

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Hwikwon Ham	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

In the Matter of the Consumer Appeal of Consumer
Complaint 82340

Docket No. G-008/C-24-191

**Reply Comments of the Citizens Utility Board of Minnesota
and the Legal Services Advocacy Project**

The Citizens Utility Board of Minnesota (“CUB”) and the Legal Services Advocacy Project (“LSAP”) respectfully submit these Reply Comments in response to the Minnesota Public Utilities Commission’s (“Commission”) Notice of Comment Period issued on November 22, 2024 in the above-referenced matter.

I. Background

Pursuant to Minn. Stat. § 216B.172, subd. 3(a), a residential customer of CenterPoint Energy Resources Corp d/b/a CenterPoint Energy Minnesota Gas (“CenterPoint” or the “Company”) filed an appeal with the Commission regarding the allocation of payments between the Company’s regulated and unregulated businesses, and her eventual disconnection from gas service as a result of account delinquency. CUB, LSAP, and the Office of the Attorney General – Residential Utilities Division (“OAG”) filed Initial Comments expressing concern over CenterPoint’s treatment of the customer and seeking revisions to the Company’s billing and payment allocation practices. We appreciate the perspectives offered by OAG on this matter and echo similar concerns regarding the overall transparency and fairness behind CenterPoint’s separation of regulated and unregulated businesses accounts.

We appreciate CenterPoint’s attempt to rectify the customer’s concerns by refunding certain reconnection and late fees, but this appeal raises much broader questions about cross-subsidization between regulated and unregulated services. CUB and LSAP continue to believe utility customers are inadequately informed of the division between regulated and unregulated businesses, and that CenterPoint’s payment allocation processes heighten the likelihood of residential disconnections. The Commission should evaluate these practices as a matter of policy and implement necessary revisions to prevent the events giving rise to the instant appeal from reoccurring.

II. The Commission has historically scrutinized the division between regulated and unregulated utility businesses to ensure adequate ratepayer protection.

The Commission has previously considered the division between utility regulated and unregulated business and taken efforts to ensure ratepayers are protected from inappropriate and unfair practices. These proceedings reinforce the need for sufficient delineation between utility operations, and exemplify past precedent for strong Commission action against a utility in cases of inadequate customer protections.

In 1991, the Commission initiated an investigation into Minnegasco Inc. (“Minnegasco”) and other utilities’ appliance sales and service operations after concerns regarding unfair practices were raised by the Minnesota Alliance for Fair Competition (“MAC”).¹ MAC’s initial filings complained of broad inappropriate and unfair practices by utilities, including alleged improper use of the utility’s name and customer information to promote appliance programs, and general cross-subsidization of unregulated program expenses by the regulated utility.² During the proceeding, MAC introduced additional evidence of a Minnegasco employee agreeing to provide preferential gas service treatment to a potential customer if they also made purchases for appliances from Minnegasco’s unregulated business.³ After reviewing that evidence, the Commission narrowed its focus to two primary issues of concern: 1) improper preferential treatment for gas service and marketing of unregulated products, and 2) the potential for cross-subsidization in utility operating expenses.⁴

Minnegasco agreed to take steps to prevent similar situations in the future, including “expanding its written ethics policy to include a specific section forbidding preferential treatment for utility services” and communicating to dealer representatives that it has a policy to forbid such preferential treatment.⁵ The Commission further required all Minnesota gas and electric utilities⁶ to work with Commission staff to develop a customer brochure that would “clarify the regulated and unregulated services offered by the utility,” and “clearly state the nature of the unregulated service and contrast it with the utility’s regulated services, which are paid for in rates.”⁷ Utilities were also required to inform

¹ *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Docket No. G,E-999/CI-90-1008, Commission Order Initiating Investigation and Requiring Report at 1 (Jan. 4, 1991).

² See generally *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Docket No. G,E-999/CI-90-1008, Report of the Minnesota Alliance for Fair Competition, Ratepayer Impact of Appliance Sales and Services Practices of Minnesota Gas and Electric Utilities (Mar. 26, 1991).

³ *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Docket No. G,E-999/CI-90-1008, Commission Order Requiring Further Filings by Utilities at 1-2 (Aug. 28, 1991) (hereinafter “Commission Aug. 28 Order”).

⁴ *Id.*

⁵ Commission Aug. 28 Order at 3.

⁶ The Commission subsequently waived this requirement for five Minnesota utilities—Northwestern Wisconsin Electric Company, Dakota Electric Association, Interstate Power Company, Great Plains Natural Gas Company, and Otter Tail Power Company—which, at the time, did not offer appliance sales and service operations or had such small operations that the cost of preparing and distributing customer brochures would exceed their appliance sales and service profits. *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Docket No. G,E-999/CI-90-1008, Commission Order Relieving Specified Utilities from Requirement to Develop and Distribute Customer Brochure at 2 (May 15, 1992).

⁷ Commission Aug 28 Order at 4.

each customer that they could buy an appliance or obtain service from other sources as well as the customer's utility provider.⁸

The Commission further expanded its investigation to ensure sufficiency of record keeping between Minnegasco's internal accounting of regulated versus unregulated expenses and costs.⁹ The Commission ultimately agreed that some of MAC's allegations "pinpoint[ed] inadequacies in Company practice" and "highlighted the need for the Company to replace existing ad hoc allocation procedures with a cohesive and comprehensive approach to cost separations." Minnegasco was directed to adopt specific cost separation principles as developed by the Federal Communications Commission. These principles required accounting systems for allocating the costs between the regulated and unregulated business, such as costs of warehouse space, computer technologies, training time and materials for customer representatives and technicians, and employee salaries and benefits, among others.¹⁰ The Commission required annual reporting by Minnegasco on the utility's adherence to these accounting principles, which CenterPoint Energy—as the successor to Minnegasco—continues to file each year.¹¹

III. The instant appeal presents a concern the Commission did not specifically address in past proceedings.

CenterPoint's Response to the customer's appeal in the instant docket also refers to the Commission's decision in this 1991 proceeding, suggesting that "[t]he current allocation of payments also does not violate cost separation principles, as the accounting standards in Docket No. G, E-999/CI-90-1008 do not include specific cost allocation requirements."¹² But, as described above, the Commission's Order in this docket did not directly address concerns around how customer payments to the utility were allocated to regulated or unregulated business, and focused on the separation of the Company's operating costs.

Beyond the specific issue of customer payments, however, CUB and LSAP submit that these past dockets provide helpful context regarding the division between regulated and unregulated utility businesses. As the OAG described in Initial Comments, conversations between the Consumer Affairs Office ("CAO") and the customer in this case make it apparent that the customer did not have a clear

⁸ *Id.*; see, e.g., *In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities*, Docket No. G, E-999/CI-90-1008, Minnegasco Brochure (Jan. 27, 1993), available at <https://efiling.web.commerce.state.mn.us/documents/%7BCD82BDC5-8D7A-4865-8B3D-2A87DA77E144%7D/download?contentSequence=0&rowIndex=39>.

⁹ All utilities were required to file additional disclosures regarding cost separation methodologies and actual 1990 cost separation data for Commission review. However, the Commission severed Minnegasco from the other utilities for additional review in a separate docket, noting that the size of Minnegasco's appliance sales and services operation was significantly greater than other utilities, and because it was the primary subject of MAC's complaint of broader concerns in a parallel proceeding, Docket No. G-088/C-91-942.

¹⁰ *In the Matter of the Complaint of the Minnesota Alliance for Fair Competition Against Minnegasco, a Division of Arkla, Inc.*, Docket No. G-088/C-91-942, Order Establishing Accounting Procedures and Requiring Further Filings at 4 (Nov. 10, 1992).

¹¹ See generally *In the Matter of the Complaint of the Minnesota Alliance for Fair Competition Against Minnegasco, a Division of NorAm Energy Corp.*, Docket Nos. G-008/CI-91-942 and G-008/PR-12-450.

¹² *In the Matter of the Consumer Appeal of Consumer Complaint 82340*, Docket No. G-008/C-24-191, Response to Consumer Appeal by CenterPoint Energy at 7 (Nov. 15, 2024) (hereinafter "CenterPoint Response to Consumer Appeal").

understanding of what she was paying for with Home Service Plus (“HSP”), and whether or not it was “required” as part of her gas service.¹³ The instant customer complaint exemplifies that the line between CenterPoint’s regulated and unregulated business remains blurry. This ambiguity introduces the potential for inappropriate sales or misuse of CenterPoint’s name and good will to influence customers’ purchases of unregulated products and services—whether it is intended by the Company or not.

Similarly, the issue of sharing customers’ personally identifiable information (“PII”)—such as names, email addresses, and physical addresses—has been raised by several parties in past proceedings.¹⁴ Based on Commission compliance filings¹⁵ as well as materials published by the Company,¹⁶ CUB and LSAP understand it is CenterPoint’s practice to share such information with its unregulated business without explicit customer consent. CenterPoint can then target its captive customers for advertising and marketing that promote the Company’s unregulated products.¹⁷

CUB and LSAP understand that there may be certain benefits for customers that choose to participate in HSP and CenterPoint’s appliance offerings, including the efficiencies created by having one bill across those accounts. However, captive customers of CenterPoint’s regulated gas service should not be harmed by the offering of unregulated products and services, and any actions that can reduce that potential harm should be taken.

IV. The Commission should require CenterPoint to distinguish between its regulated and unregulated businesses when customers create an account to receive gas service.

The instant appeal is a prime example of the need to maintain adequate separation between regulated and unregulated businesses and ensure transparency in communications with customers. As detailed in our Initial Comments, CenterPoint currently prioritizes unregulated business expenses to the detriment of utility customers and fails to reasonably convey the difference between the

¹³ *In the Matter of the Consumer Appeal of Consumer Complaint 82340*, Docket No. G-008/C-24-191, Comments of the Office of the Attorney General at 6 (Dec. 23, 2024) (hereinafter “OAG Initial Comments”).

¹⁴ See, e.g., *In the Matter of a Commission Inquiry into Privacy Policies of Rate-Regulated Energy Utilities*, Docket No. E,G-999/CI-12-1344, Comments of the Office of the Attorney General - Antitrust and Utilities Division at 8 (Aug. 30, 2013); *In the Matter of a Commission Inquiry into Privacy Policies of Rate-Regulated Energy Utilities*, Docket No. E,G-999/CI-12-1344, Reply Comments of the Minnesota Department of Commerce, Division of Energy Resources at 11-12 (Sept. 20, 2013) (“[S]haring PII with any other entity should be restricted to fulfilling an essential business purpose of the utility (not, for instance in the case of sharing with an affiliate, the business purpose of the affiliate or corporate entity).”).

¹⁵ See *In the Matter of a Commission Inquiry into Privacy Policies of Rate-Regulated Energy Utilities*, Docket No. E,G-999/CI-12-1344, CenterPoint Compliance Filing (Nov. 10, 2014).

¹⁶ See CenterPoint Energy, Our Annual Privacy Notice to Minnesota Customers (2024), available at <https://www.centerpointenergy.com/en-us/Documents/Onserts/MN-Privacy-Notice.pdf> (“We collect some basic information about you so we can provide natural gas service and/or Home Service Plus® products and services to your home or business.”).

¹⁷ Although CUB and LSAP do not raise this particular issue in the instant docket, we note that the sharing of personal information between CenterPoint’s regulated and unregulated business appears to be in conflict with the Commission’s previous Order and presents legitimate consumer protection concerns.

Company as a regulated utility and HSP as an unregulated venture.¹⁸ We respectfully request the Commission order modifications to the Company's practices to prevent the events giving rise to this appeal from occurring again.

The process to begin receiving gas service from CenterPoint exemplifies the lack of separation between regulated and unregulated businesses. When customers initially create an account with the utility, they are provided with the following explanation of HSP:

With a Repair Plan from CenterPoint Energy's Home Service Plus® (HSP), you can:

- Keep your home – and your family's lives – running smoothly with Home Service Plus plans that help you quickly repair your appliances
- Expect quality work and professional advice from trained technicians and industry experts
- Call us when you need us – reach us 24 hours a day, 365 days a year
- Trust Minnesota's largest provider of home appliance repairs, replacement and maintenance for more than 80 years¹⁹

This statement fails to delineate between regulated and unregulated services and may lead customers to believe HSP is offered through the portion of CenterPoint's business subject to Commission oversight. In other words, Minnesotans are confronted with confusing, misleading information about HSP at the outset of becoming CenterPoint customers. In order to more appropriately convey the differences between these entities, we recommend that CenterPoint be required to include a plain-language disclaimer in its explanation of HSP when customers sign up for gas service. This disclaimer must state that HSP is an unregulated business and that signing up for HSP is not a prerequisite for receiving gas service.

V. The Commission should distinguish between regulated and unregulated billing practices and require customer disclosures.

Whenever payments are allocated to past-due HSP bills over currently-due utility balances, customers are placed at greater risk of building up regulated arrears and facing eventual disconnection.²⁰ The Office of the Attorney General ("OAG") has recommended full separation of billing systems between CenterPoint and HSP in order to lower these risks and achieve the proper level of business delineation.²¹ CUB and LSAP agree with OAG that this approach would reduce the likelihood of cross-subsidization and ensure payments made for utility service are applied to the customer's gas account. Adopting separate billing systems likewise resolves payment allocation issues and prevents

¹⁸ *In the Matter of the Consumer Appeal of Consumer Complaint 82340*, Docket No. G-008/C-24-191, Initial Comments of the Citizens Utility Board of Minnesota and the Legal Services Advocacy Project at 5-7 (Dec. 23, 2024) (hereinafter "CUB and LSAP Initial Comments").

¹⁹ CenterPoint Energy, *Start Service* (last accessed Jan. 23, 2025), <https://www.centerpointenergy.com/en-us/residential/customer-service/start-stop-transfer-service/start-natural-gas-service?sa=mn>.

²⁰ CUB and LSAP Initial Comments at 5-7.

²¹ OAG Initial Comments at 13-16.

CenterPoint's prioritization of unregulated bills over regulated utility expenses. However, should the Commission choose to allow CenterPoint's continued use of a combined billing system, we offer several amendments to our previous recommendations.

After further reviewing the record, we believe that modifying the order in which payments are applied will, alone, be insufficient to ensure proper delineation between regulated and unregulated businesses. Our recommendation to include certain disclosures on CenterPoint's website is a step towards increasing transparency, but the structure of the Company's bills should also be updated to clearly separate charges for utility service from those incurred as a result of HSP or appliance purchases. Currently, CenterPoint informs customers of the previous and current amounts due for gas service and HSP, but this information is grouped together under a singular "Account Summary" heading.²² Bill payments, arrearage balances, and late fees are then aggregated together across regulated and unregulated accounts, which prevents customers from seeing how their payments were applied, or what late fees are associated with each account. In order to rectify this situation, we recommend the Commission require the following actions:

1. CenterPoint shall include a plain-language disclaimer in each customer billing statement that contains the following information:
 - a. Gas service and related costs are subject to regulation, while merchandise and HSP services are not subject to the same regulatory oversight;
 - b. The default order in which customer payments are applied, and what actions a customer must take to adjust these payment allocations.
2. CenterPoint shall include two separate "Account Summaries" on customer bills, labeled "Gas Service Charges" and "Home Service Plus and Merchandise."
3. CenterPoint's Gas Service Charge Summary must include a statement that identifies the account as being related to the provision of regulated gas service and provide the following information:
 - a. Previous gas amount due;
 - b. Payments applied to gas account;
 - c. Past due amounts for gas service;
 - d. Late fees charged for gas service;
 - e. Reconnection fees or other itemized miscellaneous charges;
 - f. Current gas charges due; and
 - g. Total amount due for gas service.
4. CenterPoint's summary of Home Service Plus and Merchandise expenses must include a statement that identifies the account as being related to unregulated appliance sales,

²² See, e.g., *In the Matter of the Consumer Appeal of Consumer Complaint 82340*, Docket No. G-008/C-24-191, CAO Case Record at 21 (May 22, 2024).

maintenance, and repair services. CenterPoint must also include a disclaimer that clearly conveys how unregulated services are optional and that customers cannot be disconnected from gas service for non-payment of those expenses. The Home Service Plus and Merchandise Summary must separate charges for Home Service Plus from appliance purchases and include the following information:

- a. Previous HSP and/or appliance amounts due;
 - b. Payments applied to HSP and/or appliance purchases;
 - c. Past due amounts for HSP and/or appliance purchases;
 - d. Late fees charged for HSP and/or appliance purchases;
 - e. Itemized miscellaneous charges;
 - f. Current HSP and/or appliance purchase charges due; and
 - g. Total amount due for unregulated services.
5. CenterPoint shall include a "Total Amount Due" line item after the Account Summaries aggregating the charges currently due across both regulated and unregulated accounts.

Because we recognize these changes will result in bills that are visually distinct from those currently sent to customers, we further recommend that CenterPoint include a one-time "explainer" that details the various bill components. Together with the payment allocation methodology and online disclosures previously recommended, these modifications will facilitate greater transparency around the Company's billing and payment processes and ensure customers are informed of the distinction between regulated and unregulated services.

VI. Conclusion

CUB and LSAP appreciate the Commission's attention to these issues and recognize that implementing the recommended billing changes will take time. Nevertheless, such revisions are necessary to delineate regulated and unregulated businesses and provide transparency to utility customers. We respectfully request that the Commission take the following actions to prevent the events giving rise to the instant appeal from occurring again:

1. CenterPoint must separate its billing processes for HSP and appliance sales from those used for regulated gas service.

OR

2. CenterPoint must modify its allocation of payments such that all payments received from customers must first be applied to current regulated natural gas service charges and next to arrears for regulated natural gas service before any payment amounts from customers are applied to charges related to any of CenterPoint's unregulated businesses.

3. Within 30 days of Order issuance, CenterPoint must file in Docket No. E,G-999/PR-YR-02 its disconnection, payment agreement, and billing practices, subject to any changes approved by the Commission.
4. CenterPoint must submit a compliance filing in Docket No. E,G-999/PR-YR-02 whenever the Company modifies its disconnection, payment agreement, or billing practices.
5. CenterPoint must post the following information in a conspicuous place on its website using easy-to-understand language:
 - a. Gas service and related costs are subject to regulation, while merchandise and HSP services are not subject to the same regulatory oversight;
 - b. Merchandise and HSP arrears cannot form the basis for customer disconnection;
 - c. [If CUB and LSAP Recommendation 2 is adopted] The default order in which customer payments are applied, and what actions a customer must take to adjust these payment allocations;
 - d. The manner in which disconnections are carried out, including any threshold arrearage balance used to determine whether a customer is liable for disconnection;
 - e. Payment agreement requirements employed by the Company, including the methodology used to determine the down payment amount requested from customers.
6. CenterPoint must post the following language in a conspicuous place on its website:
 - a. Under Minnesota law, CenterPoint customers are entitled to a payment agreement for the payment of arrears. This payment agreement must consider a customer's financial circumstances and any extenuating circumstances of the household.
 - b. If the payment agreement terms offered are not affordable to you, or if your household is facing financial or extenuating circumstances, you should contact a CenterPoint customer account representative at [PHONE NUMBER and/or EMAIL ADDRESS].
 - c. If you are unable to reach a mutually agreeable arrangement with a customer account representative, you may appeal the decision with the Minnesota Public Utilities Commission's Consumer Affairs Office. The Consumer Affairs Office can be contacted at 651-296-0406 or 800-657-3782, or by email at consumer.puc@state.mn.us.
7. CenterPoint shall include a plain-language disclaimer in its explanation of Home Service Plus when customers sign up for gas service. This disclaimer must state that Home Service Plus is an unregulated business and that signing up for HSP is not a prerequisite for receiving gas service.
8. CenterPoint shall include a plain-language disclaimer in each customer billing statement that contains the following information:

- a. Gas service and related costs are subject to regulation, while merchandise and HSP services are not subject to the same regulatory oversight;
- b. [If CUB and LSAP Recommendation 2 is adopted] The default order in which customer payments are applied, and what actions a customer must take to adjust these payment allocations.

Decision Options 9 through 12 are dependent on CUB and LSAP Decision Option 2 being adopted.

- 9. CenterPoint shall include two separate "Account Summaries" on customer bills, labeled "Gas Service Charges" and "Home Service Plus and Merchandise."
- 10. CenterPoint's Gas Service Charge Summary must include a statement that identifies the account as being related to the provision of regulated gas service and provide the following information:
 - a. Previous gas amount due;
 - b. Payments applied to gas account;
 - c. Past due amounts for gas service;
 - d. Late fees charged for gas service;
 - e. Reconnection fees or other itemized miscellaneous charges;
 - f. Current gas charges due; and
 - g. Total amount due for gas service.
- 11. CenterPoint's summary of Home Service Plus and Merchandise expenses must include a statement that identifies the account as being related to unregulated appliance sales, maintenance, and repair services. CenterPoint must also include a disclaimer that clearly conveys how unregulated services are optional and that customers cannot be disconnected from gas service for non-payment of those expenses. The Home Service Plus and Merchandise Summary must separate charges for Home Service Plus from appliance purchases and include the following information:
 - a. Previous HSP and/or appliance amounts due;
 - b. Payments applied to HSP and/or appliance purchases;
 - c. Past due amounts for HSP and/or appliance purchases;
 - d. Late fees charged for HSP and/or appliance purchases;
 - e. Itemized miscellaneous charges;
 - f. Current HSP and/or appliance purchase charges due; and
 - g. Total amount due for unregulated services.
- 12. CenterPoint shall include a "Total Amount Due" line item after the Account Summaries aggregating the charges currently due across both regulated and unregulated accounts.
- 13. CenterPoint shall include a one-time "explainer" that details the various bill components.

Sincerely,

January 28, 2025

/s/ Olivia Carroll

Olivia Carroll
Regulatory Advocate
Citizens Utility Board of Minnesota
651-300-4701, ext. 5
oliviacc@cupminnesota.org

/s/ Ron Elwood

Ron Elwood
Supervising Attorney
Legal Services Advocacy Project
612-636-2114
relwood@mnlsap.org

/s/ Brandon Crawford

Brandon Crawford
Regulatory Advocate
Citizens Utility Board of Minnesota
332 Minnesota St., Suite W1360
651-300-4701, ext. 7
brandonc@cupminnesota.org