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April 3, 2019

Mr. Daniel Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

**VIA E-FILING**

**RE: In the Matter of the Petition of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, for Approval of an Affiliated Interest Agreement Between CenterPoint Energy Minnesota Gas and Minnesota Limited**

**Reply Comments – 2018 Minnesota Limited Contract**

**Docket No. G-008/AI-18-517**

Dear Mr. Wolf:

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, (“CenterPoint Energy,” the “Company,” or “CPEM”) respectfully submits the attached reply comments in response to the comments filed by the Department of Commerce in this docket on March 19, 2019.

Please contact me at if you have any questions regarding this filing.

Sincerely,

/s/  
Amber S. Lee  
Director Regulatory Affairs  
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c: Service List

**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

121 Seventh Place East, Suite 350  
St. Paul, MN 55101-2147

Dan Lipschultz	Vice-Chair
Matt Schuenger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of the Petition of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, for Approval of an Affiliated Interest Agreement between CenterPoint Energy Minnesota Gas and Minnesota Limited	Docket No. G-008/AI-18-517
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**REPLY COMMENTS**

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (“CenterPoint Energy” or the “Company”) submits these Reply Comments in response to the *Comments* of the Minnesota Department of Commerce, Division of Energy Resources, (“Department”) filed on March 19, 2019, in the above-captioned docket.

In its *Comments*, the Department addresses the statutory requirements pertaining to approval of affiliated interest agreements and requests the Company provide specific information regarding its 2018 Metro Beltline construction contract with Minnesota Limited (“Construction Contract”). The Company responds to the Department’s *Comments* below.

**I. The Company and Minnesota Limited Are Affiliated Interests.**

CenterPoint Energy filed its petition in this docket on July 30, 2018, for prospective approval of the Construction Contract under the requirements of Minn. Stat. § 216B.48, subd. 3. The Company filed the petition as a proactive measure because it believed it was possible, though not certain, that Minnesota Limited would become an affiliate of the Company during the course of the Construction Contract if the CenterPoint Energy, Inc.-Vectren transaction (the “Transaction”) was effectuated before the Construction Contract terminated. The Construction Contract terminated on the date the Transaction closed, and, for that reason, CenterPoint

Energy does not dispute that it became an affiliate of Minnesota Limited under Minn. Stat. § 216B.48, subd. 1(3),(5).

CenterPoint Energy does not, however, agree with the Department's contention that "Minnesota Limited had substantial influence over business decisions made by [the Company once the Merger Agreement was executed] and, as a result, became an affiliated interest at that time." See Department *Comments* at p. 2. The Company disputes the Department's contention that Minnesota Limited had "substantial influence" over the Company's business decisions simply because Minnesota Limited and the Company would eventually become affiliates.<sup>1</sup> Nevertheless, the Company agrees that it became affiliated with Minnesota Limited on the date the Transaction closed and responds to the specific questions regarding the execution of the contract raised by the Department below.

## **II. The 2018 Construction Contract Is Reasonable and Consistent with the Public Interest and Should be Approved.**

### **A. The Selection of Minnesota Limited and the Initial Scope of the Construction Contract Was Reasonable.**

In its *Comments* the Department indicates that it "expects to conclude that, as it pertains to the initial scope of work included in the RFP, the Construction Contract was generally reasonable and contained prudent ratepayer protections." Department *Comments* at p. 5. As the Department notes, the Construction Contract contained the following ratepayer protections:

- 1) Incorporation of Pricing by Subparts or Per Unit Basis: The Beltline Project was divided into subparts and bidders provided cost estimates by subpart on a lump sum or unit basis. The final Construction Contract incorporated these costs by subpart to protect the Company and its ratepayers against cost overruns.
- 2) Clear Descriptions of Work: The Company provided clear descriptions of the work to be completed, which allowed for the bidders to develop comprehensive price estimates.
- 3) Change Order Process: The final contract included a change order process that prevented the contractor from performing work not agreed to by the Company, and protections against the Company from paying for defective work.
- 4) Target Values: The Company developed target values for the work, using the per unit pricing in the competitive bid, and based on the anticipated units of work in our engineering judgment, to serve as a benchmark to evaluate actual costs at the end of the project.

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<sup>1</sup> The Department suggests that Section 5.01(a) of the Transaction Agreement, a standard provision designed to ensure that a company that may be acquired does not dissipate its assets prior to close, allowed Minnesota Limited to exercise substantial influence over the Company, thereby meeting the definition of an affiliated interest under Minn. Stat. 216B.16, subd. 1(6). However, Section 5.01(a) merely ensured that pending the closing of the Transaction, Vectren would not issue dividends over and above what it normally issued in the regular course of business.

The Company agrees with the Department that the RFP process and the Construction Contract contained appropriate ratepayer protections and were reasonable. Minnesota Limited’s execution of the initial scope was also reasonable, and it completed construction of the initial 2018 beltline segment early and underbudget. Total costs incurred for the initial segment were approximately \$12.7 million, compared to a target value of \$13 million. Based on Minnesota Limited’s execution of the initial scope, it was prudent for the Company to **[TRADE SECRET DATA HAS BEEN EXCISED]**.

**B. The Additional Services Provided Under the Contract Were Reasonable and In the Public Interest.**

As the Department notes, the Company **[TRADE SECRET DATA HAS BEEN EXCISED]**, which raised the total target value from \$13 million to \$22.5 million, as shown in Table 1:

**Table 1: 2018 Construction Contract Estimated and Actual Costs**

<b>Initial Construction Contract</b>			
<b>Initial Scope of Work</b>	<b>Engineering Estimate</b>	<b>Target Value</b>	<b>Actual Costs</b>
14,500-foot Beltline Segment	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	\$13.0 Million	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>
<b>Additional Scope Added to Construction Contract</b>			
<b>Additional Projects Added to Scope</b>	<b>Engineering Estimate</b>	<b>Target Value</b>	<b>Actual Costs</b>
1) 3,300-foot Beltline Segment (24-inch Steel)	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	\$6 Million	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>
2) Large-Diameter Distribution Work	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	\$1.6 Million	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>
3) 27 Pipeline Integrity Digs	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	\$1.2 Million	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>
4) Funding for Anticipated Cost Adjustments	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	\$0.7 Million	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>
<b>Total:</b>	<b>[TRADE SECRET DATA HAS BEEN EXCISED]</b>	<b>\$22.5 Million</b>	<b>\$20.64 Million</b>

Below the Company responds to the Department’s requests for further information about the additional scope and actual costs incurred.

## 1. Competitive Bidding for Additional Scope

The Department requests the Company explain why it was reasonable to assign a large volume of construction work to a single contractor, particularly an affiliate, without using a bidding process to ensure that the costs were reasonable. As mentioned, the Company disputes that Minnesota Limited was an affiliate at the time the additional work was assigned. Nonetheless, it was reasonable for the Company to assign additional work to Minnesota Limited because (1) it has a longstanding relationship with Minnesota Limited and it is standard practice for the Company to utilize its beltline contractor for similar-scope projects that can be completed within the annual construction season; (2) the additional work was completed at the per-unit costs set in the Construction Contract, so no additional bidding process was required; (3) Minnesota Limited is one of few contractors able to do the work; and (4) some of the work was required by code to be completed quickly. Each of these reasons is discussed below.

It is standard practice for the Company to utilize its beltline contractor, Minnesota Limited, to install similar-scope projects that can be completed within the annual construction season. Minnesota Limited has worked as the Company's beltline replacement contractor since the project began in 2012 and it has been a competent vendor throughout its tenure with the Company. The Company has been satisfied with the quality, cost and timing of Minnesota Limited's work, and nothing about the Transaction altered the ongoing relationship between the two companies.

The provision within the Construction Contract **[TRADE SECRET DATA HAS BEEN EXCISED]** was a typical provision, and the Company had included this provision in its previous beltline contracts with Minnesota Limited. The provision allows the Company **[TRADE SECRET DATA HAS BEEN EXCISED]**. This provision and practice benefits the Company and our customers because it incents the vendor to execute work on-time or ahead of schedule, and it allows us to accelerate necessary integrity work and maximize Minnesota's short construction season.

Second, there was no need to bid the additional scope because the additional work assigned to Minnesota Limited was priced at the terms set forth within the Construction Contract, which was a result of a competitive bidding process. See Department *Comments*, Attachment 7, p. 7 ("The current contract unit cost items will relate to the additional pipeline footage".)<sup>2</sup> By utilizing **[TRADE SECRET DATA HAS BEEN EXCISED]**, the Company was able to secure additional work,

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<sup>2</sup> After the Construction Contract was executed, four minor changes were made to incorporate additional per unit pricing: the contract was amended in June 2018 to include pricing for final grading of the project areas; and in September 2018, the contract was amended to adjust for the per foot cost of trenched 24-inch diameter steel due to a change in the construction environment (suburban to urban); add a cost per four-way offset; and to add a cost for directional boring per lineal foot of useable pipe.

scheduled for 2019, at 2018 pricing. **[TRADE SECRET DATA HAS BEEN EXCISED]**, the Company prudently accelerated 2019 work and utilized 2018 pricing.

Third, it was reasonable **[TRADE SECRET DATA HAS BEEN EXCISED]** because Minnesota Limited is one of very few qualified large-diameter pipeline installers that operates within the state of Minnesota. Only three vendors responded to the Company's 2018 RFP and one of those vendors was the Company's blanket contractor. In the fall of 2018 that contractor was not available to take on new projects because it was still engaged on work the Company assigned to it for the 2018 season. Minnesota Limited had the technical ability and equipment to install the beltline segment and the larger-diameter distribution pipeline segments. If the Company had separately bid the additional scope it is unclear whether any other vendors would have bid on the late-season work.

Finally, it was necessary to add the pipeline integrity digs **[TRADE SECRET DATA HAS BEEN EXCISED]** because that work was federally required to be completed within certain periods of time. The results of our integrity inspections were available in August and the anomalies detected had to be completed within specific time frames, some within five days of discovery.<sup>3</sup> As was the case **[TRADE SECRET DATA HAS BEEN EXCISED]**, the availability of Minnesota Limited presented an opportunity for the integrity digs to be completed quickly at agreed-upon pricing that had been tested through competitive bidding.

For all of these reasons it was prudent for the Company to assign additional work to Minnesota Limited and the costs incurred under the 2018 Construction Contract are reasonable.

## **2. Target Values for Additional Scope**

The Department requests the Company provide information to demonstrate how it derived the \$6.0 million target value associated with the additional beltline work, and how the Company derived the \$1.6 million target value associated with the three smaller change orders. The development of the target value for each piece of additional work was similar to the development of the target value for the work identified in the initial scope of the Construction Contract. The target value was based on an internal estimate of the cost of each piece of work, plus necessary contingencies, using information about the project available at the time and the prices established under the Construction Contract.

For the additional beltline segment, the engineering cost estimate totaled \$3.9 million, based on the Company's best engineering judgment at the time the work was designed. See Exhibit 1 attached to this filing. The Company internally requested \$6.0 million as a budget for this project. The \$6.0 million was only used internally for budgeting and approval purposes, and that

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<sup>3</sup> See 49 C.F.R. 192.933 (listing actions required to address integrity issues).

number was not disclosed to Minnesota Limited.<sup>4</sup> Actual costs incurred for installation of this beltline segment totaled **[TRADE SECRET DATA HAS BEEN EXCISED]**.

For the three distribution projects, the engineering estimate to complete the work was \$1.5 million. See Exhibit 1. Minnesota Limited performed at the Construction Contract rates, but CenterPoint Energy had requested that Minnesota Limited provide cost estimates using Construction Contract rates to facilitate a comparison with internal engineering estimates before the work was begun. See Department *Comments*, Attachment 7, p 11-16. The actual costs to complete the three distribution projects totaled **[TRADE SECRET DATA HAS BEEN EXCISED]**.

### 3. Funding for Anticipated Cost Adjustments

The Department requests the Company explain what specifically the line item that appeared in the Company's discovery response "Funding for Anticipated Cost Adjustments" represents, and how it derived the \$0.7 million estimate. This additional \$700,000 was added to the Fund Request submitted for the \$1.6 million for the distribution work to provide an overall contingency amount in the event the amount invoiced, due to unforeseen consequences, exceeded the amount previously funded for all of Minnesota Limited's work. The amount was chosen based on an assessment of the invoices that CenterPoint Energy had received as of the date the Fund Request was submitted compared to a prediction of the amount that was yet to be billed. In the end, because the overall contract cost came in approximately \$2 million below the amount budgeted, **[TRADE SECRET DATA HAS BEEN EXCISED]**. Minnesota Limited was unaware that this money was available if needed.

### 4. Pipeline Integrity Digs

The Department requests the Company explain how it developed the \$1.2 million cost estimate associated with the pipeline integrity digs, why those digs were not identified until after the contract approval process was complete, and whether the addition of these digs required a change order to amend the initial Construction Contract. The estimate for the pipeline integrity digs was **[TRADE SECRET DATA HAS BEEN EXCISED]** million based on an estimate by the Company's engineers that utilized an average cost of **[TRADE SECRET DATA HAS BEEN EXCISED]** per dig. Actual spend for this project was \$2.34 million, due to increased complexity and cost associated with a number of the integrity digs.

As mentioned above, the pipeline integrity digs were federally required in order to investigate anomalies discovered during the Company's integrity inspections. Most of the pipeline integrity digs were required to be conducted within five days of receipt of the inspection results, and all of

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<sup>4</sup> The Company inadvertently used the terms "Target Value" and "Authorized Funding" interchangeably in its Response to DOC IR 27. These terms can be, but are not necessarily, interchangeable. "Target Value" is a value used internally at the Company to best estimate the project cost, based on the engineering estimate and use of contingency funds. The term "Funding Request" or "Authorized Funding" is also a value used internally at the Company to refer to the formally approved project budget.

the digs had to be done before the heating season to safely operate system pressures during the colder months. The inspection results became available in August 2018, well after the Construction Contract was executed.

In addition to being time sensitive, these integrity digs require skilled operators to complete the necessary work. It was prudent to hire Minnesota Limited to execute this work because of Minnesota Limited's capabilities.

Though the Department is correct that no change order was completed for this work, no change order was actually required. The change order process is meant to ensure that the Company and the vendor agree on the actual tasks and scope of work to be performed, and it prevents the vendor from increasing the total costs of the project by performing work not agreed-to by the Company. In this instance, the Company and the vendor agreed on the scope of work and it was priced according to the terms set forth in the Construction Contract. Minnesota Limited's execution of the pipeline integrity digs was governed by a number of work orders that controlled the nature and scope of the work, and, as with the other projects completed by Minnesota Limited, the scope was verified by on-site Company inspectors who reviewed the invoices to ensure they matched the work completed.

### **CONCLUSION**

The Company prudently selected Minnesota Limited as its continued beltline contractor for 2018 construction and the terms set forth in the Construction Contract are reasonable. The Company's decision to assign additional work to Minnesota Limited, under that contract and its competitively-bid terms, was also prudent and reasonable. All of the work Minnesota Limited completed under the 2018 contract was necessary under our integrity plans to ensure the Company's system remains safe and reliable, and all costs incurred were reasonable. For these reasons, CenterPoint Energy respectfully requests that the Commission approve the Construction Contract under Minn. Stat. § 216B.48.



CenterPoint Energy Minnesota Gas has designated certain information as **TRADE SECRET**. The identified trade secret information meets the definition of trade secret information in Minn. Stat. §13.37 subd.1(b) as follows:

- 1) the information was supplied by CenterPoint Energy Minnesota Gas, the affected organization;
- 2) CenterPoint Energy Minnesota Gas has taken all reasonable efforts to maintain the secrecy of the information, including protecting it from disclosure in this proceeding; and
- 3) the protected information contains contractual details that have not been previously released to the public which derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.

The public and non-public contents are so intertwined and interspersed throughout as to make the entire document non-public.

**The document has been excised in its entirety from the public version of this filing.**