

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Request of Minnesota
Regulated Gas and Electric Utilities for
Authorization to Track Expenses Resulting
From the Effects of COVID-19 and
Record and Defer Such Expenses Into a
Regulatory Asset

Docket No. E, G-999/M-20-____

**JOINT PETITIONERS' REQUEST
FOR DEFERRED ACCOUNTING OF
COVID-19 RELATED COSTS**

INTRODUCTION

The Joint Petitioners¹ (“Petitioners”) respectfully request that the Minnesota Public Utilities Commission (“Commission”) authorize each of the Petitioners to track, defer, and record as a regulatory asset, expenses incurred by each Petitioner resulting from the COVID-19 pandemic and ongoing peacetime emergency (filing referred to throughout as “Joint Request”).

The COVID-19 pandemic presents our country and our State with unprecedented circumstances, due to the ease of transmission of the virus, the devastating health impacts it can have on persons contracting the virus, and the socioeconomic impacts the pandemic is having on society at large. As discussed below, on March 13, 2020, Governor Tim Walz

¹ The Joint Petitioners consist of the regulated electric and natural gas service providers in Minnesota, alphabetically: CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, Dakota Electric Association, Great Plains Natural Gas Co., Greater Minnesota Gas, Inc., Minnesota Energy Resources Corporation, Minnesota Power, Northern States Power Company d/b/a Xcel Energy and Otter Tail Power.

signed Emergency Executive Order (“EO”) 20-01, “Declaring a Peacetime Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19,” in order to mobilize and coordinate resources for fighting the pandemic. Further Executive Orders have followed, including two “Stay at Home” orders, requiring Minnesotans to stay at home or in their place of residence, except when engaging in specified permitted activities and if necessary for specified categories of employees of businesses in certain Critical Sectors of the economy, including energy.

As operators of a Critical Sector business, the Petitioners’ utmost priority remains the continuous provision of safe, reliable, and affordable services to our customers in these uncertain times. To do so, the Petitioners are undertaking extraordinary actions, in a manner consistent with State and Federal public health guidance and directives such as the Executive Orders, and incurring extra costs, outside of the usual course of business. Due to these unforeseen and unprecedented events, and in expectation that ongoing and continued pandemic-related actions will be needed to ensure continued safe and reliable service during and after this peacetime emergency, the Petitioners respectfully file this Joint Request, seeking Commission authorization for each of the Petitioners to track incremental costs incurred as a result of COVID-19, defer such costs and record them into a regulatory asset. While the various utilities comprising the Petitioners may take other actions as appropriate for them and their operations, all of the Petitioners agree that such authorization is reasonable, appropriate, and consistent with the public interest and past Commission practice.

I GENERAL FILING INFORMATION

Pursuant to Minn. Rule 7829.1300, Petitioners provide the following general filing information, as appropriate for this Joint Request.

A. Summary of Filing (Minn. Rule 7829.1300, subp. 1)

A one-paragraph Summary of Filing accompanies this Joint Request.

B. Service (Minn. Rule 7829.1300, subp. 2)

Pursuant to Minn. Rule 7829.1300, subp. 2, the Petitioners have served this filing on the Department of Commerce - Division of Energy Resources and the Minnesota Office of the Attorney General - Residential Utilities Division and on persons on the general service lists of the utilities comprising the Petitioners. A summary of the filing prepared in accordance with Minn. Rule 7829.1300, subp. 1 is also being served.

C. Content of Filing (Minn. Rule 7829.1300, subp. 3)

1. Filing Party

This Joint Request is filed on behalf of the Petitioners, Minnesota's regulated natural gas and electric utilities: CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, Dakota Electric Association, Great Plains Natural Gas Co., Greater Minnesota Gas, Inc., Minnesota Energy Resources Corporation, Minnesota Power, Northern States Power Company d/b/a Xcel Energy and Otter Tail Power.

2. Attorney Representing and Signing on Behalf of Petitioners

Eric F. Swanson
Winthrop & Weinstine, P.A.
225 South Sixth Street
Suite 3500
Minneapolis, MN 55402
(612) 604-6400
eswanson@winthrop.com

3. Date of Filing and Date Proposed Rate or Service Change Takes Effect

This Joint Request is being filed on April 20, 2020. This Joint Request seeks no change in rate or service as a result of this proceeding. The effective date will be the date of the Commission's Order or such other date as directed in the Commission's Order. The Petitioners respectfully request authority, effective March 13, 2020, to account on a deferred basis COVID-19 related costs and expenses, as more fully discussed below.

4. Statute Controlling Schedule for Processing Filing

This Petition is made in accordance with Minn. Stat. § 216B.10, which grants the Commission jurisdiction over the accounting practices of public utilities. This statute does not prescribe a time frame for a Commission decision. Under Minn. Rules 7829.0100, subp. 11 and 7829.1400, subps. 1 and 4 comments in response to this filing are due within 30 days, with reply comments to be filed no later than 10 days thereafter.

5. Description of the Filing, Impact on Rates and Reasons for Filing

As discussed below, this Joint Request will have no impact on rates without subsequent Commission proceedings that may be brought by individual utilities. By this Joint Request, the Petitioners simply seek authority for each of the Petitioners to track, defer and record as a regulatory asset costs and expenses incurred as a result of the COVID-19 pandemic, so that each preserves the ability to request recovery in a future proceeding, subject to full Commission review.

6. Service List for Joint Petitioners

See Attachment A.

II BACKGROUND

The State of Minnesota and world at large are currently responding to the unexpected and unprecedented COVID-19 pandemic, with federal, State, and local officials issuing new social-distancing directives and guidance on a near-daily basis. In the face of these unprecedented and challenging times, the Petitioners submit that good cause exists for the Commission to authorize each utility to track, record, and defer COVID-19 related expenses in a regulatory asset, as these costs are unusual, unforeseeable, and may be large enough to have a significant financial impact on each utility.

On March 13, 2020, Governor Walz signed EO 20-01 and declared a State of Emergency due to the presence of COVID-19 in the State. On that same day, the President of the United States declared a National Emergency due to COVID-19.² Subsequently,

² Available at <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

and for the first time in the history of this country, every state in the union is under a declared state of emergency.

To slow the spread of the virus, both the United States Centers for Disease Control and the Minnesota Department of Health have strongly recommended social distancing and consistent with those recommendations, on March 25, 2020, Governor Walz signed EO 20-20, “Directing Minnesotans to Stay at Home” (the “Stay at Home Order”). EO 20-20 noted that community spread of COVID-19 was increasing in Minnesota and that the State would benefit from limiting people’s activities to “only those which are most essential.”³ Therefore, Governor Walz ordered all persons currently living in Minnesota “to stay at home or in their place of residence [until April 10, 2020] except to engage in the Activities and Critical Sector work” set forth in the order.⁴ EO 20-20 specifically listed Energy as a Critical Sector, meaning employees of Petitioners listed in the Cybersecurity and Infrastructure Security Agency (“CISA”) Guidance who cannot perform their work at home are exempted from EO 20-20’s mandate to stay at home for the limited purpose of travel to and from the employee’s home or residence and place of work and the employees performance of work duties that cannot be done at their homes or residences.⁵ Further, EO 20-20 directed “all state agencies to continue to coordinate expeditiously in developing plans to mitigate the economic effects of closures and restrictions necessitated by this

³ EO 20-20, pp. 1-2.

⁴ *Id.*, para. 1.

⁵ *Id.*, para. 6, d; original CISA guidance issued March 19, 2020, updated March 28, 2020 and available at <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce#download>.

peacetime emergency, including potential financial support, regulatory relief, and other executive actions.”⁶

On April 8, 2020, Governor Walz issued EO 20-33, “Extending Stay at Home Order and Temporary Closure of Bars, Restaurants and Other Places of Public Accommodation,” continuing the Stay at Home Order until May 4, 2020. EO 20-33 provided further direction on certain permitted activities and on Critical Sectors and continued to provide an exemption for Energy Sector employees listed in Updated CISA Guidance.⁷ EO 20-33 also continues to direct all State agencies “to coordinate expeditiously in developing plans to mitigate the economic effects of closures and restrictions necessitated by this peacetime emergency, including potential financial support, regulatory relief, and other executive actions,”⁸ and noted that EO 20-33 may be extended by a future Executive Order.⁹ As of this filing, it is unclear if the Stay at Home Order will be extended again and, if so, for how long. However, the impact of the pandemic on the Petitioners and our customers is expected to continue beyond the May 4, 2020 expiration of EO 20-33.

As further detailed below, through this Joint Request, the Petitioners simply request authority to track and defer incremental costs incurred as a result of COVID-19. Allowing such action now will still allow the Commission and interested parties to evaluate the recoverability of any deferred costs and other associated issues in future utility-specific dockets, in the event the individual utilities choose to seek recovery. While the Commission, Minnesota utilities and our customers have not before faced circumstances

⁶ *Id.*, para. 11.

⁷ EO 20-33, para. 6, d.

⁸ *Id.*, para. 11.

⁹ *Id.*, para. 13.

such as the current pandemic, the Commission has in the past taken industry-wide action to respond to new circumstances impacting all utilities, such as tax reform or the establishment of new accounting standards.¹⁰ The Petitioners believe the current pandemic and peacetime emergency merit similar action across Minnesota's regulated natural gas and electric utilities at this time.

III REQUEST TO TRACK AND DEFER

The Commission has well-established criteria for approving requests for deferred accounting. As a general rule, the Commission has reserved the use of deferred accounting for costs that are: (1) unforeseeable; (2) unusual; and (3) large enough to have a significant impact on the utility's financial condition.¹¹ The Commission has also approved deferred accounting when utilities have incurred sizable expenses to meet important public policy objectives.¹² While the full extent of the public health crisis caused by COVID-19 and its associated economic impacts (both generally and on Petitioners) remains to be seen, there can be no doubt that the Petitioners' responses to the COVID-19 pandemic have caused and will continue to cause unforeseeable and unusual costs and that the Petitioners are incurring these costs to meet important public policy, health and safety objectives - for their employees and their customers.

The Petitioners are closely monitoring the spread of COVID-19 and the impacts to their regulated utility operations, as well as taking necessary precautions to limit the spread

¹⁰ See, e.g., Docket Nos. E, G-999/CI-17-895 (addressing the Tax Cut and Jobs Act of 2017) and U-999/CI-92-96 (addressing the adoption of Financial Accounting Standard 106). The Commission has also opened a broad industry-wide investigation to explore COVID-19 issues. Docket No. E, G-999/CI-20-375.

¹¹ See, e.g., Docket Nos. E-002/M-03-1462, Order Granting Deferred Accounting at 5; E,G-001/M-08-728, Order Authorizing Deferred Accounting Treatment Subject to Conditions at 2; E-015/M-16-648, Order Denying Deferred Accounting Treatment at 5.

¹² *Id.*

of the coronavirus and protect the health and safety of their employees, customers, and the general public. Each utility has implemented practices and procedures in accordance with their business continuity plans and federal, State, and local social distancing guidelines. These include but are not limited to implementing technology in order to enable larger portions of their workforce to work from home, providing paid time off to employees in alignment with self-quarantine guidance, and as necessary, providing additional personal protective equipment to employees, staggering crew start times, limiting transfer of employees between work locations, prohibiting visitors to critical operational facilities, establishing additional cleaning and sanitizing protocols for vehicles and work areas, and increasing cyber security efforts in detection, threat awareness, and incident response.

The Petitioners also support the State's efforts to ensure that no customer is left without critical utility service during this COVID-19 pandemic. As noted in a March 25, 2020 letter from Department of Commerce Commissioner Kelley and Commission Chair Sieben to Minnesota's electric and natural gas utilities, utilities have taken many steps to protect customers during this pandemic. That letter called on the utilities to extend the protections of Minnesota's cold weather rule, waive late fees, and arrange payment plans based on the financial resources of the customer and the Petitioners have responded favorably to those requests.

These and other actions of the Petitioners to respond to the pandemic have costs to the utilities. For example, the Petitioners have already suspended late payment fees as requested in the March 25, 2020 letter to the utilities from Commissioner Kelley and Chair Sieben. In addition, the Petitioners expect that the suspension of disconnections and the

deterioration in the general economy may lead to a significant increase in arrearages and uncollectible expense, in the future. The Petitioners also anticipate increases in administrative and financing costs associated with arrearages and uncollectible expenses, an increased need for outside services, and additional purchases of tools, materials, and supplies, among other things. While these estimated costs cannot be predicted with precision at this time, given the unprecedented nature of the COVID-19 public health emergency, they may be substantial, making tracking and deferral of them appropriate.¹³

Both the credit markets and regulators around the country have recognized the potential financial impact of COVID-19 on regulated utilities. For example, on April 2, 2020, partly influenced by coronavirus-related concerns, S&P Global Ratings lowered its outlook for the North American regulated utility sector to negative from stable.¹⁴ In addition, a number of state commissions have already issued orders authorizing deferred accounting for expenses associated with COVID-19, or are otherwise exploring this issue, including the Public Service Commission of Wisconsin, the Public Utilities Commission of Texas, the Railroad Commission of Texas, the Public Service Commission of Wyoming, the Public Utilities Commission of Nevada, the Arkansas Public Service Commission, the Public Service Commission of Maryland, and the Public Service Commission of Mississippi.¹⁵ The credit markets, credit rating agencies, and investors are closely

¹³ Additionally, individual Petitioners may experience reduced revenue due to a reduction in utility service usage as businesses are idled, various industries are impacted, and other macroeconomic conditions affect consumer activity. Therefore, individual Petitioners may also track revenue impacts resulting from changes in demand or energy consumption and seek to address this matter on a stand-alone basis.

¹⁴ Available at <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/s-p-lowers-north-american-utilities-outlook-to-negative-on-coronavirus-risk-57886477>.

¹⁵ See Wisconsin Public Service Commission, Docket No. 5-AF-105 (authorizing utilities to track costs and defer expenditures incurred in response to COVID-19 crisis for potential future cost recovery); Public Utility Commission

watching these and other actions state commissions take to support the financial strength of the utilities they regulate. Approval of this Joint Request by the Commission will provide regulatory support of the Petitioners' ongoing efforts during this pandemic and, by doing so, could mitigate cost impacts on utility customers in the future.

Specifically, the Petitioners request Commission authorization for each of them to track and defer incremental COVID-19 related costs incurred since the Governor's establishment of the peacetime emergency on March 13, 2020, allowing the utilities to record those costs into a regulatory asset. Such an order would allow each individual utility the ability to establish tracking and recording protocols appropriate for their respective operations and preserves the option for each utility to request recovery of these potentially significant costs in a subsequent utility-specific proceeding. In any such proceeding, the Commission and interested parties will be able to evaluate the recoverability of those costs along with any other issues relevant to the matter.

CONCLUSION

While the Petitioners' businesses, service territories, customer bases, and other characteristics may differ, each of them provides critical energy services to Minnesota

of Texas, Docket Nos. 50664 and 50703 (among other things, authorizing rider to address COVID-19 related expenses subject to future prudence review); Railroad Commission of Texas, Notice of Authorization for Regulatory Asset Accounting for Gas Utilities Affected by the COVID-19 Outbreak issued on April 8, 2020; Public Service Commission of Wyoming, Docket No. 90000-151-XO-20 (Record No. 15474) (allowing utilities to apply for deferred accounting order to allow for potential future recovery of costs and lost revenue through rates, subject to application and prudence review); Public Utilities Commission of Nevada, Emergency Order related to utility service and COVID-19, Docket No. 20-03021 (directing all rate-regulated jurisdictional utilities to track costs associated with utilities' efforts to accommodate customers during COVID-19 pandemic); Arkansas Public Service Commission, Docket No. 20-012-A: In the Matter of Administrative Orders Relating to the COVID-19 State of Emergency Order No. 1; Public Service Commission of Maryland Case No. 9639: State of Emergency and Public Health Emergency in the State of Maryland due to COVID-19 Order No. 89542; Public Service Commission of Mississippi, Docket No. 2018-AD-141, Order Authorizing Utility Response and Accounting for COVID-19. The National Association of Regulatory Utility Commissioners has a national tracker available at <https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/>.

residents and businesses. The Petitioners fully appreciate and accept their responsibilities during the ongoing peacetime emergency and remain committed to meeting Minnesota's energy needs during these uncertain and unprecedented times. As the Petitioners work to meet these responsibilities, the COVID-19 pandemic is creating significant socioeconomic impacts, which in turn can have both operational and financial impacts on the Petitioners. Affording Petitioners the ability to track and defer these financial impacts and record them as a regulatory asset for possible future recovery will best position the Petitioners to continue meeting their responsibilities, while maintaining their financial health and providing safe, reliable service. At the same time, the Commission will retain full authority to review and render appropriate judgement on the recoverability of these expenses if and when any of the Petitioners request such recovery in a future proceeding. For these reasons, the Petitioners respectfully request Commission approval of this Joint Request.

Dated: April 20, 2020

WINTHROP & WEINSTINE, P.A.

By: /s/ Eric F. Swanson

Eric F. Swanson, #188128

225 South Sixth Street, Suite 3500

Minneapolis, MN 55402

(612) 604-6400

eswanson@winthrop.com

ON BEHALF OF JOINT PETITIONERS