

STATE OF MINNESOTA

BEFORE THE PUBLIC UTILITIES COMMISSION

*In the Matter of a Petition by
CenterPoint Energy and the City of
Minneapolis to Introduce a
Tariffed On-Bill Financing Pilot
Program*

PUC Docket No. G008/M-21-377

INITIAL COMMENTS

On Behalf Of
Fresh Energy
Sierra Club
Minnesota Center for Environmental Advocacy
and
The Community Stabilization Project

February 4, 2022

INTRODUCTION

Minnesota Center for Environmental Advocacy (“MCEA”)¹, Fresh Energy², and Sierra Club³ (collectively “the Clean Energy Organizations” or “CEOs”) and The Community Stabilization Project submit this comment in response to CenterPoint Energy’s (“CenterPoint” or “the Company”) and the City Of Minneapolis’ (“the City”) Petition, filed on September 1, 2021, to implement a tariffed on-bill pilot program (“TOB Pilot” or “Pilot”).

CEOs are generally in support of the Petition for a TOB Pilot program. TOB programs have a demonstrated record of providing benefits to the communities where they are implemented and are an exciting opportunity for Minnesota. Implementing a TOB program will help Minnesota reach its greenhouse gas emission reduction goals, will improve the State’s housing stock, and will provide equitable access to energy efficiency measures for a broader class of residents who have not been able to participate in other programs. Accordingly, CEOs respectfully request that the Commission approve CenterPoint and the City’s Petition for a TOB Pilot program, subject to the proposed modifications discussed below.

¹ MCEA is a nonprofit environmental organization that works in the courts, the legislature, and state agencies to protect Minnesota’s wildlife, natural resources and the health of its people. MCEA’s program areas include an Energy Program to reduce carbon emissions and to advance environmentally sustainable energy policies. Many of MCEA’s members are CenterPoint customers.

² Fresh Energy is a nonprofit organization that works in the public interest to catalyze state and regional policy regulation that will stimulate the technological advancements necessary to achieve equitable carbon-neutral economies. Fresh Energy’s Gas Decarbonization program was established in 2021 with the goal to ensure that the transition away from fossil gas is accomplished rapidly, affordably, and equitably.

³ Sierra Club is a national nonprofit environmental organization with over 790,000 members nationwide, and over 18,700 members in Minnesota, working to protect and promote safe and healthy communities and to protect and improve air and water quality in the United States, limit the adverse effects of climate change, and promote clean energy. A large portion of Sierra Club’s Minnesota members are CenterPoint ratepayers. Therefore, the outcome of this proceeding will directly affect Sierra Club members’ interests in, and rates for, CenterPoint’s gas service.

I. Tariffed On-Bill Programs Expand Energy Efficiency Access To Populations Underserved By Current Programs And Are A Useful Tool To Add To Minnesota's Current Energy Efficiency Offerings.

TOB programs have been around for the last 20 years and are currently being implemented across the country from Hawaii to New Hampshire.⁴ Also known as “inclusive financing programs,” TOB programs are unique in that they are specifically designed to be inclusive. They do not involve loans or liens, do not have income qualification requirements, and do not require home ownership. Thus, they eliminate many of the barriers that prevent people from accessing energy efficiency programs today. This makes TOB programs a useful supplement to existing energy efficiency tools by allowing states to further increase the energy efficiency of their housing stock while also realizing the myriad of benefits that come from increased building efficiency like better living conditions, reduced energy burdens, and progress toward state climate goals. In order to illustrate how TOB programs expand access to energy efficiency in Minnesota, it is helpful to begin with a general understanding of the mechanics of a TOB program.

A. How a TOB program operates.

Most TOB programs are based on a model program created by the Energy Efficiency Institute in 1999 called Pay As You Save[®] or “PAYS.”⁵ Some utilities operate programs that are certified PAYS programs, while others operate programs that are based on the PAYS model but have a few tweaks unique to that utility. Because most (if not all) TOB Programs today either use

⁴ Bruce Mast, Holmes Hummel & Jeanne Clinton, *Towards an Accessible Financing Solution: A Policy Roadmap with Program Implementation Considerations for Tariffed On-Bill Programs in California* 4 (2020) available at https://www.buildingdecarb.org/uploads/3/0/7/3/30734489/bdc_whitepaper_final_small.pdf.

⁵ Holmes Hummel & Harlan Lachman, *What Is Inclusive Financing for Energy Efficiency, and Why Are Some of the Largest States in the Country Calling for it Now?* 2 (2018) available at https://www.aceee.org/files/proceedings/2018/assets/attachments/0194_0286_000158.pdf.

the PAYS model or are largely based on the PAYS model (including the Pilot proposal in this docket), we will describe how a TOB program works under the PAYS model.

At its most basic, a TOB program allows a utility customer to install cost-effective energy efficiency upgrades in their residence at no up-front cost.⁶ Instead, the utility pays for the upgrades using third party or in-house capital and then recoups the cost of the upgrades from the customer through a monthly charge on the customer's utility bill. However, under the terms of the program, the monthly charge the customer pays cannot be more than the monthly energy savings they realize as a result of the upgrades, resulting in a net savings from day one.

To initiate a TOB program for an investor-owned utility ("IOU"), a tariff is approved by the area utilities commission. Once the tariff is approved, the utility, or their TOB program operator,⁷ can begin implementing the program. Customers that express an interest in the program first receive a home energy assessment performed by a qualified energy assessor. The assessor uses site-specific measurements, the customer's bill history, and engineering calculations to produce a list of energy efficiency upgrades that would be cost-effective to install at the residence through the TOB program.

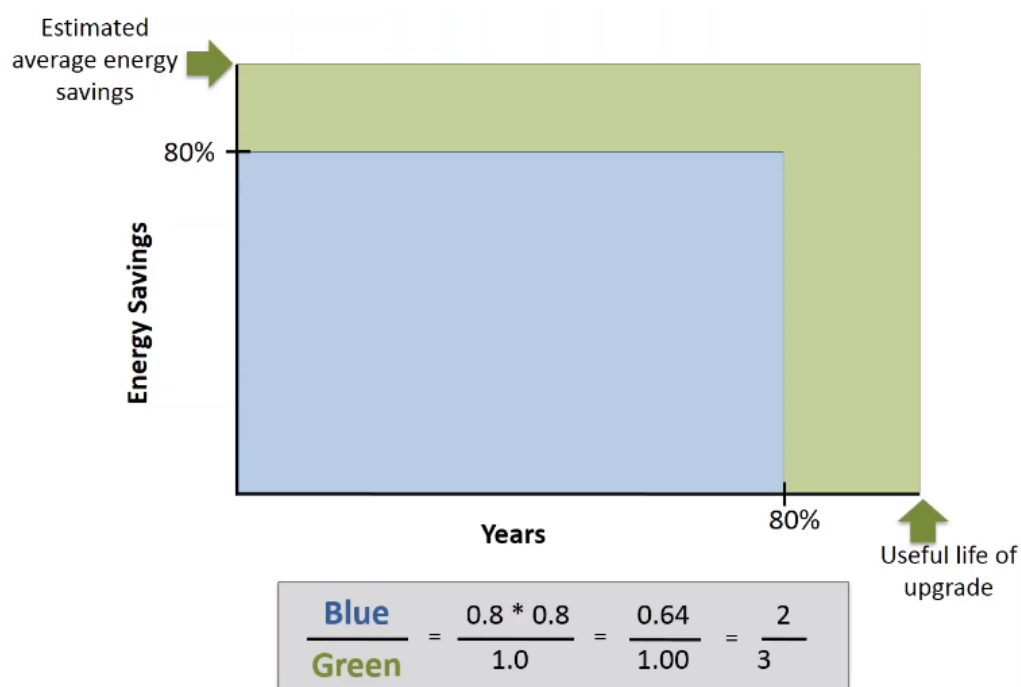
For energy efficiency upgrades to be considered cost-effective under a TOB program they must satisfy the 80/20 Rule (sometimes referred to as the 80% Rule), which is a consumer protection that is incorporated into the program to provide an assurance of net savings to the program participant. The 80/20 Rule has two components. First, it requires the customer's monthly

⁶ If the math will not work for an energy efficiency upgrade to be installed through the program, the participant can choose to make an upfront co-pay if such a co-pay would allow the upgrade to work under the terms of the program, but under a PAYS program, a co-pay is never required.

⁷ It is common for utilities to use a program operator other than the utility to implement the program. This can be seen in Section II where TOB programs from across the country are discussed.

bill charge to be no more than 80% of the customer's estimated monthly bill savings. Second, the 80/20 Rule requires that the monthly bill charge be assessed for no more than 80% of the life of the upgrade. Here is how these two components work together: in order to be implemented, the monthly bill charge may be no more than 80% of the customer's estimated savings *and* an energy efficiency upgrade must be paid back within 80% of the useful life of the upgrade.⁸ Because of the way these two components work together, the cost recovery to the utility is only 64% of the total estimated savings over the full useful life of the upgrades, leaving the customer with 34% of the total estimated savings as demonstrated in Figure 1.⁹

Figure 1: Illustration Of The 80/20 Rule¹⁰



⁸ One caveat to this statement is that if an upfront copayment reducing the monthly bill charge will result in the upgrade meeting the 80/20 Rule, a customer can elect to make a co-payment in order to utilize the program.

⁹ Hummel & Lachman, *supra* note 5, at 3.

¹⁰ See Energy Efficiency All., *SEEA Learning Circle Series: Consumer Protections in Inclusive Financing for Energy Efficiency*, On-Bill Financing for EE (Mar. 23, 2017), <https://www.gotostage.com/channel/7746552352560182789/recording/96e9a427201647798fa5f490419c6caa/watch?source=CHANNEL>.

After the customer is provided a list of eligible upgrades (those that meet the 80/20 Rule) as well as their estimated bill savings and estimated monthly bill charge, it is up to the customer whether to proceed. If the customer does decide to proceed with the upgrades, the installation will be scheduled with a contractor approved by the utility or the TOB program operator. The utility will pay the contractor for the upgrades and the installation. Once the upgrades are installed and operating, the monthly bill charge will appear on the customer's utility bill. The customer will pay this monthly charge as part of their utility bill until the term of the monthly charge ends. When the bill charge period ends, the TOB charge will drop off and the customer's bill will decrease significantly more as they will then be receiving 100% of the savings from the energy efficiency upgrade, as opposed to approximately 20%.¹¹

If an upgrade fails the utility or its program operator will arrange for and pay for the repair. If an upgrade fails and cannot be repaired, or fails to perform as expected, the customer's obligation to pay the monthly bill charge ends.

B. TOB programs differ from On-Bill Loans and PACE.

A key difference of TOB programs as compared to other energy efficiency offerings like on-bill loans or PACE is that TOB programs are not loans. TOB programs are implemented through a utility tariff and are considered part of the residence's utility service. This means the program is tied to the utility meter at the property, not the customer or the property itself. Thus, if a participant moves they are no longer responsible for the monthly bill charges. Instead, after receiving proper notice, the next resident at that address assumes paying for the monthly bill charge

¹¹ Hummel & Lachman, *supra* note 5, at 3.

for the remainder of the bill charge term.¹² This makes sense. It is reasonable for a subsequent occupant to pay a fair portion of the upgrades while benefiting from the savings generated by those upgrades.¹³

Because there is no loan in a TOB program, there is no obligation to transfer a loan from one customer to another, eliminating the need to satisfy various contract law requirements.¹⁴ Instead, the terms of the TOB program transfer automatically to future customers at the upgraded location through the utility tariff. Residence owners are, however, obligated to disclose to prospective buyers or renters that the residence is enrolled in the program and that the utility is recovering the costs of its on-site investments through a monthly bill charge.¹⁵ Subsequent renters or homeowners who move into a residence that is already enrolled in the program are also notified by the utility that the property is subject to a monthly bill charge.

Additionally, because the program is implemented through a tariff and not a loan, the monthly bill charge is not recorded in property records and does not encumber the property title, as evidenced by the fact that the monthly bill charge stays with the meter, even if there is a mortgage foreclosure or property vacancy.¹⁶

¹² Frank Jossi, *Minneapolis Seeks 'Inclusive' Financing for Energy Efficiency Improvements*, Energy News Network (Aug. 10, 2020), <https://energynews.us/2020/08/10/minneapolis-seeks-inclusive-financing-for-energy-efficiency-improvements/>.

¹³ S. Env'tl. Law Ctr., *Members Save Money While Saving Power: Roanoke Electric Cooperative Leads the Way with a Debt-Free On-Bill Program for Energy Efficiency 2* (2015) available at http://www.southernenvironment.org/wp-content/uploads/legacy/infographics/SELC_Roanoke_Electric_OBF_Handout_Final.pdf.

¹⁴ *SEEA Learning Circle Series: Consumer Protections in Inclusive Financing for Energy Efficiency*, *supra* note 10.

¹⁵ *Id.*

¹⁶ Mast, Hummel & Clinton, *supra* note 4, at 4 (citing U.S. Dep't of Energy, *Issue Brief: Low-Income Energy Efficiency Financing Through On-Bill Tariff Programs* (2019)).

The fact that TOB programs stay with the utility meter and not the customer can cause some to confuse TOB programs with PACE programs, which are tied to real property.¹⁷ PACE programs have been problematic in other states due to (1) high interest rates; (2) predatory sales techniques used by contractors going door-to-door; (3) the fact that PACE loans encumber the title to real property through a first priority lien; and (4) because non-payment could result in the customer losing their home.

However, TOB programs are fundamentally different from PACE. First, PACE is a *loan* program, and the debt obligation is secured by a senior lien attached to the property. Tariffed on-bill investments are implemented through tariffs not loans, and there are no liens placed on the property or any encumbrances to the property's title whatsoever. Second, where missed payments under PACE attach to property tax statements and create a possibility that the borrower could lose their home, missed payments under a TOB Program are treated as missed utility bill payments and could never result in a customer losing their home. Third, under a TOB Program (at least under the PAYS model), the program operator, not the contractor, conducts the on-site data gathering and assessment and generates a cost-effective scope of work. In other words, contractors, vendors, or others with a financial interest in increasing sales are not in a position to drive the scope or budget of projects under TOB programs. As a further consumer protection, many program operators conduct a quality assurance verification of all upgrades and their performance before approving payment. The program operator is also in the position of enforcing warranties and

¹⁷ Rebecca Burns, *The Subprime Solar Trap for Low-Income Homeowners*, Bloomberg Green (Apr. 6, 2021, 3:00 AM), <https://www.bloomberg.com/news/features/2021-04-06/the-subprime-solar-trap-for-low-income-homeowners>.

quality control.¹⁸ Finally, the Commission approves the interest rate charged to TOB program participants and therefore has some key financial oversight that was lacking in certain PACE programs.

The table in Figure 2 makes clear how TOB programs differ and eliminate the hazards present with PACE.

Figure 2: Key Differences Between On-Bill Loan, PACE, And Tariffed On-Bill Models¹⁹

	ON-BILL LOAN	PACE	TARIFFED ON-BILL
What is the charge?	Debt payment on utility bill	Debt payment on property tax bill	Cost recovery line item on utility bill
What does a successor homeowner or occupant pay?	Some programs allow voluntary loan transfers but not automatic	In principle, transfer to buyer is possible, but transfers face resistance from mortgage industry	Cost recovery automatically applies to successor occupants
Consumer credit underwriting criteria	Necessary for many loan programs	Necessary for many programs, along with minimum thresholds for home equity	Consumer credit not involved. Utility may use bill payment history to confirm good standing.
Is utility disconnection possible for non-payment?	Yes, depending on legislative or gubernatorial policy and/or regulatory approval	No, but home foreclosure is possible.	Yes, with regulatory approval
Is investment cash positive to the occupant?	Maybe, if program ties bill payment to savings	No nexus between capital investment and bill impacts	Yes, immediate net savings is a core program requirement
Renters allowed to participate?	Yes, but few do	Yes, but few do	Yes

C. TOB programs serve the missing “Donut Hole” of Minnesotans that are ineligible for existing energy efficiency programs.

While Minnesota has some excellent energy efficiency programs already, no one disputes that there is a greater need for energy efficiency upgrades in Minnesota than what existing programs can accommodate. While all of the existing programs can and should be fully funded to

¹⁸ S. Envtl. Law Ctr., *Review of National Consumer Law Center’s Tariff On-Bill Recommendations in the Context of the Pay As You Save® System’s Built-In Consumer Protections* 11 (2020), included as CEOs Attachment 2.

¹⁹ Mast, Hummel & Clinton, *supra* note 4, at 29.

expand their accessibility, funding of existing programs alone still would not reach all the customers that need energy efficiency upgrades. This is where TOB programs can be a value-add to Minnesota. TOB programs are able to reach the missing “donut hole” of the energy efficiency landscape: middle-income customers that are not income-eligible for other programs but who also do not have (1) the ability to afford energy efficiency improvements outright, (2) the ability to obtain financing to afford energy efficiency improvements, or (3) the liquidity to pay the upfront cost and wait for a rebate.

Many programs in Minnesota do require participants to have sufficient capital to pay for upgrades out of pocket.²⁰ CenterPoint has noted, “[w]ith the exception of some offerings targeted at customers that qualify as low-income, the Company’s CIP offerings for more substantial measures require the customers to pay much of the upfront cost.”²¹ This upfront cost barrier can exclude large swaths of customers, including those with low credit scores or customers that are debt constrained, from taking part in a program.²² TOB programs help unlock energy efficiency for these customers by eliminating the need for up-front capital or enough income to pay for upgrades out of pocket, and instead creating immediate bill savings.

Additionally, even customers that have the ability to pay for upgrades out of pocket can be wary of making energy efficiency upgrades because it may take years to break even on the

²⁰ Rebuttal Test. of Andrew Twite Senior Policy Associate Fresh Energy on Behalf of Fresh Energy, Sierra Club, and Minnesota Center for Environmental Advocacy (“Clean Energy Organizations”) 7:1–12, Doc. No. 20208-165812-02 (Aug. 12, 2020); *see also* Ctr. for Energy and Env’t, *Home Energy Squad: About*, <https://www.mncee.org/home-energy-squad>; <https://www.centerpointenergy.com/en-us/Documents/CIP-Rebate-Forms/CNP1342.pdf> (rebate for process equipment tune-up is only 25% of the cost) (last visited Feb. 03, 2022); CenterPoint Energy, *Heating System Rebate: Minnesota*, <https://www.centerpointenergy.com/en-us/Documents/CIP-Rebate-Forms/CNP1153.pdf> (only \$150 back for a new furnace) (last visited Feb. 03, 2022).

²¹ Seth DeMerritt Rebuttal Test. 12:6-13:4, Doc. No. 20208-165824-06 (Aug. 12, 2020).

²² Hummel & Lachman, *supra* note 5, at 2.

investment. Many families in Minnesota are changing their housing situations to accommodate a growing family, to take a new job, to downsize after retirement, or to move to a new location given the opportunity for remote work. TOB allows these families to make an energy efficiency investment now, even though their future plans for living at that location are uncertain. The fact that a customer only pays for energy efficiency investments while they occupy the premises and receives immediate bill savings also makes TOB programs a better solution for seniors who are wary of making longer-term investments.²³

TOB Programs also increase accessibility to renters by addressing the “split incentive.” The split incentive occurs when a tenant pays the utility bill. In that situation, the landlord has little incentive to install energy efficiency upgrades because they do not personally see the savings. Tenants also have little incentive to install upgrades because the payback period on the investment is typically longer than they may occupy that property. For example, a tenant may have a one-year lease, but a heat pump space heater and cooling appliance may require 10–12 years for cost recovery.²⁴ Thus, because their incentives are “split,” few landlords or tenants take advantage of energy efficiency programs.

Because nearly one third of Minnesotans rent their homes, the split incentive is a real barrier in Minnesota.²⁵ Minneapolis, in particular, is increasingly a city of renters; between 2008 and 2015, the city’s share of renter households grew from 49% to 53%.²⁶ The rental barrier

²³ Hummel & Lachman, *supra* note 5, at 2.

²⁴ *On-Bill Energy Efficiency*, Am. Council for an Energy-Efficient Econ. (Feb. 16, 2017). <https://www.aceee.org/toolkit/2017/02/bill-energy-efficiency>.

²⁵ Cadmus, *Tariffed On-Bill Financing Feasibility: Assessment of Innovative Financing Structures for Minnesota* 5 (2019) available at http://energytransition.umn.edu/wp-content/uploads/2019/08/Minnesota-TOB-Financing-FINAL_AH-1.pdf.

²⁶ Pet. by CenterPoint Energy and the City of Minneapolis to Introduce a Tariffed on Bill Pilot Program 5, Doc. No. 20219-177662-01 (Sept. 1, 2021).

particularly affects families of color given that in Minneapolis, black families have a homeownership rate of 25%, compared to a 76% ownership rate by white families.²⁷

TOB overcomes barriers created by a lack of home ownership because renters are eligible for the program and they only pay for the energy efficiency investment while they occupy the premises. Similarly, landlords do not have to pay for upgrades where the savings is realized by their tenants, so TOB addresses the long-standing split incentive between renters and landlords.²⁸

In light of the foregoing discussion, it is logical that TOB programs are also referred to as inclusive financing programs because it is clear they overcome many existing barriers to participation and create a much more inclusive opportunity for people to obtain needed efficiency improvements than existing programs. While TOB programs should not be specifically targeted at low-income households that are already eligible for other programs, TOB programs can be a useful addition to Minnesota's existing programs in order to serve the missing "donut hole" of utility customers, as well as renters and other customers that anticipate an upcoming residence change.

D. A TOB program can help Minnesota achieve its climate goals.

A TOB program will also facilitate Minnesota's ability to reach its greenhouse gas emission reduction goals. Energy efficiency investments are low-hanging fruit in our efforts to address climate change given that they are often the most cost-effective greenhouse gas emission reduction measures available.²⁹ Moreover, our state has a significant amount of housing stock in

²⁷ Direct Test. of Kim Havey on Behalf of the City of Minneapolis 5:19–6:8, Doc. No. 20207-164975-01 (July 15, 2020); Christopher Ingraham, *Racial Inequality in Minneapolis is Among the Worst in the Nation*, Wash. Post (May 30, 2020), <https://www.washingtonpost.com/business/2020/05/30/minneapolis-racial-inequality/>; Jossi, *supra* note 12.

²⁸ *On-Bill Energy Efficiency*, *supra* note 24.

²⁹ *Energy Efficiency Can Slash Emissions and Get US Halfway to Climate Goals*, Am. Council for an Energy-Efficient Econ. (Sept. 17, 2019), <https://www.aceee.org/press/2019/09/energy-efficiency-can-slash>; *Multiple Benefits of Energy Efficiency*, Int'l Energy Agency, <https://www.iea.org/reports/multiple-benefits-of-energy-efficiency/emissions-savings> (last visited Feb. 03, 2022).

need of energy efficiency upgrades.³⁰ In Minneapolis in particular, approximately 65% of the homes were built before 1960 when no insulation was required.³¹ While some of these residences have already been retrofitted with insulation, it is likely that a large percentage of the residences currently have insufficient insulation and air sealing, not to mention inefficient furnaces, boilers, and appliances. A TOB program could help improve not only Minneapolis's housing stock, but also the housing stock across the entire state.

Additionally, rapidly implementing energy efficiency may help reduce, or in some cases even eliminate, the need for investments in new utility infrastructure.³² This is particularly important in the context of CenterPoint as Minnesota begins to explore pathways to transition away from natural gas—and the attendant infrastructure investments it requires—in the Future of Gas dockets. Reducing the need to expand natural gas system infrastructure in the near term is particularly helpful to this transition.

II. Tariffed On-Bill Programs Have Been Successfully Implemented Across The Country, With Increasing Adoption By Midwestern Investor Owned Utilities.

TOB programs have been in operation for the last 20 years in various locations across the country.³³ These programs have been successfully implemented by both rural cooperatives and IOUs. The Energy Efficiency Institute collects data on TOB programs that use the PAYS model.³⁴ Their most recent 2021 report shows that TOB programs have been in operation since 2002 and

³⁰ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 5.

³¹ *Id.*

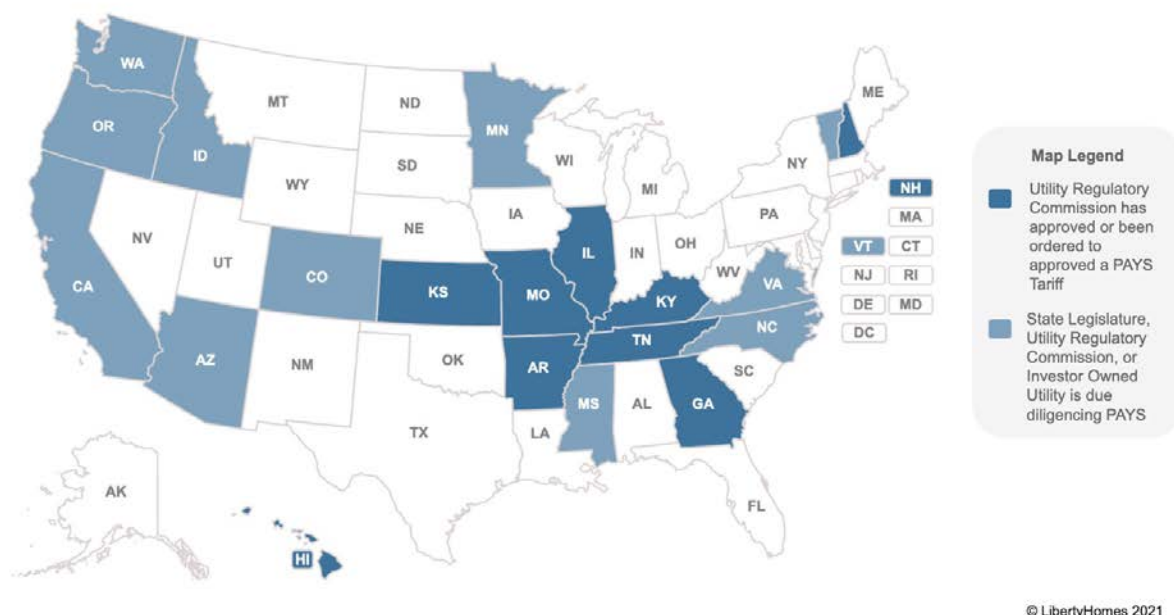
³² Tom Stanton & Scott Sklar, *Utility Tariff On-Bill Financing: Provisions and Precautions for Equitable Programs*, Nat'l Regulatory Research Inst. Insights, Jan. 2020, at 5, available at <https://pubs.naruc.org/pub/0E0B2716-947E-B0A8-2899-3DCA0F0C8F16>.

³³ LibertyHomes & Energy Efficiency Inst., Inc., *2021 PAYS® Status Update* (2021) included as CEOs Attachment 1.

³⁴ This data set only documents programs that use the PAYS model, not all TOB Programs in operation.

are currently active in Arkansas, California, Georgia, Hawaii, Kansas, Kentucky, Missouri, North Carolina, New Hampshire, and Tennessee.³⁵ Additionally, many other jurisdictions are either in early stages of implementing newly approved programs, or are considering TOB programs, as illustrated by the map in Figure 3 below.

Figure 3: Jurisdictions That Have Approved Or Are Considering A PAYS TOB Program³⁶



The success of TOB programs for cooperative utilities in the south is well-documented, as discussed further below, but TOB programs have also been successful with IOUs and are increasingly gaining traction with IOUs as shown above in Figure 3. For example, the Missouri Public Service Commission recently approved programs for three IOUs in its territory, and the Illinois legislature recently instructed its IOUs to implement TOB programs as a result of the newly passed Climate and Equitable Jobs Act of 2021.³⁷

³⁵ 2021 PAYS® Status Update, *supra* note 33. Included as CEOs Attachment 1.

³⁶ Liberty Homes, *Adding Illinois to the PAYS Landscape Map!* (Feb. 3, 2022), <https://www.libertyhomes.org/post/9-24-21-adding-illinois-to-the-pays-landscape-map>.

³⁷ Energy Transition Act, Pub. Act 102-0662, 2021 Ill. Legis. Serv. P.A. 102-662 (S.B. 2408) (codified at 220 ILCS 5/6-111.10 (West 2021)).

While there are assertions TOB programs only provide opportunities for southern cooperatives, programs have already been implemented in the Midwest in Kansas and Missouri, and as mentioned above, are forthcoming in Illinois. Additionally, Minnesota performed an in-depth study investigating whether successes similar to those of southern utilities could be achieved here. The study found there were good opportunities for TOB programs in Minnesota if the programs were well designed. This finding is consistent with the general trend. Utilities implementing TOB programs have typically reported successes, including high adoption rates for energy efficiency upgrades and low charge-off rates for nonpayment, even in areas characterized by conditions of persistent poverty, so long as participation in the program has not been unnecessarily constrained.³⁸

More detail about the design and results of programs implemented by electric co-ops and IOUs, as well as more information about the TOB viability assessment performed for Minnesota are discussed below.

A. TOB programs have demonstrated success in southern electric co-ops.

Southern electric co-ops are some of the earliest adopters of TOB programs. As a result, information from these co-ops provides a robust set of data about program functionality and program results. Kentucky's How\$mart KY program, North Carolina's Upgrade to \$ave program, and Arkansas's HELP PAYS program all operate consistent with the description of a PAYS program provided above in Section I.A. and provide three useful case studies that highlight the successes and opportunities TOB programs have provided for southern electric co-ops.

³⁸ Mast, Hummel & Clinton, *supra* note 4, at 4.

1. *How\$mart KY (Kentucky).*

The How\$mart KY program has been in operation since 2011 and is still active.³⁹ It is currently offered by six electric co-ops and utilizes the Mountain Association for Community Economic Development as its program operator.⁴⁰ Residential and small commercial customer classes are eligible to participate, but most of the projects are residential.⁴¹ All co-op members are eligible regardless of homeownership or financial status. Upgrades available through the program include insulation, duct and air sealing, HVAC system replacement, new heating and cooling systems, water heater wraps, and LED lighting.⁴² Key statistics of the How\$mart program are below in Figure 4. As of 2019, the program has resulted in 320 residential upgrades with program participation by .23% of customers.⁴³ The cost-recovery rate is over 99.6% and there have been zero disconnections for non-payment.⁴⁴ The average upgrade cost was approximately \$7,000 with a typical payback period of 10-15 years.⁴⁵ The average monthly savings to participants was approximately \$50.00 with an average monthly bill charge of \$39.00, making the average monthly participant savings approximately \$11.00 per month.⁴⁶

³⁹ Se. Energy Efficiency All., *Utility Guide to Tariffed On-Bill Programs* 9 (2020) available at <http://www.seealliance.org/TOBGuide>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *House\$mart*, Fleming-Mason Energy, <https://www.fme.coop/content/housemart> (last visited Feb. 03, 2022); *How\$mart Program*, Jackson Energy Coop., <https://www.jacksonenergy.com/energy-efficiency-programs> (last visited Feb. 03, 2022); Se. Energy Efficiency All., *Update on Inclusive Financing in the South*, On-Bill Financing for EE (Feb. 16, 2017), <https://www.gotostage.com/channel/7746552352560182789/recording/a6cf561b1c454f24931faa94b842ed6e/watch?source=CHANNEL>.

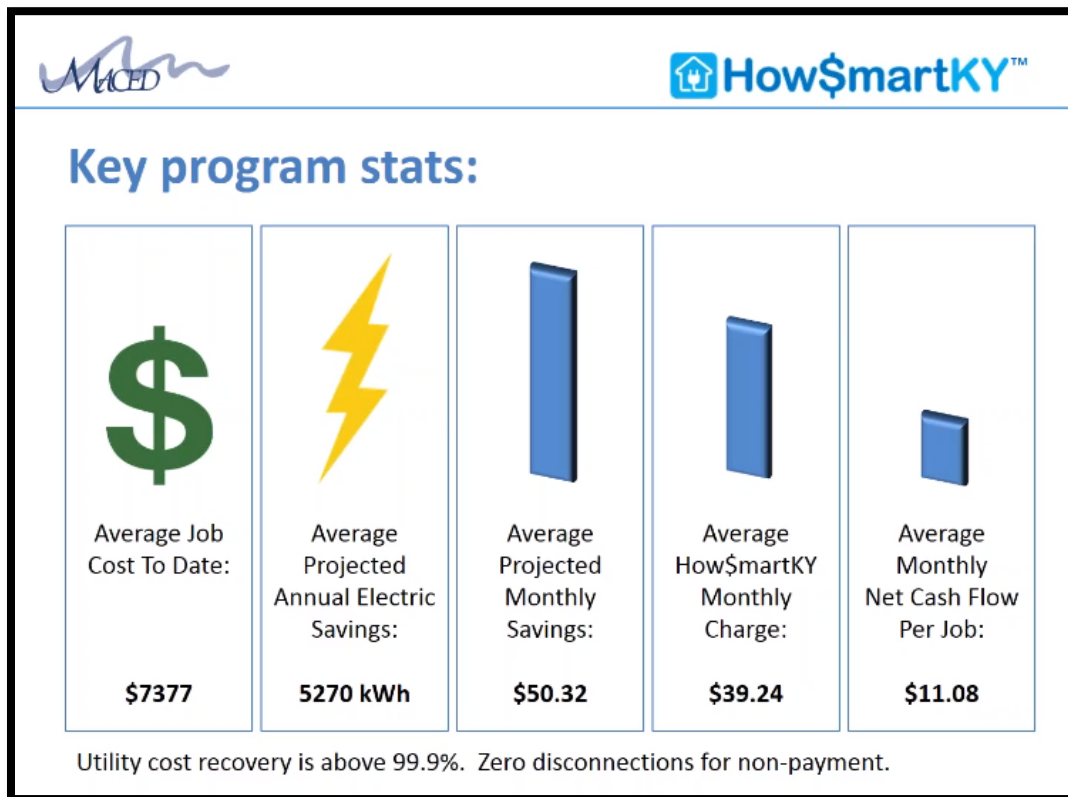
⁴³ *Utility Guide to Tariffed On-Bill Programs*, *supra* note 39, at 9; 2021 PAYS[®] Status Update, *supra* note 33, included as CEOs Attachment 1.

⁴⁴ *Id.*

⁴⁵ *Update on Inclusive Financing in the South*, *supra* note 42.

⁴⁶ *Id.*

Figure 4: Program Statistics For The How\$mart KY Program (2017)⁴⁷



2. Upgrade to \$ave (North Carolina).

The Upgrade to \$ave program in North Carolina has been in operation since 2015 for customers of Roanoke Electric Cooperative and is still active.⁴⁸ Roanoke Electric uses EETility as its TOB program operator.⁴⁹ All co-op members are eligible to participate regardless of homeownership or financial status.⁵⁰ The program operates like a standard PAYS program described in Section I.A., and eligible upgrades include water heater wraps, LED lights, HVAC upgrades, insulation, and air and duct sealing. As of 2021, 654 members of the cooperative (5%

⁴⁷ *Id.*


⁴⁸ *Upgrade to \$ave Program*, Roanoke Elec. Coop., <https://www.roanokeelectric.com/save-energy-money/upgrade-to-ave-program-2/> (last visited Feb. 03, 2020).

⁴⁹ *2021 PAYS® Status Update*, *supra* note 33, included as CEOs Attachment 1.

⁵⁰ *Upgrade to \$ave Program*, *supra* note 48.

of co-op customers) obtained energy efficiency upgrades through the program.⁵¹ The average upgrade cost was \$7,200.00 with an interest rate of 3% and cost recovery ranging from 4-12 years.⁵² This resulted in participants having an average monthly savings of more than \$80 per month, and an average monthly charge of \$60 per month, meaning participants kept an average of \$20 per month, equating to 25% savings during the cost recovery period.⁵³

Figure 5: Program Statistics For The Upgrade To \$ave Program (2017)⁵⁴

<div>  </div> <div> <h3>Summary of Investments for Initial Participants</h3> <h4>Sample of over 200 homes</h4> </div>	
Average cost of upgrades	\$7,200
Average buy-down for EE Credits *	\$325
Average monthly savings per site	\$80+
Average monthly tariff	~\$60
Average monthly savings for member	\$20+
% of estimated savings kept by member during cost recovery	25%
* Capped at the amount needed for investment to pencil out without a copayment	

⁵¹ 2021 PAYS® Status Update, *supra* note 33, included as CEOs Attachment 1.

⁵² Utility Guide to Tariffed On-Bill Programs, *supra* note 39, at 9.

⁵³ Update on Inclusive Financing in the South, *supra* note 42.

⁵⁴ *Id.*

3. *HELP PAYS (Arkansas).*

The HELP PAYS program has been in place since 2016 for customers of Ouachita Electric Cooperative in Arkansas and is still active. Ouachita Electric also uses EEtility as its program operator.⁵⁵ Ouachita Electric decided to implement a TOB program “after recognizing its previous on-bill loan program posed higher financial risks, limited eligibility, and limited project size.”⁵⁶ HELP PAYS operates consistent with the general description of TOB programs in Section I.A. Both residential and small commercial customers are eligible to participate. For residential customers, both single family and multi-family residences are eligible and home ownership is not required.⁵⁷ Possible upgrades include LED lighting, air sealing, duct sealing, insulation, new heating and air conditioning systems, HVAC, and solar arrays.⁵⁸

Data from the program show that in the first quarter of the program’s implementation, more than one third of the participants were renters who were eager to participate in energy efficiency programs but had been ineligible to participate in the utility’s on-bill loan program.⁵⁹ Their landlords readily supported the TOB program, agreeing to pay 100% of co-payments if co-payments were needed to make an upgrade qualify for the program under the 80/20 Rule.⁶⁰ The program was also well-received by commercial customers, with early adoption at both a municipal

⁵⁵ *Utility Guide to Tariffed On-Bill Programs*, *supra* note 39, at 8.

⁵⁶ *Id.*

⁵⁷ *HELP PAYS (Pay As You Save – Energy Efficiency Program)*, Ouachita Elec. Coop. Corp., <https://www.oecc.com/help> (last visited Feb. 03, 2022); *2021 PAYS® Status Update*, *supra* note 33, included as CEOs Attachment 1.

⁵⁸ *HELP PAYS*, *supra* note 57.

⁵⁹ Ouachita Elec. Coop. & EEtility, *Opening Opportunities for Inclusive Financing for Energy Efficiency: Report on the First Year of the HELP PAYS® Program at Ouachita Electric* 3 (2017), available at https://www.oecc.com/pdfs/HELP_PAYS_Report_2016-Ouachita_Electric_20170612V1.pdf.

⁶⁰ *Id.* at 3–4.

building and a college campus.⁶¹ A report reflecting on the program's first year of implementation further revealed that although occupancy had changed at 28 multifamily residences during that year, the new occupants had received the necessary program disclosures from their landlords.⁶²

The most recent data on the program shows that it has served 5% of Ouachita Electric's customers and uncollectables for the program are at 0%.⁶³ For single family homes, full project costs averaged \$6,100.00 and for multi-family homes the average cost was \$6,400.⁶⁴ The interest rate applied by the utility was 4.5%.⁶⁵ As shown in Figure 6 below, the average estimated monthly savings for participants was \$68.00 with an average monthly program charge of \$54.00, resulting in average net savings to participants of \$14.00 per month. This equates to net savings for participants of greater than \$100 per year.⁶⁶

Figure 6: Program Statistics For The HELP PAYS Program⁶⁷

Average Estimated Monthly Energy Bill Savings	\$68.00
Average Monthly Program Service Charge	\$54.00
Average Monthly Estimated Net Savings	\$14.00
Average Monthly Estimated Net Savings (%)	20%
Average Cost Recovery Period	12 years

Ouachita Electric's customer base includes many low-income families. As of 2017, the average household median income in Ouachita Electric's service territory was approximately \$29,000.00—significantly lower than the national average at the time of \$52,000.00.⁶⁸ In fact,

⁶¹ *Id.*

⁶² *Id.* at 13.

⁶³ 2021 PAYS[®] Status Update, *supra* note 33, included as CEOs Attachment 1.

⁶⁴ *Opening Opportunities for Inclusive Financing for Energy Efficiency*, *supra* note 59, at 4.

⁶⁵ *Id.*

⁶⁶ *Id.* at 12.

⁶⁷ *Id.*

⁶⁸ *Update on Inclusive Financing in the South*, *supra* note 42.

many of the rural electric cooperatives that have implemented TOB programs serve low-income communities. According to the National Rural Electric Cooperative Association, 93% of persistent poverty counties in the U.S. overlap with rural electric cooperative service territories.⁶⁹ It is important to note then that these electric co-op TOB programs also tell us something about the ability of TOB programs to serve and work for low-income communities who don't qualify as "income-eligible" or don't wish to use assistance programs in their current form. As one program operator has noted, "[i]f we can figure out how to make energy efficiency financing work for rural electric cooperatives and their member-owners, many of whom live in persistent poverty, then we have figured out how energy efficiency can work for everyone, anywhere in the country."⁷⁰

B. Tariffed On-Bill programs have also been successfully implemented by IOUs, and IOUs are increasingly adopting TOB programs.

Although electric co-ops were the early adopters of TOB Programs, IOUs have been increasingly exploring TOB programs. The GEM\$ program in Hawaii, three new PAYS programs in Missouri, and the forthcoming program in Illinois provide useful information about the design and operation of PAYS programs by IOUs as discussed further below.

1. GEM\$ (Hawaii).

The Green Energy Money Saver ("GEM\$") TOB program has been in operation in Hawaii since 2019 for customers of Hawaiian Electric Companies ("HECO"), an IOU⁷¹ which serves 95% of Hawaii's population.⁷² The program uses Hawaii Green Infrastructure Authority as its program

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Utility Resources*, Haw. State Energy Office, [https://energy.hawaii.gov/developer-investor/utility-resources#:~:text=MECO%20and%20HELCO%20are%20subsidiaries,95%25\)%20of%20Hawaii's%20population](https://energy.hawaii.gov/developer-investor/utility-resources#:~:text=MECO%20and%20HELCO%20are%20subsidiaries,95%25)%20of%20Hawaii's%20population) (last visited Feb. 03, 2022).

⁷² *Hawaii: Green Energy Money Saver (GEM\$) On-Bill Program*, Envtl. & Energy Study Inst., <https://www.eesi.org/obf/case-study/Hawaii> (last visited Feb. 03, 2022).

operator. It was approved by the Hawaii Public Utilities Commission, which saw the program as one way to help Hawaii reach its clean energy goals.⁷³ The GEM\$ program is more narrowly focused than some other TOB programs in that only renters, low-to-medium income customers, non-profits, and small businesses are eligible.⁷⁴ The program is also focused on facilitating the clean energy transition in addition to increasing energy efficiency and includes rooftop solar and non-fossil fuel appliances as part of the eligible energy upgrades.⁷⁵ The program was designed “to democratize clean energy and reduce energy poverty by expanding access and affordability of renewable energy and energy efficiency to renters, low and moderate-income homeowners and non-profit organizations” thereby creating affordable utility bills and healthier living environments.⁷⁶

GEM\$ operates fairly similarly to the TOB Programs described previously with some nuances. To be eligible for the program, the customer has to meet the low-to-moderate income requirement, have been a utility customer for at least 6 months, and have no disconnection notices in the past 12 months.⁷⁷ For upgrades to be installed under the program, they must be estimated to lower the customer’s net annual energy costs by at least 10%, including the cost of the monthly bill charge (this is less protective than the 80/20 Rule used in other jurisdictions). Upgrades that are eligible to be installed through the program are specifically tailored to those that will offer the best payback in Hawaii’s mild, sunny climate, including: solar hot water heaters, heat pump water

⁷³ *Id.*

⁷⁴ Haw. Green Infrastructure Auth., *Green Energy Money Saver (GEM\$) On-Bill Program FAQ* (2019), https://gems.hawaii.gov/wp-content/uploads/2019/08/Residential-Non-Residential-FAQs_rev-8-2019.pdf.

⁷⁵ *Hawaii: Green Energy Money Saver (GEM\$) On-Bill Program*, *supra* note 72.

⁷⁶ *Id.*

⁷⁷ *Green Energy Money Saver (GEM\$) On-Bill Program FAQ*, *supra* note 74, at 1.

heaters, and solar PV systems.⁷⁸ Commercial properties are eligible for HVAC, thermal storage pumps, and building envelope measures.⁷⁹ The program offers a payback period of up to 20 years (this is less protective than the 80/20 Rule), with an interest rate of 5.5%.⁸⁰ The utility uses its standard collection policies as to the monthly program charge, including termination of utility service for non-payment of the charge.⁸¹

2. *PAYS (Missouri).*

In 2021, three IOUs in Missouri—Ameren, Evergy, and Spire, adopted TOB Programs known as Ameren PAYS, Evergy PAYS, and Spire PAYS respectively.⁸² Evergy and Ameren provide electric service while Spire provides natural gas service. Previously, the Missouri Public Utilities Commission ordered TOB program feasibility studies for all three utilities.⁸³ The studies were performed by consulting firm Cadmus, which concluded a TOB program could “fill a gap in the financing market and increase residential uptake of energy efficiency improvements.”⁸⁴ The Commission ultimately approved a pilot program for Evergy and a standard program for Ameren,

⁷⁸ *Approved Energy Improvements (EI) List*, Haw. Green Infrastructure Auth., <https://gems.hawaii.gov/approved-energy-improvements-ei-list/> (last visited Feb. 03, 2022).

⁷⁹ *Id.*

⁸⁰ *Homeowners or Renters*, Haw. Green Infrastructure Auth., <https://gems.hawaii.gov/participate-now/for-homeowners/> (last visited Feb. 03, 2022).

⁸¹ *Hawaii: Green Energy Money Saver (GEM\$) On-Bill Program*, *supra* note 72.

⁸² *2021 PAYS® Status Update*, *supra* note 33, included as CEOs Attachment 1.

⁸³ Karen Uhlenhuth, *In Missouri, Your Utility Might Pay for Your Next Big Energy Efficiency Project*, Energy News Network (Oct. 18, 2021), <https://energynews.us/2021/10/18/in-missouri-your-utility-might-pay-for-your-next-big-energy-efficiency-project/>.

⁸⁴ Karen Uhlenhuth, *Kansas City Utility Will Try New Program to Lower Barrier to Efficiency Upgrades*, Energy News Network (Dec. 16, 2019), <https://energynews.us/2019/12/16/kansas-city-utility-will-try-new-program-to-lower-barrier-to-efficiency-upgrades/>.

and Spire, all of which are just beginning to get underway.⁸⁵ All three programs use EEtility as their program operator.⁸⁶

Under Ameren's program, all residential electric customers are eligible to participate, including mobile home customers and renters, so long as the landowner consents and agrees to provide the required disclosures to successor tenants.⁸⁷ The program uses the PAYS model, so it operates consistently with the description Section I.A. Eligible upgrades in Ameren's program include LED light bulbs, duct repair, home insulation, new HVAC systems, general weatherization upgrades, and hot water pipe wrap.⁸⁸ The program has a 3% interest rate.⁸⁹

Evergy's PAYS pilot program will run from September of 2021 through September 30, 2022.⁹⁰ The pilot is open to all Missouri residential homeowners, renters (with owner consent), and certain mobile home customers.⁹¹ As a licensed PAYS program, it operates consistently with the PAYS model described above in Section I.A. Under Evergy's pilot, any customer receiving a home energy audit will receive low-flow showerheads, faucet aerators, water heater wraps, LED lights, and smart power strips.⁹² Upgrades that are eligible for the on-bill financing portion include

⁸⁵ Uhlenhuth, *supra* note 83; *see also Ameren MO PAYS® & First Muni to get USDA for TOB*, LibertyHomes (Sep. 24, 2020), <https://www.libertyhomes.org/post/9-25-20-ameren-mo-pays-first-muni-to-get-usda-for-tob> (“[A] unanimous settlement was reached by parties and approved by the Missouri PSC last month where Ameren Missouri's voluntary PAYS pilot program will instead be a full-blown program! This was part of an application filed by Ameren Missouri to extend their Missouri Energy Efficiency Investment Act (MEEIA) Cycle III programs.”).

⁸⁶ 2021 PAYS® Status Update, *supra* note 33, included as CEOs Attachment 1.

⁸⁷ Pay As You Save® (PAYS®), Ameren Mo., <https://www.amerenmissourisavings.com/pays#faq> (click on individual questions in FAQ to view the expanded responses) (last visited Feb. 03, 2022).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Evergy, Pay As You Save® PAYS FAQs (2021), <https://www.evergy.com/ways-to-save/programs-link/research-and-pilot-program/pays>.

⁹¹ *Id.*

⁹² *Id.*

HVAC upgrades, attic insulation, air sealing, duct sealing, and smart thermostats.⁹³ Upgrades have a payback period of 12 years, which is shorter than the expected life of all eligible upgrades.⁹⁴ The interest rate to participants for the program is 3%.⁹⁵

Evergy hopes to enroll between 1,000 and 1,500 customers in the pilot and the Commission allowed a budget of \$10-15 million for the year-long program.⁹⁶ When the program kicked off in September, Evergy was hoping to hear from approximately 200 interested customers within a month.⁹⁷ Within 10 days, 250 customers had indicated they wanted to move ahead with the first step in the process.⁹⁸

Spire's TOB program was approved by the Missouri Public Service Commission in May 2021.⁹⁹ The program is open to homeowners, renters, and some mobile home customers.¹⁰⁰ As another PAYS program, the program operates consistent with the description in Section I.A. The program is treated as utility service, and a customer may thus be disconnected for non-payment of their utility bill, including non-payment of the monthly charge.¹⁰¹ Spire's program operator is required to perform an annual analysis to evaluate whether the customer's monthly charge is actually lower than the estimated cost savings.¹⁰² If the monthly charge exceeds the cost savings due to inaccurate savings estimates, the monthly charge may be reduced to the extent needed for

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Uhlenhuth, *supra* note 83.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Order Approving Unanimous Stipulation and Agreement and Rejecting Tariffs, File No. GO-2021-0126 (May 26, 2021).

¹⁰⁰ Order Approving Unanimous Stipulation and Agreement and Rejecting Tariffs, Revised Ex. A, at 3, File No. GO-2021-0126 (May 26, 2021).

¹⁰¹ *Id.* at 6.

¹⁰² *Id.*

the participant to realize savings.¹⁰³ The interest rate to participants for the TOB investments is 3%.¹⁰⁴ As of the writing of this comment, Spire’s program is in the beginning stages of implementation.

3. Upcoming programs in Illinois.

In Illinois, the recently passed Climate and Equitable Jobs Act includes a requirement that all electric public utilities providing service to 500,000 or more customers adopt an “Equitable Energy Upgrade Program.”¹⁰⁵ Equitable Energy Upgrade Programs are defined as those that “permit customers to finance the construction of energy projects through an optional tariff payable directly through their utility bill, modeled after the Pay As You Save [PAYS] system.”¹⁰⁶ In other words, a TOB program.

The legislation requires that homeowners and renters be eligible to participate and that any program be accessible to lower-income residents and environmental justice communities.¹⁰⁷ The utility must also ensure that customers are notified about other free programs if they qualify based on their income.¹⁰⁸ The legislation further requires that eligible projects have sufficient estimated savings and estimated life span to produce “significant, immediate net savings.”¹⁰⁹ In the event of nonpayment, the legislation requires the remaining payments must remain with the utility meter, and gives the Commission discretion to establish further conditions to address non-payment that are consistent with the PAYS system.¹¹⁰ Eligible upgrades that can be installed through the

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 3.

¹⁰⁵ 220 ILCS 5/16-111.10(c) (West 2021).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at (c), (c)(4).

¹⁰⁸ *Id.* at (c)(5).

¹⁰⁹ *Id.* at (c)(2).

¹¹⁰ *Id.* at (m).

program include renewable energy generation systems (including solar projects), energy efficiency upgrades, energy storage systems, demand response equipment, or any combination thereof.¹¹¹

With regard to the financial components of the program, in the first year of TOB program operation, the legislation requires utilities to obtain low-cost capital of at least \$20 million for investments in energy upgrades. In the second year of program operation, that amount rises to \$40 million.¹¹² The Illinois Commerce Commission can allow utilities to raise capital independently, work with third-party lenders, or a combination thereof.¹¹³ However, any process the Illinois Commerce Commission approves must use a market mechanism to identify the least costly source of capital to ensure maximum savings are passed on to participants.¹¹⁴

C. The Cadmus Feasibility Study found tariffed On-Bill programs can work in Minnesota.

While the long-standing TOB programs implemented by electric co-ops and more recent programs operated by IOUs provide helpful data and examples for good program design, there was still an open question as to whether a TOB program would work in the colder climate of Minnesota. To address this, in 2019 the University of Minnesota Energy Transition Lab commissioned Cadmus to perform a feasibility study. The purpose of the study was to draw on the best available information from prior TOB programs implemented in other jurisdictions, as well as Minnesota-specific data (including from CenterPoint), to assess the feasibility of TOB in Minnesota.¹¹⁵

The study found that of all the possible upgrades assessed, the most robust and compelling economic opportunity for participants in a Minnesota TOB program was building envelope

¹¹¹ *Id.* at (b).

¹¹² *Id.* at (d)(1)–(2).

¹¹³ *Id.* at (e)(2)(A).

¹¹⁴ *Id.*

¹¹⁵ Cadmus, *supra* note 25, at 1.

upgrades such as insulation and air sealing.¹¹⁶ While the greatest opportunities were for envelope measures in homes heated by electricity or propane, there were still ample opportunities for financing envelope improvements in gas heated homes with poor levels of insulation and tightness, with especially good opportunities for installing wall insulation in poorly insulated homes.¹¹⁷ Additionally, the study found envelope measures could be combined with other upgrades to develop a TOB package that works, especially in homes with electric heat or poor existing levels of insulation or building tightness.¹¹⁸ Ultimately, the study found there were good opportunities for a TOB program in Minnesota, including for gas utilities, and that such programs could be cost-effective with the right program participation levels and program administration costs.¹¹⁹

III. CEOs Support The Approval Of CenterPoint And The City's Tariffed On-Bill Pilot If The Commission Makes Key Modifications To The Program Design.

Based on CEOs research into existing programs, CEOs believe a TOB program would be a helpful supplement to Minnesota's existing energy efficiency programs that could expand access to energy efficiency and thereby reduce energy burdens, improve home living conditions, and reduce greenhouse gas emissions. But CEOs only support a TOB program that is well-designed and aligned with the PAYS programs that have been implemented across the country. For these reasons, CEOs support CenterPoint and the City's Petition for a TOB Pilot, but only if the Commission approves the modifications described below. These modifications are designed to protect ratepayers. In particular, the modifications will protect participants from disconnection during the Pilot, reduce cost and risk for participants and all ratepayers, and ensure that TOB serves to complement existing energy efficiency and conservation programs.

¹¹⁶ *Id.* at 68.

¹¹⁷ *Id.* at 51.

¹¹⁸ *Id.* at 52.

¹¹⁹ *Id.* at 68–9.

A. Changes to service disconnection for non-payment and disconnection metrics.

By definition, the success of a TOB program is tied to the ability of that program to actually lower participants' energy use (and thus, bills) through the installation of energy-saving measures. By that logic, the TOB Pilot *should* reduce the risk of service disconnection for non-payment by lowering participants' bills.¹²⁰ A ratepayer with a lower utility bill *should* be at a lower risk of disconnection than a ratepayer with a higher bill, all else equal. And studies from other jurisdictions suggest that this is true or, at the very least, that disconnections have not increased in relative frequency for TOB participants in those jurisdictions.¹²¹ For example, the current uncollected revenue charge off rate across all investments made through all known TOB programs is less than 0.1%.¹²² Moreover, the NAACP has listed TOB programs as one of the *solutions* to reduce the vulnerability of low-income customers to disconnection for non-payment.¹²³ Reducing the energy burden and the risk of disconnection is one of the principles and objectives articulated by the City for this program, and it should be an outcome of a successfully-run pilot program.¹²⁴

CenterPoint proposes to treat disconnection for TOB Pilot participants in the same manner as the standard disconnection process, which is outlined in the Petition.¹²⁵ The Petition states that the Company is “proposing several additional protections for TOB pilot participants.”¹²⁶ Although not described in the Petition, the draft Participant Owner Agreement contains some additional

¹²⁰ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 19–20.

¹²¹ See Pet. by CenterPoint Energy and the City of Minneapolis to Introduce a Tariffed on Bill Pilot Program, Ex. C, at 4, Doc. No. 20219-177662-01 (Sept. 1, 2021).

¹²² Mast, Hummel & Clinton, *supra* note 4, at 38.

¹²³ *Review of National Consumer Law Center's Tariff On-Bill Recommendations*, *supra* note 18, at 6.

¹²⁴ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26 at Ex. A.

¹²⁵ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at tbl. 7.

¹²⁶ *Id.* at 20.

protections for participants. These protections protect a participant from disconnection due to non-payment of TOB-related charges if the customer meets a three-part test:

1. the customer must not be in arrears for any other payment obligations;
2. the customer has notified the program operator in writing that the upgrade must be repaired; and
3. the program operator has not reached a determination as to whether the upgrades are functioning as intended.¹²⁷

It is not clear, based on the draft successor agreements, that this policy would also extend to successor owners or renters and we ask that CenterPoint clarify this in reply comments. The Company also proposes to have the program operator conduct billing analyses of a customer who is at-risk of disconnection for non-payment.¹²⁸

We appreciate the additional protections proposed by the Company and it may protect participants in the event that their circumstances neatly match the three-part test described in the draft agreements. But this provision is narrowly tailored to a situation where a customer is actively disputing (in writing and in good faith) the efficacy of the installed measures and consequently stops payment on the TOB-related payments.¹²⁹ While this may occur—and the Company should include instances where it does occur in its reporting—it also leaves unaddressed the myriad reasons why a utility bill may go unpaid by a participant.

To address this, CEOs suggest that during this initial pilot phase, the Company do two things. First, it should gather data on participants, specifically: disconnection eligibility,

¹²⁷ *Id.* at Ex. G, at 3. The Participant Renter Agreement in Exhibit H contains the same provision, although the same protections may not extend to successor owners or renters. *Id.* at Ex. H, at 2–3.

¹²⁸ *Id.* at Ex. N, at 7.

¹²⁹ We note that a right to appeal exists for participants who dispute repair or audit findings, but the appeal is made directly to the utility, which is problematic. At the very least, the Company must track all disputes and include detailed descriptions of the dispute and resolution in its annual reporting. The Commission may also wish to require the Company to use a third-party dispute resolution service for these disputes.

arrearages, payment plans entered into, and any other relevant information related to the experience of participants and their ability to pay during the length of the payback period. It would also be useful to track, for any participant who is at risk of or eligible for disconnection, the details of that participant's TOB package. This data could help identify any trends that could be contributing to non-payment, such as high TOB monthly charges or customers with low TOB charges, but who paid a high co-pay for the measure. The data gathered should also track whether a customer would have been facing disconnection regardless of the program, or if disconnection would only have been triggered for non-payment of the monthly bill charge. Ultimately, the data gathered in the pilot phase will either dispel the perception that the program *adds* a risk of disconnection (rather than reducing it), or will identify a program design issue that can be addressed in a broader roll-out, or a roll-out at other utilities.

Second, the Company should freeze disconnections for non-payment for participants during the pilot run. As noted above, a TOB program should reduce the risk of disconnections, and experiences from other jurisdictions suggest that disconnections for non-payment of the TOB charge rarely, if ever, occur. Even so, it would be unreasonable for a participant of a new pilot program to be disconnected due at least in part to the charges associated with the pilot program itself. CEOs are *not* recommending that disconnections be paused for any future TOB participant in a broader program offering. Existing programs show disconnection for non-payment is an important factor in reducing risk to the capital provider thereby unlocking lower costs of capital for the program. Rather, we recommend that this freeze be applied for this limited pilot, in order to ensure that the energy and bill savings really do translate into a lower risk of disconnection.

There may be concerns of fairness related to other ratepayers if they are to bear the costs of a disconnection pause for pilot participants through an incremental increase in bad debt, but the

benefits outweigh these costs. First, given the discussion above, disconnection is very unlikely for participants in the first place, so a pause on disconnections is not likely to materially affect non-participants. Second, other CEOs recommendations proposed in this section should reduce the risk to both non-participants and participants. For example, a cap on total spending for the program (discussed further below) will reduce the cost responsibility that all ratepayers must bear overall. And a cap on co-payments should reduce the financial burden on participants, thus further reducing the risk of disconnections.

In light of this discussion, **CEOs propose the following decision options related to disconnection:**

- In the annual TOB Pilot report, the Company will report on metrics related to non-payment and data regarding those participants' TOB packages, such as co-pays, monthly TOB charges, expected and actual savings, etc. The Company shall also distinguish customers that would have been facing disconnection regardless of program participation from customers that would have been disconnected as a result of the program.
- The Company shall not disconnect Pilot participants for non-payment for the duration of the TOB Pilot program or until it demonstrates, to the Commission's satisfaction, that the TOB Pilot program results in a decreased risk of disconnections and that the TOB Pilot program is designed such that estimated energy savings are being realized and result in a reduction to the energy burden borne by participants.

B. Changes to program costs.

The Company proposes to earn its full rate-of-return ("ROR"), which is 7.42%, on two components of the Pilot. First, it proposes to earn a return on the cost of the energy upgrades that are run through the TOB program, which it calls the "Energy Upgrade Investment." Under the proposal, participants pay out a return of 2.5% and all ratepayers would be responsible for the remaining 4.92% of ROR-related costs.¹³⁰ These total costs associated with the utility's full ROR

¹³⁰ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 15.

(7.42%) would be between \$3.34 million and \$6.68 million, depending upon the size of the overall program.¹³¹ Second, the Company proposes to earn its full ROR on startup costs that it considers to be capital investments. The estimated startup costs are \$1 million and the utility would earn a return of over \$500,000 over the 15-year life of the investments. This section will address these two ROR-related issues separately.

1. CenterPoint Should Not Earn the Full Rate-of-Return on Energy Upgrade Investments.

The Energy Upgrade Investments form the heart of the Company's TOB Pilot. They represent the costs associated with the efficiency investments that would be recovered from participants. In total, the Company proposes to spend up to \$15 million on these investments over the three-year Pilot.¹³² Under this scenario, the Company would earn \$6.678 million in profit via its 7.42% ROR.¹³³

As noted in the Petition, TOB programs exist to overcome existing barriers to participation in CIP and other income-qualified energy services.¹³⁴ The question at issue in this proposal is whether it is reasonable for CenterPoint to earn its full ROR on these costs, whether it is reasonable for a potential participant to take on an investment with a 2.5% return, and whether it is reasonable for all ratepayers to bear the remaining 4.92% return on the Energy Upgrade Investment.

¹³¹ *Id.* at 14.

¹³² *Id.* at 16.

¹³³ The Company did not include a detailed description of the calculation used to arrive at this amount of return, but Exhibit L notes that the return would occur over a 12-year period. In response to an Information Request from CUB that sought this calculation, the Company stated that the ROR is "continually applied to the outstanding balance" similar "to a mortgage or debt payment," but did not actually provide the calculation. CUB IR 2. CEOs have attempted to re-create this value by utilizing the "CUMIPMT" function in Excel to calculate the interest per year on a monthly basis and then a "NPV" calculation utilizing a discount rate of 3%, but CEOs recommend that the Commission require the Company to re-calculate any costs associated with a change to the ROR applied to these costs in a compliance filing.

¹³⁴ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 6.

This analysis begins with the most basic question: whether it is reasonable for CenterPoint to earn a 7.42% return for these program costs. It is not. The Petition does not contain any discussion or justification for seeking a return at this level. CEOs are left to assume, then, that the Company simply wishes to treat the TOB program investments as if they were an asset in its rate base. But it is unreasonable to treat these costs in this manner. An inflated cost of capital both harms the cost-effectiveness of the program and runs counter to the City's stated objectives for a TOB program.

There are three reasons why the proposed return is unreasonable. First, the utility does not own the energy upgrades. Therefore, a participant's TOB upgrade is not a utility capital asset that can be added to the utility's rate base. Since it is not an asset that can go into rate base, it would not be reasonable for the Commission to award the utility its full ROR. Second, the high ROR proposed here would diminish the overall cost-effectiveness of the TOB Pilot proposal, even if it is only the participant's ROR that is factored into the TOB cost-effectiveness test. Reducing the cost of capital from this unreasonably high level would only unlock more savings opportunities for participants and reduce costs for all ratepayers. Third, the proposed ROR runs counter to the City's objective to not burden participants or non-participants with the cost of financing. Placing upwards of \$6.678 million in ROR-related costs on ratepayers for a \$15 million expense is not reasonable.

Comparing the 7.42% cost to three other cost of capital scenarios analyzed in a 2019 Cadmus report, which range from 0.00% to 4.99%, illustrates the burden that the utility's proposed 7.42% capital cost would place on both participants and non-participants.¹³⁵ The range of lower

¹³⁵ Cadmus, *supra* note 25, at tbl. 5.

costs of capital detailed in the Cadmus study and elsewhere¹³⁶ informs the appropriate cost of capital to establish for the upgrades. At the lower bound, both the Cadmus study and a study by the Building Decarbonization Coalition begin at a zero percent cost of capital. The Building Decarbonization Coalition study notes that utility regulators can allocate ratepayer funds as an initial start-up source of capital, further noting that the “cost of capital assigned to ratepayer funds is typically assigned to be zero”¹³⁷ Assigning a zero percent cost of capital would result, as the studies note, in a subsidy for program participants and is, further, not scalable. But for a limited pilot program like this, it may be reasonable to establish the cost of capital at zero for the duration of the three-year pilot while performance data are gathered.

If the Commission wishes to incorporate some cost of capital between zero and the proposed 7.42%, then it would be reasonable to look to two of the other costs of capital analyzed in the Cadmus study: 2.50% and 4.99%, which represent the institutional and market-rate capital costs, respectively.¹³⁸ According to the Cadmus study, the 2.50% cost was advanced by stakeholders to represent governmental or institutional sources of low-cost capital while the 4.99% cost was tied to an existing loan-based program cost of capital that utilizes commercial capital.¹³⁹ Although both of these costs of capital would be reasonable for this program, if the Commission wishes to establish a cost of capital, CEOs recommend a cost of capital that approximates the utility’s long-term cost of debt.

¹³⁶ Mast, Hummel & Clinton, *supra* note 4, at 37.

¹³⁷ *Id.* (noting that the opportunity cost to ratepayers is higher than zero).

¹³⁸ Cadmus, *supra* note 25, at 11.

¹³⁹ *Id.* at 10–11.

Specifically, CEOs recommend that the Commission establish the cost of capital for this Pilot at 3.00%. This approximates the long-term cost of debt for CenterPoint’s parent entity.¹⁴⁰ A 3.00% cost of capital earned over the 12-year expected payback period for TOB upgrades is more in line with a typical long term debt instrument, especially when compared with the much longer useful life of a typical rate base asset. CEOs estimate that at a 3.00% cost of capital, the \$15 million project costs would earn a return of roughly \$2.5 million, compared to the return of roughly \$6.7 million proposed by CenterPoint.¹⁴¹

The next question is how this 3.00% cost of capital should be spread out across participants versus non-participants. CenterPoint’s proposal would allocate the 7.42% as follows: 2.5% borne by participants and the remaining 4.42% borne by all ratepayers, subject to any change in the utility’s final ROR in its most recent rate case. In allocating the 3.00% recommended here, CEOs believe any combination of allocation would be reasonable.

For discussion, if the Commission allocated the full 3.00% cost onto participants, it would hold all ratepayers harmless for these costs. A 3.00% cost borne by participants would likely be cheaper than a traditional individual loan, according to the Cadmus study, and so would not in itself be burdensome to participants. On the other hand, allocating the 3.00% entirely to non-participants, i.e., all ratepayers, would still be less than the share borne by this group in the current

¹⁴⁰ See Brett A. Jerasa Direct Test. 25:8–26:15, Doc. No. 202111-179373-03, *In the Matter of the Application of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas for Authority to Increase Rates for Natural Gas Utility Service in Minnesota*, Docket no. G-008/GR-21-435 (Nov. 1, 2021) (explaining that CenterPoint Energy Minnesota Gas typically issues 30-year debt at an average rate of 4.06% compared to its parent CenterPoint Energy, Inc., which issues debt in 3-, 5-, 10-, and 30-year increments at a lower average rate of 3.16%).

¹⁴¹ This estimate is included as CEOs Attachment 3. CenterPoint did not provide a spreadsheet or formula behind its calculation, but in response to CUB IR 002, it did reply that the costs were calculated “similar to a mortgage or debt payment.” CEOs are thus open to correction on the impact of its recommended 3.00% ROR.

proposal and would ease the barrier of entry for participants for this new pilot program. There would be merit in testing out this allocation as well. Finally, the Commission could allocate the 3.00% evenly between participants and non-participants. This would place some costs of capital on participants, but the resulting costs would be lower for both participants and non-participants compared to the proposed costs of capital in the Petition.

For the purposes of this Pilot, the Commission may wish to allocate the full 3.00% of costs onto all ratepayers and revisit this allocation at a later date based on findings from the Pilot. This would reduce the burden on both participants and non-participants compared to CenterPoint's proposal and it would eliminate one cost that participants would otherwise bear. For a program aimed at moderate-income ratepayers, some of whom are renters, this could advance efforts to reach this customer segment in a more equitable manner.

In conclusion, the proposal to earn a return of 7.42% on Energy Upgrade Investments is unreasonable. The utility does not own the upgrades, the high cost could reduce cost-effectiveness, and it would burden both participants and non-participants. If the Commission decides that the utility should earn a return on these costs, then a return of 3.00% more closely approximates the long-term debt instruments its parent company issues and should be applied to these costs. This lower cost of capital should be paid for by all ratepayers for the duration of the Pilot to reduce one barrier and cost for participants and to gather data on an appropriate cost of capital for future use.

In summary, **CEOs recommend the Commission:**

- Reject the Company's proposal to earn its full rate of return on Energy Upgrade Investment costs;
- Establish a zero percent cost of capital for the duration of this Pilot, in order to test the TOB concept and remove barriers to participation;
 - OR
- Establish a 3.00% cost of capital, in line with the cost of long term debt for the parent company CenterPoint Energy, Inc.; and

- If a 3.00% cost of capital is applied in this Pilot, consider allocating 100% of these costs onto all ratepayers.

2. *CenterPoint Should Not Earn Any Rate of Return on Its Startup Costs.*

The Company also proposes to earn its full ROR on startup costs of \$1 million in new “capital” investments. According to the Petition, these costs would be incurred “to design and build systems and processes” such as “utility bill print, My Account Online, interactive voice response system, program webpage and request forms, call center interaction” and “automated internal and vendor information exchange systems (e.g., customer eligibility verification, security check, payment processing, funds transfer, CIP integration, etc.).”¹⁴² In addition, the Company projects that it will incur approximately \$200,000 in O&M costs. All startup costs—capital and O&M—would be recovered by all ratepayers.

At its full ROR, the Company would stand to earn \$556,500 in return on its \$1 million “capital” investment. It would be unreasonable, however, for the Commission to approve any return on this portion of the proposal. As far as CEOs can tell, most if not all of the “systems and processes” that the Company proposes to build already exist in the Company’s software ecosystem. For example, CenterPoint already has a website and CEOs assume that the Company routinely updates its website with new features and pages without the need to make capital investments each time. Unlike other instances where new software systems were allowed to be placed into rate base, the Company has not demonstrated that it would be reasonable to treat any of these costs as capital investments. As such, the Commission should allow cost recovery of all prudently-incurred costs, but it should not allow the Company to earn a return on them.

¹⁴² Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26 at Ex. L, at 3.

In summary, **CEOs recommend the Commission:**

- Prohibit the Company from earning a return on startup costs and instead treat them as O&M expenses for the purposes of cost recovery.

3. Pilot Delivery Costs.

The Company proposes to collect pilot delivery costs from both participants and non-participants. From participants, the Company proposes to recover a \$475 fee for “Program Administration Services”¹⁴³ and \$100 of a \$400 energy assessment, with the rest paid for by the Home Energy Squad program in CIP (which is funded by ratepayers). From all ratepayers, the Company proposes to collect delivery costs for: cost-effective modeling services; utility administration; marketing, education, and outreach; community partnerships; translation services; and pilot evaluation.¹⁴⁴

In total, the Company estimates that it will incur \$1,381 in costs per participant even *after* removing \$300 in costs it plans to leverage from CIP Home Energy Squad, thus the real cost is closer to \$1,700 per participant. Based on the Company’s estimates, pilot delivery costs would total \$2.2 million over the three-year period with participants responsible for \$900,000 and ratepayers responsible for the other \$1,321,500.¹⁴⁵

It appears that the Company proposes to earn a return on the delivery costs borne by participants, which includes the \$475 program operator services cost and the \$100 energy assessment cost. In a supplemental response to CEE IR #20, the Company stated that the \$475 program operation cost is included in the total project cost and that the Company proposes to earn a return on “any project costs recovered on the TOB participant’s bill.”¹⁴⁶ In total, this would mean

¹⁴³ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 15.

¹⁴⁴ *Id.* at Ex. L.

¹⁴⁵ *Id.* at Ex. L, at 5.

¹⁴⁶ Supplemental Response to CEE IR #20 (Dec. 27, 2021) included as CEOs Attachment 4.

that the Company proposes to earn a return (the 2.5% proposed ROR for participants) on \$575 in project delivery costs. It is unclear whether the Company proposes to earn a return on the project delivery costs borne by all ratepayers. Given the confusion in the docket, and the fact that TOB pilot delivery costs are proposed to be recovered from a combination of participants and all ratepayers, the Company should clarify the costs upon which it proposes to earn a return.

CEOs have three concerns with this bundle of costs. First, based on the description of the delivery costs provided by the Company in Exhibit L, *all* costs are expenses and not capital investments and thus no return should be applied to any of these delivery costs. And while the proposed costs are tied to delivery of a new pilot *program*, it is unclear how the Company determined that these are new *costs*. In other words, the utility already manages new regulatory filings, engages in marketing, and develops community partnerships within its existing budget. In order to recover new, incremental costs, the utility should be able to demonstrate that this new program will cause new costs. Without this, there is a concern that the utility will be double-recovering costs associated with the new program.

Second, CEOs have some concerns with costs paid for by participants. With regard to the \$475 fee for program operator services, the Company should provide additional justification for this amount beyond what is in the Petition and should also provide a cost breakdown of what is included in the \$475 fee. A cost breakdown will help to ensure there is not overlap between program administration costs charged by the program operator and the pilot delivery costs claimed by the Company. CEOs are also concerned about the \$100 energy assessment cost. To the best of CEOs knowledge, no other TOB program charges a fee for the energy assessment and for good reason. For many customers, \$100 is a significant sum that would serve to deter their participation in the program, thereby creating a new barrier in a program aimed at eradicating them. Thus, the

Commission should consider whether to shift the \$100 energy assessment cost onto all ratepayers for the duration of the Pilot in order to test the TOB concept with the least amount of barriers to participation.

Finally, CEOs are concerned with the overall pilot delivery costs, which total \$2.2 million over three years. While this may ultimately be an issue for cost recovery, the Commission should consider capping these administrative costs at a percentage of overall pilot costs. As proposed, the startup and delivery costs represent between 15.5% and 26.8% of total pilot costs, including rate of return costs at the proposed 7.42%.¹⁴⁷ It may be difficult at this point to determine the appropriate percentage, but the Commission could look to other pilot programs or other jurisdictions that have adopted a TOB program to determine an appropriate band of startup/operation costs.

In summary, CEOs recommend the Commission:

- Prohibit the Company from earning any return on pilot delivery costs;
- Shift the cost for the \$100 energy assessment to ratepayers, at least for the duration of the Pilot; and
- Consider whether to limit startup and delivery costs as a percentage of overall pilot costs.

CEOs ask that the Company:

- Provide information to support that the utility administration; marketing, education, and outreach; and community partnerships costs would be incremental to existing costs that are already reflected in base rates, including whether the Company is planning to hire FTEs;
- Clarify which costs upon which it proposes to earn a rate of return; and
- Provide additional information regarding the costs associated with the \$475 pilot administration cost.

¹⁴⁷ $3,978,000 / \$14,817,000 = 26.8\%$; $3,978,000 / \$25,656,000 = 15.5\%$. Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26 at Ex. L, tbl. 1.

C. Changes to program size.

1. The Commission Should Limit CenterPoint's Total Program Budget to \$15 Million, Inclusive Of All Pilot Costs.

CenterPoint does not propose a cap on the number of participants, but it seeks to enroll 500 participants in each of the three years of the Pilot,¹⁴⁸ with a cap on annual investment in energy upgrades of \$5 million per year.¹⁴⁹ However, this \$5 million spending cap applies to utility investment in participant energy upgrades only, not to startup or administrative costs to operate the Pilot. CEOs are concerned that adding additional spending on top of the \$15 million for energy upgrades could be too high. It may be more reasonable for the size of a new TOB program, which should act as a value multiplier for CIP, to start with a budget cap lower than that proposed by the Company. For context, as the Company notes, its 2022-2023 annual budget on the longstanding low-income CIP program is about \$4.5 million.¹⁵⁰ An annual budget cap of \$15 million for the entire TOB Pilot—inclusive of all pilot costs, not just upgrade costs—may be a more reasonable starting point for this Pilot and could allow the Company sufficient flexibility to administer the program while limiting ratepayer risk. CEOs also recommend considering a total Pilot spending cap for all three years, rather than an annual spending cap, to eliminate the possibility that the Pilot would need to stop and wait for next year's funds to be available if there was significant interest in the Pilot and funds were expended early.

In summary, **CEOs recommend the Commission:**

- Cap the total 3-year program budget at \$15 million, inclusive of all Pilot-related costs.

¹⁴⁸ Pet. by CenterPoint Energy and the City of Minneapolis, *supra* note 26, at 13.

¹⁴⁹ *Id.* at 16. This cap would apply to utility investment in participant energy upgrades, not to startup or administrative costs to operate the Pilot. *Id.*

¹⁵⁰ *Id.* at 8.

2. *A \$1,500 Cap on Renter Co-Payments Would Allow The Program To Serve A Target Sector While Limiting Participant Risk.*

CEOs are also concerned that, under some scenarios, participants may be asked to pay large co-payments to participate in the program. Since the size of the TOB amount is calculated as 80% of the expected savings, a large co-payment could be required in instances where expected savings are modest, but the cost of the measure is high. In that scenario, a participant would be required to make an upfront co-payment for the portion of the measure that is not cost-effective if they want to participate in the program.

An example can help to illustrate this concept. In this example, an already well-insulated homeowner wants to use TOB to increase the insulation and add air sealing and attic insulation in their home. This scenario is based on CEE's IR 16, scenario 4.¹⁵¹ The cost of this measure will be relatively high (over \$6,000 including an energy assessment), especially compared to the more modest energy/bill savings (\$229 annual savings for gas and electric). So, in order to make TOB work, the would-be participant must make an upfront co-payment of nearly \$4,000 dollars in order to enroll in the TOB program for the cost-effective portion of the measure (i.e., 80% of the expected savings, or \$15 per month). Now, this scenario is *not* the ideal use case for a TOB program, which is targeted at poorly insulated housing stock. But, under the proposed structure of the program, a participant could choose to utilize TOB in this manner, paying a significant upfront cost for the ability to enroll in TOB.

CEOs are concerned that renters could face these high upfront co-payments for these marginal use cases. Further, the Petition makes no distinction between landlords and tenants regarding co-payment responsibility. For this reason, CEOs recommend that for rental properties, the Commission require CenterPoint to secure any co-payment from the landlord, not tenants, and

¹⁵¹ Response to CEE IR #16 (Nov. 24, 2021) included as CEOs Attachment 5.

that the Company make this explicit in the TOB agreements for renters and landlords. If the Commission wishes to allow renters to make co-payments, it should still require the Company to prioritize landlords for co-payments and should also limit the amount of the co-pay for a renter during the Pilot to \$1,500.

A \$1,500 co-payment cap for renters during the Pilot would still allow the program to access the intended sector of aging, poorly insulated housing stock, even for rental units. For example, the 2019 Cadmus Study analyzed the expected customer co-payment amounts for different measures, utilities, and financing costs.¹⁵² The study found that attic/ceiling insulation plus air sealing for a poorly insulated house would require co-payments of between \$20 and \$549.¹⁵³ Wall insulation for a poorly insulated house would not require any co-payment. Taken together, a participant could utilize the TOB program to add wall insulation and attic/ceiling insulation plus air sealing for as little as a \$20 co-pay.¹⁵⁴ This scenario—which again, is one of the primary objectives of this Pilot—would not approach our proposed \$1,500 co-payment cap for renters.

The \$1,500 co-payment cap for renters would also not affect the ability of homeowners to incur co-payments without a cap. CEOs targeted this proposed modification to address the concern that renters should not bear unreasonable costs for a property they do not own. But the Commission may wish to apply this upfront co-payment cap to all participants as well. Such a cap would allow for the most cost-effective measures to be utilized, but it would limit property owners from

¹⁵² See Cadmus, *supra* note 25, at 16–50.

¹⁵³ *Id.* at 17. Co-payment amounts assumed cost of capital was at market rate (4.99%) and the analysis was run for high gas price and low gas price scenarios, which were based on 2017–19 CIP filings with escalation factors. *Id.* at 10, 17.

¹⁵⁴ This does not include the proposed up-front payments of \$100 for on-site energy assessment or the \$475 “Program Administration Services” charge, which CEOs address elsewhere in comments.

utilizing TOB for less-cost effective measures such as replacement of an average furnace with a high-efficiency furnace (which could still be eligible for CIP rebates). CEOs recommend applying the \$1,500 co-payment cap to all participants if the Commission does not wish to limit this protection to renters only.

In summary, the Commission should require landlords to pay for any co-payment and the Company should update all applicable agreements to reflect this. In the alternative, a \$1,500 cap on co-payments made during the Pilot would allow the TOB program adequate flexibility to reach its intended sector—poorly insulated housing stock—with the primary measures to address the problem—building envelope improvements—while limiting the risk that participants would utilize TOB for high-cost, low-savings measures. This cap is proposed primarily for renters, to address the specific concerns about renter participation, but could be expanded to include all participants without adverse impacts to program outcomes.

CEOs recommend the Commission:

- Require landlords to pay for any co-payment and require the Company to update all applicable agreements to reflect this.
- In the alternative, require that for rental properties that require a co-pay to participate in the Pilot, the Company first seek any co-payment required from the landlord/owner, and if unsuccessful, limit the co-pay a tenant may pay to \$1,500.

D. Integrating TOB with CIP and other existing programs.

Minnesota's longstanding CIP program should continue to be an important tool to deliver cost-effective energy efficiency and conservation measures to Minnesota ratepayers. The Company should also continue to prioritize and develop its low-income and multifamily CIP programs to meet the needs of this important customer segment. CEOs recognize and appreciate the Company's discussion of its increased low-income CIP offerings in the Petition in pages 6 to 9. Our respective organizations are committed to improving low-income and multifamily CIP

offerings via the changes to CIP following passage of the ECO Act in 2021. But CEOs also acknowledge that current CIP offerings do not effectively reach certain customers, even though those customers contribute to CIP via rates. As discussed earlier, adding a TOB program to existing programs will likely be an effective way to reach this middle, underserved segment.

CEOs believe that the relationship between CIP and TOB is simple: the TOB Pilot should be a complimentary tool to use in tandem with CIP rebates and income-specific tools in order to reach this long overlooked middle customer segment. While the Commission could establish an expectation that all lower-cost programs should be taken advantage of before a customer can utilize TOB, a better practice may be to provide potential participants with a personalized menu of eligible programs and require the Company to actively facilitate connecting the potential participant with the program that best fits the participant's situation. In any case, the Company must do more than just simply *advise* perspective TOB participants of available lower-cost offerings. For example, the proposed "TOB Participant Checklist" contained in Exhibit F simply informs potential participants that they may qualify for other programs with placeholders for a number to call or a website to visit.

While we do not believe that the customer should be prohibited from participating in TOB by choice even if they could utilize lower-cost options, the Company must do more than they currently propose to ensure that free or reduced-cost offerings are utilized to their fullest extent. CEOs recommend that the Commission require the Company to work with stakeholders to develop a system whereby TOB program operators connect a customer to a staff person for the other energy efficiency programs if the customer expresses an interest in these other lower-cost programs. This maintains customer choice while creating a greater likelihood that customers eligible for other programs will actually achieve enrollment in those programs.

Therefore, **CEOs Recommend the Commission:**

- Require the Company to work with stakeholders to develop a process for facilitating the enrollment of income-eligible potential participants into eligible and possibly lower-cost program offerings; and
- Require the Company to work with stakeholders to develop metrics to track whether income-eligible customers are being sufficiently advised of and connected to lower-cost program offerings.

IV. Conclusion

For the foregoing reasons, CEOs believe a TOB mechanism is an important tool to address existing gaps in Minnesota's energy efficiency landscape. It also presents an opportunity to gather additional data that will help evaluate and strengthen any future TOB program and efficiency programs in general. For this reason, we ask that the Commission approve the TOB Pilot subject to the design changes discussed above so that the Pilot is effective, lowest-cost, and designed using best practices.

To that end, **CEOs Recommend the Commission do the following:**

1. Order the Company to report on metrics related to TOB participant non-payment and data regarding non-paying participants' TOB packages, such as co-pays, monthly TOB charges, expected and actual savings, etc. The Company should also distinguish customers that would have faced disconnection regardless of program participation from customers that would have been disconnected as a result of the program.
2. Prohibit the Company from disconnecting pilot participants for non-payment for the duration of the TOB Pilot program or until it is demonstrated to the Commission's satisfaction that the TOB Pilot program results in a decreased risk of disconnections and that the TOB Pilot program is designed such that estimated energy savings are being realized and result in a reduction to the energy burden borne by participants.
3. Reject the Company's proposal to earn its full rate of return on Energy Upgrade Investment costs.
4. Establish a zero percent cost of capital for the duration of this Pilot, in order to test the TOB concept and remove barriers to participation;

OR

Establish a 3.00% cost of capital in line with the cost of long-term debt for the parent company CenterPoint Energy, Inc. If a 3.00% cost of capital is applied in this Pilot, consider allocating 100% of these costs onto all ratepayers.

5. Prohibit the Company from earning a return on startup costs and instead treat them as O&M expenses for the purposes of cost recovery.
6. Prohibit the Company from earning any return on pilot delivery costs.
7. Shift the cost for the \$100 energy assessment to ratepayers, at least for the duration of the Pilot.
8. Consider whether to limit startup and delivery costs as a percentage of overall pilot costs.
9. Cap the total 3-year program budget at \$15 million, inclusive of all pilot-related costs.
10. Require landlords to pay for any co-payment and require the Company to update all applicable agreements to reflect this.

In the alternative, require that for rental properties that require a co-pay to participate in the Pilot, the Company first seek any co-payment required from the landlord/owner, and if unsuccessful, limit the co-pay a tenant may pay to \$1,500.

11. Require the Company to work with stakeholders to develop a process for facilitating the enrollment of income-eligible potential participants into eligible and possibly lower-cost program offerings.
12. Require the Company to work with stakeholders to develop metrics to track whether income-eligible customers are being sufficiently advised of and connected to lower-cost program offerings.
13. Order the Company to track all participant disputes regarding installed upgrades and include detailed descriptions of the dispute and resolution in the Company's annual reporting. The Commission may also wish to require the Company to use a third-party dispute resolution service for these disputes.

Respectfully submitted,

/s/Amelia Vohs

Amelia Vohs

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