

August 13, 2015

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. G008/GR-15-424

Dear Mr. Wolf:

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

In the Matter of the Application by CenterPoint Energy Resources Corporation d/b/a CenterPoint Energy Minnesota Gas for Authority to Increase Rates for Natural Gas Service in Minnesota (Petition).

The Petition was filed on August 3, 2015 by:

Joseph J. Vortherms
Division Vice President
CenterPoint Energy
800 LaSalle Avenue, 15th Floor
Minneapolis, Minnesota 55402

The DOC recommends that the Commission determine that CenterPoint Energy Resources Corporation's rate case filing in the present docket is largely complete but must be revised to comply with the Commission's *Findings of Fact, Conclusions of Law and Order* in CenterPoint's prior rate case (Docket No. G008/GR-13-316).

The DOC is available to answer any questions that the Commission may have.

Sincerely,

/s/ MARK JOHNSON
Financial Analyst

MJ/It
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. G008/GR-15-424

I. OVERVIEW

On August 3, 2015, CenterPoint Energy Resources Corporation d/b/a CenterPoint Energy Minnesota Gas (CPE or the Company) filed a petition with the Minnesota Public Utilities Commission (Commission) a request for a general increase in rates charged to its ratepayers for natural gas service in Minnesota (Petition). CPE proposes to increase rates by \$54,106,000 per year, or approximately 6.4 percent overall.

On August 4, 2015, the Commission issued a notice requesting that potential parties submit comments on whether the Petition complies with the filing requirements of Minnesota Statutes §216B.16, Minnesota Rules parts 7825.3100 to 7825.4400, and Commission Orders. The Commission also stated that comments are appropriate on whether this matter should be sent to the Office of Administrative Hearings for an evidentiary hearing on the propriety of the proposed rate change.

The Minnesota Department of Commerce, Division of Energy Resources (DOC or Department) submits the following Comments, pursuant to the Commission's August 4, 2015 notice.

II. DOC ANALYSIS

The DOC conducted a review of the contents of the Petition to verify the Company's compliance with:

- statutory requirements (Minnesota Statutes §216B.16);
- Commission's rules governing filing requirements for rate changes (Minnesota Rules parts 7825.3100 to 7825.4400);
- Commission Orders pursuant to CenterPoint's most recent general rate case in Docket No.G008/GR-13-316; and

- Commission Orders in various dockets prior to or subsequent to CenterPoint's most recent general rate case.

Company Witness Joseph J. Vortherms provided a matrix of regulatory requirements for the Company's filing in his JJV-D, Schedule 3, contained in Volume 2 of 2 of CPE's Petition. This table lists and identifies where in the Petition the Company has attempted to address the applicable Statutes and Rules, and prior Commission Orders.

The DOC emphasizes that its review at this stage of the proceeding pertains to whether the Company's Petition discussed the issues in the list noted above, not as to whether the Company has met its burden of proof to show that its proposals are reasonable. Such analysis is the focus of the investigatory period in the initial stage of the proceeding, based on the merits of the Petition. As such, issues can be and will be further developed through information requests. The quality of the record that will be developed for the Commission's decisions depends in large part on the Company providing timely and complete responses to information requests. The DOC appreciates the efforts by CPE to date in keeping the Department informed and responding to questions.

Based on our review, the DOC concludes that CPE's rate case filing complies with the filing requirements with the exceptions discussed below.

1. Allocation of Sales Expense

The DOC notes that the Commission's June 9, 2014 Order in CPE's last rate case (2013 Order) rejected CPE's allocation of Sales Expense (FERC Accounts 911-916) based on the number of customer locations and required the Company to allocate these expenses based on actual data or, failing that, overall revenue responsibility.¹

Specifically, the Commission's 2013 Order stated the following:

D. CCOSS Treatment of Sales Expense, FERC Accounts 911-916

1. Introduction and Positions of the Parties

The Company's class cost of service study allocated sales expense by number of customer locations in each customer class.

The Company argued that sales are made to all customers, and it is therefore appropriate to charge all customers equally for sales-related costs. The Company pointed out that the [National Association of Regulator Commissioners] NARUC Gas

¹ Commission's June 9, 2014 Order in Docket No. G008/GR-13-316, Pages 37-38.

Distribution Rate Design Manual (Gas Manual) accepts this method of cost allocation.

The OAG and the Department challenged this allocation as unreasonable, arguing that it is highly unlikely that the Company spends equal amounts of time and money on sales activities directed toward every customer. They recommended allocating these costs on the basis of actual data, where available, and otherwise on the basis of each class's overall revenue responsibility.

These parties also noted that NARUC manuals are regulatory resources, not binding authority; that the Gas Manual notes that permitting recovery of sales expense is controversial, in light of conservation policies; and that NARUC's January 1992 Electric Manual states that sales expenses are general in nature and should be assigned on the basis of actual data on cost causation or, where data are unavailable, on the basis of the overall revenue responsibility of each class.

2. The Recommendation of the Administrative Law Judge

The Administrative Law Judge concurred with the Department and the OAG that the record demonstrated that it was more reasonable to allocate sales costs on the basis of actual data or, failing that, overall revenue responsibility, than customer locations. She found the guidance of the NARUC Electric Manual to be sound and persuasive.

3. Commission Action

The Commission concurs with the Administrative Law Judge and accepts her findings, conclusions, and recommendations. The Company did not demonstrate that it targets its sales activities at every customer equally, and these general expenses should therefore be allocated generally, in the absence of actual data on cost causation.²
(Emphasis added)

In addition, the Commission's Order required CPE to explain and justify its classification and allocation methods when it files its class cost of service study in its next rate case.³

In the instant Petition, the DOC notes that CPE continued to allocate Sales Expense based on the number of customer locations.⁴ Further, CPE's only apparent justification for this

² *Id.*

³ Commission's June 9, 2014 Order in Docket No. G008/GR-13-316, Pages 40-41.

proposal is the mere statement that “Expenses associated with customer sales activities theoretically properly allocated based upon the number of customer locations.”⁵

Since CenterPoint provided even less justification in this proceeding than in the prior rate case for its proposed allocation of Sales Expense, the DOC concludes that CPE’s proposal ignores and therefore does not comply with the Commission’s June 9, 2014 Order in Docket No. G008/GR-13-316.

The Department recommends that the Commission require CenterPoint either to point to where the Company believes it has “demonstrate[d] that it targets its sales activities at every customer equally,” or provide additional testimony to explain fully why the Company is proposing to use an allocation approach that is different than the method the Commission approved in CenterPoint’s 2013 rate case.

2. Allocation of Regulatory Commission Expense

The DOC notes that the Commission’s June 9, 2014 Order in CPE’s last rate case also rejected CPE’s allocation of Regulatory Commission Expense (FERC Account 928) based on the number of customer locations and required the Company to allocate these expenses based on total production and distribution operating and maintenance expense less gas cost.⁶ In addition, the Commission’s Order required CPE to explain and justify its classification and allocation methods when it files its class cost of service study in its next rate case.⁷ Again, for ease of reference, the Commission’s Order stated as follows:

CCOSS Treatment of Regulatory Commission Expense, FERC Account 928

1. Introduction and Positions of the Parties

The Company has one account devoted to regulatory commission expense, FERC Account 928. The Company allocated all regulatory commission expense by number of customer locations.

The Department challenged this allocation, claiming that these costs are general, are not directly customer-related, do not vary by number of customers in a class, and should be allocated using a very general allocator, Total Production & Distribution O&M Expense less Gas Cost.

⁴ CPE’s August 3, 2015 filing in Docket No. G008/GR-15-424, General Rate Petition Volume 2 of 2, Direct Testimony of Matthew A. Troxle, Pages 38-39.

⁵ CPE’s August 3, 2015 filing in Docket No. G008/GR-15-424, Workpapers, Exhibit ____ (MAT-WP) Allocation Methods, Workpaper 2, Page 6 of 16.

⁶ Commission’s June 9, 2014 Order in Docket No. G008/GR-13-316, Page 40

⁷ Commission’s June 9, 2014 Order in Docket No. G008/GR-13-316, Pages 40-41

The Department argued that rate cases and other regulatory proceedings evaluate all types of costs and that there is no evidence that all customers cause the Company to incur regulatory costs in equal proportions. The Department stated that there is also no evidence that regulatory costs pertain more to a class with many customers with low individual usage than to a class with fewer customers and high individual usage. The Department pointed out that the NARUC Gas Manual recommends allocating regulatory commission costs based on Total Production & Distribution O&M Expense less Gas Cost.

The Company argued that it has used the customer-location allocator in its last three rate cases and that the Gas Manual is merely advisory. The Company also argued that it incurs regulatory expenses on behalf of all customers and that the Commission's broad public-interest mission encompasses all customer classes.

2. The Recommendation of the Administrative Law Judge

The Administrative Law Judge concurred with the Department's arguments and recommended allocating regulatory commission expense on the basis of Total Production & Distribution O&M Expense less Gas Cost.

She found that when the evidence suggests, as it does here, that a different allocator is more reasonable than one used in the past, past practice alone cannot refute that evidence. She agreed that the Company had not provided reasoning or evidence to support continuing to allocate regulatory commission expenses based on number of customer locations.

3. Commission Action

The Commission concurs with the Administrative Law Judge and accepts her findings, conclusions, and recommendation. Regulatory commission costs are general, are not directly customer-related, are not linked to the number of customers in a class, and should be allocated as she recommends.
(Emphasis added)

In the instant Petition, CPE proposes to continue allocating Regulatory Commission Expense based on the number of customer locations.⁸ In addition, CPE continued to use the same argument for allocating Regulatory Commission Expense that was previously rejected by the

⁸ CPE's August 3, 2015 filing in Docket No. G008/GR-15-424, General Rate Petition Volume 2 of 2, Direct Testimony of Matthew A. Troxle, Page 42.

Commission.⁹ The Company's choice not to address the Commission's decision in the 2013 Order is concerning, given CenterPoint's main argument in the prior proceeding that practice in previous rate cases should have weight. As a result, the DOC concludes that CPE's proposal ignores and therefore does not comply with the Commission's June 9, 2014 Order in Docket No. G008/GR-13-316.

The Department recommends that the Commission require CenterPoint either to point to where its filing shows that all customers cause the Company to incur regulatory costs in equal proportions or provide additional testimony to explain fully why the Company is proposing to use an allocation approach that is different than the method the Commission approved in CenterPoint's 2013 rate case.

3. *Conservation Improvement Program*

On August 10, 2015, CPE called to notify the DOC that the Company had identified an error in the instant petition. According to CPE, the Company had inadvertently used its total throughput in its CIP calculations instead of the CIP throughput. CPE stated that this error does not change its overall revenue requirement calculation but does affect CPE's proposed class cost of service study and rate design. CPE stated that they will file errata to correct this error. The DOC appreciates CPE's notification regarding the CIP error and does not believe this error alone would deem CPE's filing incomplete. Moreover, if the Commission uses the completeness standard in its Rule 7825.4300 regarding the class cost of service, the Commission may decide that CenterPoint's proposed allocations discussed above are appropriate for completeness purposes.

However, because CenterPoint's proposed allocations ignore the Commission's 2013 Order from CenterPoint's most recent general rate case, the Department cannot conclude that the Company's Petition complies with the 2013 Order. In addition, the Department notes that it would waste scarce regulatory resources to develop these issues again in this proceeding when the issues have already been addressed by the Commission in its 2013 Order.

At a minimum, the Department recommends that the Commission require CenterPoint to do the following:

- Allocation of Sales Expense: either point to where the Company believes it has "demonstrate[d] that it targets its sales activities at every customer equally" or provide additional testimony to explain fully why the Company is proposing to use an allocation approach that is different than the method the Commission approved in CenterPoint's 2013 rate case, and
- Regulatory Commission Expense: either point to where its filing shows that all customers cause the Company to incur regulatory costs in equal proportions or provide additional testimony to explain fully why the Company is proposing to use

⁹ CPE's August 3, 2015 filing in Docket No. G008/GR-15-424, Workpapers, Exhibit____(MAT-WP) Allocation Methods, Workpaper 2, Page 7 of 16.

an allocation approach that is different than the method the Commission approved in CenterPoint's 2013 rate case.

In addition, given that: 1) CenterPoint provided no more justification for its proposed allocations than in its 2013 rate case, and 2) the Commission expressly rejected the same Company proposals in its 2013 Order, the Commission should consider whether it is necessary to revise the completeness date of the rate case to the date when CenterPoint provides this information.

III. DOC RECOMMENDATIONS

The DOC recommends that the Commission require CenterPoint to do the following:

- Allocation of Sales Expense: either point to where the Company believes it has “demonstrate[d] that it targets its sales activities at every customer equally“ or provide additional testimony to explain fully why the Company is proposing to use an allocation approach that is different than the method the Commission approved in CenterPoint's 2013 rate case,
- Regulatory Commission Expense: either point to where its filing shows that all customers cause the Company to incur regulatory costs in equal proportions or provide additional testimony to explain fully why the Company is proposing to use an allocation approach that is different than the method the Commission approved in CenterPoint's 2013 rate case, and

In addition, the DOC recommends that the Commission consider whether it is necessary to revise the completeness date of the rate case to the date when CenterPoint provides this information.

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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/GR-15-424**

Dated this **13th** day of **August, 2015**.

/s/Linda Chavez

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