

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

Katie Sieben	Chair
Joseph K. Sullivan	Vice Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter CenterPoint Energy’s Natural
Gas Innovation Plan

DOCKET NO. G-008/M-23-215

**SUPPLEMENTAL COMMENTS OF THE
OFFICE OF THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits these supplemental comments in response to the Public Utilities Commission’s Amended Notice of Comment Period issued on March 6, 2026.

Following review of CenterPoint’s reply comments, the OAG stands by its recommendations in initial comments. Should the Commission choose to grant CenterPoint’s request to increase its budget, the OAG continues to recommend limiting any authorization of budget flexibility to only the estimated budget increase, not including contingency funds. The OAG further recommends that the budget be transferred from CenterPoint’s R&D programs rather than allowing CenterPoint to benefit from delays in renewable natural gas procurement costs that will simply fall on ratepayers later. The OAG also recommends that CenterPoint make certain showings to support any capital budgets in its next NGIA.

In addition, following review of CenterPoint’s reply comments, because CenterPoint has not identified any reason that it would be unable to meet the deadlines required to qualify for the solar Investment Tax Credit (ITC), any loss of ITCs due to construction delays from CenterPoint’s

need for the regulatory certainty arising from this proceeding should be borne by CenterPoint's shareholders and not ratepayers.

Below the OAG addresses several arguments in CenterPoint's reply comments. First, the OAG emphasizes the inherent limitations of focusing on increases to CenterPoint's five-year budget, and urges the Commission instead to focus on lifetime capital or revenue-requirement costs when reviewing the reasonableness of CenterPoint's budget increase. Second, CenterPoint fails to engage with the OAG's recommendations to improve the accuracy of future NGIA pilot capital budgets. Third, the Commission should disallow any future cost increases caused by CenterPoint failing to meet ITC milestones, as any such delays would appear to be solely due to CenterPoint's refusal to take on any investment risk. Last, CenterPoint makes inaccurate arguments surrounding statutory requirements in the NGIA that the Commission should disregard.

I. WHEN ANALYZING CENTERPOINT'S BUDGET-INCREASE REQUEST, THE COMMISSION SHOULD FOCUS ON CAPITAL COSTS AND LIFETIME PILOT COSTS RATHER THAN FIVE-YEAR BUDGETS.

As an initial matter, when reviewing CenterPoint's request the Commission should be sure to review cost estimates that cannot be influenced by delays in spending or timing decisions. In its reply comments, CenterPoint faults the OAG for focusing on the 47 percent increase in estimated capital costs.¹ More troubling, CenterPoint claims that there will be no additional ratepayer impacts from its requests because the five-year overall NGIA budget would not increase; rather, costs would shift between pilots.²

The Commission should decline CenterPoint's invitation to ignore a potential \$10 million cost increase to ratepayers over Pilot D's lifetime by myopically focusing on only the five-year

¹ CenterPoint Reply Comments at 5.

² *Id.* at 8–9.

budget.³ It is important to look to either the pilot’s capital costs or its lifetime revenue requirements as the Commission determines how to proceed, because these costs cannot be as easily influenced by timing changes, construction delays, or plan-implementation impacts that will simply move costs out of the five-year NGIA budget window but not change overall ratepayer impacts over the life of the project. While the five-year budget is important for the technical purposes of the NGIA, as the Commission weighs the potential for pilot learnings against the overall ratepayer impact, lifetime capital costs or revenue-requirement figures are the most salient. The Commission should not diminish the extent of the potential increase in lifetime costs, potentially totaling over \$10 million compared to initial pilot estimates,⁴ by simply focusing on the short-term budget-increase request.

II. THE OAG CONTINUES TO RECOMMEND THAT CENTERPOINT SHOW IN ITS NEXT NGIA PLAN THAT IT CONSIDERED RELEVANT FACTORS IN DEVELOPING COST ESTIMATES.

In its reply comments, CenterPoint purports to provide additional “context” regarding the process it used to develop Pilot D’s cost estimates. While the two pages of text—with no citations to either the Technical Memo or Front-End Engineering Design (FEED) study, original NGIA filing, or any other documents—restate CenterPoint’s position, it does not appear that CenterPoint has provided any new record evidence that would allay concerns about the thoroughness of its initial plan budget estimates. Further, CenterPoint creates a strawman argument by implying that the OAG recommended a FEED study prior to plan approval.⁵ In focusing on arguments the OAG did not make, CenterPoint fails to show why the OAG’s four recommended showings should not

³ *See id.*, attach. (comparing total lifetime utility costs between CNP 07 – March 2024 with the most expensive scenario, Scenario 5).

⁴ *See id.* (comparing total lifetime utility costs between CNP 07 – March 2024 with the most expensive scenario, Scenario 5).

⁵ CenterPoint Reply Comments at 7. While CenterPoint avoids directly representing that the OAG recommended a FEED study be performed, sentences referring to the OAG’s recommendations are bracketed by responses stating that a FEED study would be unreasonable. *See id.*

be required for CenterPoint’s proposed capital projects in any future NGIA plan. For that reason, the OAG continues to recommend that the Commission order CenterPoint to demonstrate that it has considered these four common-sense yet potentially impactful items in creating its capital-project budget estimates.⁶

CenterPoint claims to provide additional context in response to the OAG. However, none of the information provided by CenterPoint appears to the OAG to be new.⁷ Further, CenterPoint provides no citations to support its claimed additional context, making it difficult to verify whether this additional context is additional evidence or mere additional argument. In general, CenterPoint’s additional context appears to be a reframing of the information in the Technical Memo and FEED study or an unsupported assertion.

CenterPoint’s reply comments also expend significant effort rebutting a claim that OAG has not made—that a FEED study should be required prior to the NGIA plan approval.⁸ To be clear, the OAG did not recommend that CenterPoint be required to commission a FEED study prior to its next NGIA petition for new capital projects. Instead, the OAG recommended that CenterPoint provide a showing that it considered four items that could significantly impact budgets for capital projects. The OAG stands by this recommendation.

In the two pages of CenterPoint’s reframing, it does not provide any reason as to why the OAG’s four recommended showings should not be required.⁹ And there’s a good reason for the lack of response. The OAG’s recommendations are common-sense principles that prudent companies should investigate and confirm prior to submitting a budget for pilot approval. The

⁶ See OAG Initial Comments at 5.

⁷ See CenterPoint Petition; OAG Initial Comments, attachs. A–B.

⁸ CenterPoint Reply Comments at 7.

⁹ Indeed, the paragraph where CenterPoint purports to address the OAG’s recommendation instead discusses why “FEED-level requirements” would not be appropriate. See *id.*

Commission should require that CenterPoint provide in its next NGIA plan a showing that at least the following items were considered in developing budget estimates for pilots with capital components: (1) vendor quotations for any major components; (2) consultation with companies, engineers, or other organizations that are familiar with the technology and systems to be used; (3) for any project with a renewable energy or electrification component, consultation with the local retail electric utility including any estimates for interconnection; and (4) how CenterPoint considered the impact of Minnesota’s climate and verified that any comparable costs from other locations have been updated to include winterization or other necessary protections due to any environmental factors.

III. CENTERPOINT SHOULD NOT RECOVER ANY COST INCREASES RESULTING FROM FAILING TO MEET THE DEADLINE TO QUALIFY FOR INVESTMENT TAX CREDITS.

CenterPoint requests a decision by June 4, 2026 in order to have “budget certainty” with enough time to begin construction on the Pilot D solar array by the July 4 deadline to qualify it for the ITC.¹⁰ To be clear, CenterPoint admits it does not need its full requested increase for any financial certainty directly related to proceeding with investments to secure the anticipated ITCs.¹¹ Moreover, CenterPoint’s budget request and the construction timeline to secure solar ITCs are related only insofar as CenterPoint’s shareholders are unwilling to tolerate risk by expending *any* funds before gaining assurances that they will recover all funds from ratepayers. In other words, the timing of the Commission’s decision does not impact CenterPoint’s ability to execute in the face of budget risk but its willingness to do so. That’s not how the regulatory compact is supposed to work, because CenterPoint’s shareholders are compensated for their investments at a level that includes bearing the risk of losses. And CenterPoint’s desire to avoid financial risk for its

¹⁰ CenterPoint Budget Modification Request at 2.

¹¹ CenterPoint Reply Comments at 4.

shareholders is causing it to be cutting it close in terms of the timing for securing ITCs. Therefore, any order approving a budget increase should be clear that the costs of CenterPoint's failure to construct the array in time to secure ITCs will be borne by shareholders. CenterPoint's shareholders should bear the risk of not receiving ITCs due to construction delays as CenterPoint has significantly contributed to any delays by insisting on near-riskless investments.

IV. CENTERPOINT'S NEWFOUND IMPLICATION THAT FUNDS MUST BE MOVED BETWEEN LOW-CARBON FUELS PILOTS, RATHER THAN THE R&D PROGRAMS, MISREADS THE STATUTE AND COULD CREATE PERVERSE INCENTIVES.

CenterPoint's reply comments propound an incorrect statutory interpretation. CenterPoint appears to argue that to comply with the NGIA, the plan must expend at least 50 percent of ratepayer dollars on alternative fuel projects.¹² This is inaccurate.

CenterPoint states that moving funds from Pilot C, instead of CenterPoint's unplanned and unspent R&D budget, "ensures continued compliance with NGIA's statutory requirement that at least 50 percent of plan expenditures be directed to alternative fuel projects."¹³ CenterPoint inaccurately describes the statute's mandate. The NGIA provides that the Commission "may not approve a utility's initial plan filed under this section unless," among other requirements, "50 percent or more of the utility's costs approved by the commission for recovery under the plan are for the procurement and distribution of [low-carbon fuels]."¹⁴ The 50 percent low-carbon fuel requirement applies to guide the Commission's approval of a utility's initial NGIA plan, not to shackle the Commission's discretion as the plan moves forward.

As the OAG has explained before regarding Xcel's NGIA plan, the 50 percent low-carbon fuel requirement can only reasonably be read to apply at the plan's initial approval, not as an

¹² *Id.* at 2, 9.

¹³ *Id.* at 2.

¹⁴ Minn. Stat. § 216B.2427, subd. 2(d).

ongoing requirement.¹⁵ Reading the NGIA, as CenterPoint does, to require at least 50 percent of all NGIA expenditures to go toward alternative fuel projects in perpetuity would violate the canon of statutory construction to read statutes to avoid absurd results. As the statute states, the Commission “may not approve” a utility’s initial plan unless 50 percent or more of the “costs approved by the Commission” are for low-carbon fuel procurement or distribution. The “approved” in both provisions of the low-carbon fuel requirement must refer to the Commission’s initial plan approval.¹⁶ Reading that provision as an ongoing requirement would lead to absurd results. For example, if CenterPoint were not able to procure sufficient RNG through Pilot C, reading the 50 percent standard as an ongoing requirement could force the Commission to cut or disallow cost recovery for non-low-carbon fuel programs even if those programs were otherwise successful. Similarly, an ongoing 50 percent requirement for the length of cost recovery could require the utility to continue throwing money after a low-carbon fuel pilot that faces significant cost overruns—even if those overruns were determined imprudent by the Commission—in order to continue to meet a 50 percent floor for expenditures.

Reading the 50 percent floor to apply to the Commission’s initial approval of the plan also comports with the statutory framework generally. The NGIA is set up to fund enumerated “innovative resources” while containing ratepayer costs and to study the cost-effectiveness of various resources while rewarding utilities that successfully pursue cost-effective resources and plans.¹⁷ To achieve these goals, the Commission is tasked with reviewing a utility’s NGIA plan’s performance every year, including costs and the utility’s progress towards meeting the cost-

¹⁵ Docket No. G-002/M-23-518, OAG Supp. Comments at 4–5 (Oct. 28, 2024).

¹⁶ *KSTP-TV v. Ramsey Cnty.*, 806 N.W.2d 785, 788 (Minn. 2011) (“When relying on the plain statutory text, we read words and phrases ‘to avoid absurd results and unjust consequences.’”).

¹⁷ See Minn. Stat. § 216B.2427, subds. 2–3.

effectiveness standards set for it.¹⁸ In reviewing these annual reports, the legislature tasked the Commission with annually approving, modifying, or discontinuing the pilot programs in the utility's plan.¹⁹ The legislature also explicitly limited cost recovery to "prudently incurred costs."²⁰ Reading the 50 percent floor to apply to ongoing expenditures would unnecessarily throw the many duties the legislature has given the Commission into tension. The Commission's determination of cost prudence could be hampered by the need to meet the 50 percent requirement, or the Commission could be compelled to continue low-carbon fuel pilots even if their progress would otherwise favor discontinuance to pursue more cost-effective decarbonization strategies. This is not what the legislature intended. Instead, the legislature sought to ensure that low-carbon fuels had a place in utilities' initial NGIA plans while leaving it to the Commission to oversee the plans with the goal of cost-effectively reducing the overall amount of geologic natural gas delivered to customers.²¹

The Commission should read the statute in line with its overall structure, purpose, and common sense and determine that CenterPoint's NGIA plan has already met the 50 percent requirement because the Commission approved CenterPoint's initial plan with more than 50 percent of costs going towards low-carbon fuels. The Commission should not allow CenterPoint's inaccurate statutory argument to sway its determination of whether to allow CenterPoint to shift pilot budgets to cover Pilot D's cost overruns or which pilot project these costs should be shifted from.

¹⁸ *See id.*, subd. 2(f).

¹⁹ *Id.*, subd. 2(g).

²⁰ *Id.*, subd. 2(c).

²¹ *See id.*, subd. 10.

RECOMMENDATION

If the Commission chooses to grant CenterPoint's request to increase its Pilot D budget, the OAG continues to recommend the Commission take several actions:

1. To prevent similar issues from recurring, the OAG recommends requiring CenterPoint in its next NGIA plan to conduct more thorough budget analysis for capital projects prior to plan approval. This should include a showing that at least the following items were considered in developing budget estimates:
 - a. Vendor quotations for any major components;
 - b. Consultation with companies, engineers, or other organizations that are familiar with the technology and systems to be used;
 - c. For any project with a renewable energy or electrification component, consultation with the local retail electric utility including any estimates for interconnection; and
 - d. Consideration of the impact of Minnesota's climate and verification that any comparable costs from other locations have been updated to include winterization or other necessary protections due to any environmental factors.
2. To incentivize CenterPoint to contain costs, the OAG recommends limiting the authorization of budget flexibility to only the estimated budget increase, not including contingency funds.
3. The OAG recommends moving any funds from CenterPoint's R&D reserve funds rather than Pilot C.

In addition, after reviewing CenterPoint's statements regarding ITCs for Pilot D's solar array in reply comments, the OAG recommends the following:

4. Any future cost increases due to a failure to secure ITCs due to construction delays should be borne by CenterPoint's shareholders, not ratepayers.

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Respectfully submitted,

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