

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

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of a Commission Investigation into Gas Utility Resource Planning Docket No. G-008, G-002, G-011/CI-23-117

**INITIAL COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL,
RESIDENTIAL UTILITIES DIVISION,
PURSUANT TO THE COMMISSION’S
MAY 7, 2024, NOTICE OF EXTENDED
COMMENT PERIOD**

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Initial Comments in response to the Public Utilities Commission’s Notice of Extended Comment Period issued May 7, 2024. These comments respond to the Straw Proposals submitted by Northern States Power Company, d/b/a Xcel Energy (Xcel), CenterPoint Energy Minnesota Gas (CenterPoint), and Minnesota Energy Resources Corporation (MERC).

Some utility proposals provide helpful recommended clarifications to assist the Commission in further refining its order establishing a gas integrated resource planning framework.¹ On these points, the OAG proposes a modification of CenterPoint’s proposed ordering point 40a to reflect that Commission-approved forecasts, rather than utility-proposed forecasts, should be used for the high-load forecasts in resource plans. The OAG does not currently take a position on the remaining proposed clarifications provided by the utilities but may provide input in reply comments.

¹ See Order Establishing Framework for Natural Gas Utility Integrated Resource Planning (Framework Order) (Mar. 27, 2024).

MERC’s Straw Proposal, however, includes a request for deferred accounting. MERC’s request is premature, seeks to recover out-of-test-year costs simply for participating in the ongoing evolution of the regulatory environment, and risks double-recovery for routine regulatory tasks. The Commission should reject MERC’s expansive request. Should MERC discover substantial, unforeseen, and unusual costs in the future, it may petition for deferred accounting when more details are known.

Last, the OAG looks forward to reviewing comments from communities and stakeholders regarding how to better incorporate equity into the gas integrated resource planning process and how individuals and groups may use the natural gas system in unique ways.

I. THE COMMISSION SHOULD MODIFY CENTERPOINT’S PROPOSED 40A TO REFLECT THAT COMMISSION-APPROVED DESIGN DAY FORECASTS AND SALES FORECASTS SHOULD BE USED IN GAS RESOURCE PLANNING—RATHER THAN COMPANY PROPOSALS.

CenterPoint recommends the Commission provide further detail regarding the level of utilities’ high-load forecasts by clarifying Order Point 40 of the Commission Frameworks order. Order Point 40 reads: “Utilities shall provide a high, medium, and low load forecast, along with relevant assumptions, in their resource plans.”² CenterPoint proposes adding ordering point 40a to reflect that the high load scenarios would use the “current forecast methodology” used in demand entitlement filings and rate cases. CenterPoint’s proposed 40a would read: “Where the high load forecast may represent the Company’s forecast for design day as provided in their most recent demand entitlement filing, and sales forecast as provided in the utilities’ most recent rate case.”³ CenterPoint explains, “These forecast methodologies have been reviewed in demand

² Order Establishing Framework for Natural Gas Utility Integrated Resource Planning at 11 (Mar. 27, 2024).

³ CenterPoint Straw Proposal at 4.

entitlement filings and rate cases and have provided the necessary guidance for CenterPoint Energy to secure the appropriate amount of supply side requirements.”⁴

While the OAG has no objection to using design day and sales forecasts approved by the Commission, the ultimate forecasts approved in demand entitlement filings and rate cases are often not the “Company’s forecast,” but rather include modifications proposed by other parties and adopted by the Commission. The OAG recommends the Commission adopt a modification of CenterPoint’s 40a to reflect that any changes to a utility’s demand entitlement or rate case forecasts approved by the Commission should be the starting point for the high-load forecast in gas integrated resource plans:

40.a. Where the high load forecast may represent the ~~Company’s~~ Commission-approved forecast for design day as provided in ~~their~~ the utilities’ most recent demand entitlement filing, and the Commission-approved sales forecast as provided in the utilities’ most recent rate case.⁵

II. THE COMMISSION SHOULD REJECT MERC’S REQUEST FOR DEFERRED ACCOUNTING

MERC requests that the Commission authorize deferred accounting for gas integrated resource planning costs. Although MERC claims that the Commission’s criteria for granting deferred accounting is met, it gives no examples of substantial additional costs that it will incur to engage in gas integrated resource planning. While the OAG appreciates that gas integrated resource planning is new to Minnesota, utilities have long been subject to significant oversight in their gas procurement and planning decisions. MERC has not shown it would incur significant or

⁴ *Id.*

⁵ The OAG’s modified 40a also provides clarification that the design day forecast in demand entitlement filings may differ from the full slate of sales forecast filings in a rate case. While using design-day as the high-load forecast for capacity expansion analysis may be appropriate, other sales data included in a Commission approved rate-case sales-forecast may be helpful in assessing resource mixes or other potential issues in the gas integrated resource planning process.

unforeseen costs to join the Commission, the other utilities, and other parties and participants in improving this regulatory environment. MERC has also not shown that it cannot recover any gas integrated resource planning costs in a future rate case. The Commission should deny MERC's request, which does not prevent MERC from seeking authorization should any "significant" or "unforeseen, unusual, or extraordinary costs" arise in the future.

Deferred accounting is an exception to the Uniform System of Accounts and Commission rules require that a utility show good cause for such an exception to be granted.⁶ As the Commission has explained: "Deferred accounting is a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses that, because they are unforeseen, unusual, and large enough to have a significant impact on the utility's financial condition, should be eligible for possible rate recovery in the next rate case. Deferred accounting has also been permitted when utilities have incurred sizeable expenses to meet important public policy mandates."⁷ The Commission authorizes deferred accounting "sparingly" because "[c]onsidering one expense in isolation, without considering where costs may have declined" increases the risk the utility will over-recover its costs.⁸

MERC has not shown good cause for the Commission to grant a deferred accounting exception. MERC has not pointed to any expenses it will incur as a result of gas integrated resource planning that are large enough to have a significant impact on its financial position. And

⁶ Minn. R. 7825.0300, subp. 4.

⁷ *In re Xcel Energy's Petition for Approval of Electric Vehicle Pilot Programs*, E002/M-18-643, Order Approving Pilots with Modifications, Authorizing Deferred Accounting, and Setting Reporting Requirements at 18 (July 17, 2019) (eDocket No. [20197-154444-01](#)) (EV Pilot Order).

⁸ *In the Matter of Minnesota Power's Petition for Approval of Deferred Accounting Related to Pension Plan Contributions and Expenses*, E-015/M-11-1264, Order Denying Petition at 2 (Mar. 11, 2013).

Minnesota joining other leading states in more structured gas planning is neither unforeseen nor unusual.

MERC appears to concede that its request does not meet the traditional deferred accounting requirements, and instead argues that it should receive deferred accounting in order to recover “costs of programs they are required to administer to advance important public policy goals.”⁹ But MERC has also not shown that it will incur “sizable expenses” to meet any “public policy mandates.”¹⁰

In addition, MERC does not clearly identify the public policy mandate that any alleged “significant costs” would be incurred to serve. Instead, it simply asserts, “The proposed deferral here clearly meets these criteria.”¹¹ But all regulation and any Commission investigation, proceeding, or effort to improve the regulatory environment could be considered advancing an “important public policy mandate.”¹² Partially for this reason, the Commission’s standard requires that in addition to public policy mandates, the utility show it will incur “sizable expenses.”¹³ While the OAG does not dispute that gas integrated resource planning is an important public policy goal, MERC has not shown that costs to participate in gas integrated resource planning will be significant. MERC has provided no evidence of significant expenses, no timeframe for when such expenses would be incurred, and no explanation of how any additional work on gas integrated resource planning would impose additional significant costs beyond any authorized costs in MERC’s current rates.

⁹ MERC Straw Proposal at 5.

¹⁰ EV Pilot Order at 18.

¹¹ MERC Straw Proposal at 5.

¹² EV Pilot Order at 18.

¹³ *Id.*

Further, MERC has not shown that it will be prevented from recovering these costs through a general rate case. Unlike CenterPoint and Xcel, MERC has not volunteered to be the first utility to file a gas integrated resource plan, and MERC states that the earliest it would be able to file is fall of 2026,¹⁴ likely gaining benefits of much of the work done by the two larger utilities ahead of it. And, given the cadence recommended by the utilities, with the earliest plan being proposed in 2026 and CenterPoint or Xcel likely to file first, MERC’s plan is unlikely to be filed before its next rate case.¹⁵ Using the standard rate case process to justify expenses is appropriate because it avoids considering any gas integrated resource planning costs in isolation, without consideration of any efficiencies achieved or other costs that may be reduced by providing for more structured gas planning.

The Commission should deny MERC’s request for deferred accounting because it has not shown that it will “incur out-of-test-year expenses that, because they are unforeseen, unusual, and large enough to have a significant impact on the utility’s financial condition,” nor has it shown it will “incur[] sizeable expenses to meet important public policy mandates.”¹⁶

III. RECOMMENDATIONS:

- Reject MERC’s request for deferred accounting.
- Accept a Modified version of CenterPoint’s proposed ordering point 40a. to read:

40.a. Where the high load forecast may represent the ~~Company’s~~ Commission-approved forecast for design day as provided in ~~their~~ the

¹⁴ MERC Straw Proposal at 7.

¹⁵ Prior to a five-year gap between MERC’s 2017 and 2022 rate cases, MERC has consistently filed rate cases every two to three years. *See* Docket Nos. 22-504, 17-563, 15-736, 13-617, 10-977. There is little reason to expect that the five-year gap, which included several years of a global pandemic, will be the new rule rather than an exception.

¹⁶ EV Pilot Order at 18.

utilities' most recent demand entitlement filing, and the Commission-
approved sales forecast as provided in the utilities' most recent rate case.

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Respectfully submitted,

KEITH ELLISON
State of Minnesota
Attorney General

/s/ Katherine Hinderlie
KATHERINE HINDERLIE
Assistant Attorney General
Atty. Reg. No. 0397325

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1468 (Voice)
(651) 296-9663 (Fax)
katherine.hinderlie@ag.state.mn.us

ATTORNEY FOR OFFICE OF
THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION