 months of actual customer usage to issue individual bill credits to customers would be less equitable than the use of 4 months of actual usage information.
- The public interest would be served by the use of actual data for the time period the interim pipeline rates were in effect rather than using 12 months of customer usage data.
- CenterPoint is not aware of any standard imposed by law since the 12-month usage refund requirement is established by Commission rule rather than statute.

The Department agrees with the Company regarding the need for a variance to the 12 months of customer usage requirement. The Department also notes that the three other interstate pipeline refund petitions referenced earlier all requested a similar variance and that the Department agreed that such a variance was appropriate in each of those dockets.

*2. Ninety Day Refund Window*

CenterPoint requested a variance to the requirement that it disburse the refund within the ninety-day time period given that the Company calculated the average refund to be greater than the \$5 threshold listed in the Refund Rule.<sup>5</sup> Specifically, the Company requested “and additional variance(s) if the 90-day deadline applies to each refund individually and if the review extends beyond mid-January.”<sup>6</sup> The Company stated that it received the VGT refund in August 2020 and the NNG refund in October 2020. CenterPoint’s position appears to be that since the larger NNG refund triggered the \$5.00 average

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<sup>5</sup> *Petition* at page 6.

<sup>6</sup> *Petition* at page 3.

refund per requirement, the Company should be allowed to use the date it received the NNG refund as the basis for the start date for the 90-day requirement.<sup>7</sup> Using that start date, the Company would be required to provide the refund to customers by mid to late January 2021. While CenterPoint did request expedited treatment in the *Petition*, the Company also recognized the possibility that it might not have a Commission decision prior to that deadline.

In its *Petition*, CenterPoint did not provide a separate discussion of the requested variance to the 90-day limit to disburse the refund. Conceptually, the Department agrees with the Company regarding the need for a variance to the 90-day refund requirement as a precautionary measure. The Department requests that CenterPoint include a request for this variance in its Reply Comments.

In addition, the Department does not believe that the Company needs a variance of the 90-day limit relating to its delay in disbursing the Viking refund. The VGT refund was not large enough to trigger the \$5.00 per customer requirement.

**B. REFUND RULE – ADDITIONAL REQUIREMENTS**

The Department has identified two additional refund-related issues that merit discussion. Table 2 summarizes those issues.

**Table 2 – Comparison of Other Refund-Related Requirements and CenterPoint’s Proposal**

Reference/Citation	Topic	Requirement	CNP’s Proposal
Minn. Stat. § 345.54	Refunds to Non-Active Customers	Deposits held by utilities that are unclaimed for more than one year are returned to the State of Minnesota’s Department of Commerce Unclaimed Property division.	Refunds provided only to active customers
Compliance Filing	Full accounting of refund amounts, interest accrued and disbursement	Commission determines this requirement on a case-by-case basis. Not required by Minnesota statute or rules.	Not discussed

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<sup>7</sup> *Petition* at page 6.

### 1. *Customer Refund Criteria*

CenterPoint is proposing to disburse the refund only to active customers. Active in this instance refers to customers who have accounts at the time the refund will be disbursed (January 2021), not customers who paid the higher pipeline rates between January and April 2020. The Company explained in an informal communication that it would not refund anything to individual accounts if they have left or closed the account for a supplier pipeline refund as that refund is part of the Company's gas costs.

Minnesota Statute § 345.34 covers the issue of "Deposits Held by Utilities". Minnesota Stat. § 345.34 states:

Any deposit held or owing by any utility made by a subscriber to secure payment for, or any sum paid in advance for utility services to be furnished in this state, excluding any charges that may lawfully be withheld, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after the termination of the services for which the deposit or advance payment was made is presumed abandoned.

The Department notes that another natural gas local distribution company requesting a similar variance to the one CenterPoint is requesting cited Minnesota Stat. § 345.34 as the basis for the disbursement of its supplier pipeline refund.<sup>8</sup> The Department asks that CenterPoint explain why Minnesota Stat. § 345.34 is not applicable to its pipeline refund and provide support for its position that supplier gas cost refunds need only be refunded to active customers in its Reply Comments.

### 2. *Refund Amount and Interest on that Amount*

CenterPoint did provide an amount for each the refunds in its *Petition* including interest.<sup>9</sup> The Company did not provide the support for those figures. The Department requests that CenterPoint provide that information in its Reply Comments. The Department would like to review that information before providing a final recommendation.

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<sup>8</sup> See Docket No. G004/M-20-813, *In the Matter of a Request by Great Plains Natural Gas., a Division of Montana Dakota Utilities Co., for a Variance and Notice of Refund Plan for Northern Natural Gas and Viking Gas Transmission Pipeline Refunds*, submitted November 4, 2020.

<sup>9</sup> *Petition* at page 5, footnote 1 and page 6 footnote 2.

### *3. Allocation of Refund to Customer Classes*

As noted above, the Refund Rule requires that “Refunds must be allocated to customer classes in proportion to previously charged costs of purchased gas.” The Company stated: “because CenterPoint Energy can pinpoint customer use for the four-month period and it is possible to use that information to allocate the refund to customers, CenterPoint Energy seeks to match the refund to that timeframe, rather than a strict use of the rule’s 12-month customer-use period”.<sup>10</sup> While the Department does see the rationale of the Company’s position, CenterPoint did not provide any support for its conclusion that the inter-class allocation given this method is appropriate. The Department requests that CenterPoint provide that information in its Reply Comments. The Department would like to review that information before providing a final recommendation.

### *4. Calculation of the Refund Amount per Unit Within the Customer Classes*

The language in the Refund Rule regarding the calculation of the refund amount per unit within the customer classes identifies the use of actual, historical billing information – “the refund amount per unit must be applied to bills on the basis of individual 12-month usage.”

*CenterPoint’s* proposal is that the Company use four months of aggregate actual sales information to develop the refund per unit and then to disburse the refunds individually based on a customer’s actual usage during that same period via a bill credit or check. The Company’s proposal is consistent with the method identified in the Refund Rule with the exception of the use of 12 months of customer usage. The Department requests that CenterPoint provide this information in its Reply Comments.

### *5. Interest on Refund*

Minn. R. 7825.2700, subp. 8, states “The utility shall add interest to the unrefunded balance at the prime interest rate.” CenterPoint agreed to use the prime rate for this purpose.<sup>11</sup> The Company’s tariff also contains this language.<sup>12</sup> The Department notes that the interest calculations related to the refund should be included in the information the Company provides in response to the Department’s request for the refund amount and the interest on that amount. Thus, the Department does not believe that CenterPoint needs to provide additional information separately in its Reply Comments on this topic.

### *6. Compliance Filing*

While a compliance filing is not a requirement included in the Refund Rule, the Department recommends that the Commission require CenterPoint to provide a compliance filing that details the results of the refund’s disbursement.

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<sup>10</sup> *Petition* at page 6.

<sup>11</sup> *Petition* at page 6.

<sup>12</sup> CenterPoint Energy Minnesota Gas Tariff, Section V, First Revised Page 22.



**I. CONCLUSION AND RECOMMENDATIONS**

The Department recommends that the Commission:

- 1) Grant a variance and allow the Company to calculate the refund per unit amount using 4 months of actual usage rather than the 12 months required by Minn. R. 7825.2700, subp. 8.
- 2) Require CenterPoint to report on the status of the refund after it is completed and to provide a reconciliation of its disbursement.

The Department will provide supplemental comments and additional recommendations regarding CenterPoint's request once it has had the opportunity to review the information the Department has asked the Company to provide in its Reply Comments.

/ar

**CERTIFICATE OF SERVICE**

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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 Nos. **G008/M-20-838**

Dated this **18th** day of **December, 2020**.

/s/Linda Chavez

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