

STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Joseph K. Sullivan	Vice-Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner

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

MPUC DOCKET NO. G-008/M-21-377

**SUPPLEMENTAL COMMENTS OF THE
SUBURBAN RATE AUTHORITY**

INTRODUCTION

These Supplemental Comments of the Suburban Rate Authority (“SRA”) respond to the Commission’s Notice of May 31, 2022 seeking party positions on the Tariffed On-Bill Pilot Program (“TOB”), as modified in the May 13, 2022 Reply Comments submitted by CenterPoint Energy (“CPE”) and the City of Minneapolis (“Minneapolis”) (“TOB Modifications”).

The TOB Modifications improve the pilot, in the SRA’s view. The SRA supports the more deliberate and transparent participant sign-up process, a scaled down pilot in participant numbers, reduced costs to participants and ratepayers, elimination of service disconnection for failure to pay the TOB bill component and apparent heightened TOB pilot emphasis on moderate-income homeowners and high-energy users in under insulated dwellings. The SRA appreciates the City’s and CPE’s attempts to respond to party criticisms in the TOB Modifications.

Yet, the TOB Modifications do not address or substantially resolve several important substantive criticisms of TOB previously articulated by numerous parties, and of concern to the SRA. On review of previous party comments in this extensive record, TOB still faces fundamental

legal challenges that could halt or delay a pilot if pursued by the objecting parties.¹ Further, while the TOB Modifications have reduced estimated pilot costs, CPE still intends to recover its full rate of return (as it may increase or decrease over a 15-year cost recovery period), a TOB condition objected to by nearly every party, including the SRA.² The TOB Modification also shifts costs from to participants to ratepayers placing a likely greater percentage of TOB's cost on ratepayers, without any change in CPE's rate of return position or apparent prospect of non-utility third party financing. The SRA is troubled by the legal and operational conflicts that TOB has with CIP and its advocates. The TOB Modifications do not appear to resolve this source of potential ongoing conflict and competition with CIP, subject to Supplemental comments from the parties having expressed those concerns.³ Finally, the SRA requests for assurance of attempted TOB pilot balance among the targeted income groups and geographical locations have not been clearly addressed in the TOB Modifications.⁴

Thus, before supporting TOB as modified, the SRA looks for resolution or substantial movement in the above areas.

RESPONSES TO COMMISSION QUESTIONS

The May 31, 2022 Commission notice sought party responses to questions posed in the notice. The following are SRA responses.

¹ See Department Comments, pp. 5,6, 9-10; OAG Comments, pp. 9-10; Legal Services Advocacy Project Comments, pp. 1-14.

² Department Comments, p. 9; OAG Comments, p. 11; SRA Reply, pp. 3,4,8,9; Community Power Comments, p. 12; CEEP Comments, p. 6; CEOs Comments, pp. 46-47; CEE Comments, p. 11; CUB Comments, p. 2.

³ OAG Comments, p. 10; Department Comments, p. 6; Department Reply, p. 2; Joint Commenters Reply, pp. 1-2; CEE Comments, pp. 6-20.

⁴ SRA Reply, p. 10.

A. CPE and Minneapolis' Table and Exhibits A-Q as Accurately Reflecting SRA Comments on Original Petition

The SRA has no characterization issues with the CPE-City Reply. Relevant to CPE response to SRA's Comments criticizing Paragraph C of the proposed Participant Owner Agreement (Ex. G) as overreaching, however, CPE and SRA have agreed to modified Paragraph C language. A redlined and clean copy of the changes are shown in the attached Exhibit A, for review if TOB were to be approved.

Further, the SRA has expressed a concern in its Comments for TOB's lack of a participant sign-up plan as it would relate to TOB's expansion to CPE service territory-wide.⁵ The SRA has been made aware that TOB pilot sign-ups would be based on first come-first served. Thus, a potential imbalance of the reduced number of participants in a concentrated "targeted" group and geographic location remains an SRA concern given the possibility of heavy and assisted participation in some concentrated areas and slower awareness and sign-up interest in suburbs, or out-state CPE service areas. A first come-first served sign-up process is not a formula for equal numbers of participants along each emphasized category in the different CPE service territory areas.

However, the TOB Modifications substantially lengthen the sign-up period. This should allow greater opportunity to ensure or monitor participant balance in TOB potential participant groups (i.e., by income/usage/homeowner/renter/family) and representative urban, suburban, exurban, and rural Location.

B. Additional Modifications Needed for the SRA to Support TOB

Material progress toward resolution to party objections below would likely move the SRA to support the TOB Petition as modified:

⁵ SRA Reply Comments, p. 4.

1. Resolution of legal objections of the Department, OAG and LSAP to material components of TOB. Without forbearance by potential plaintiffs, legislation or early declaratory judgment actions on legal issues raised, a TOB pilot could be halted or delayed. If TOB is approved it is unclear whether such legal claims, if ripe, will be brought by the Department, OAG, LSAP or other party. The SRA does not recall a previous pilot with as many legal objections as have been raised on TOB.
2. A material reduction of CPE rate of return recovery from general ratepayers. TOB Modifications have reduced pilot cost but appear to have placed greater subsidy responsibility on the general ratepayer. CPE's conspicuous lack of financial contribution to a pilot seeking to create assistance to lower- and moderate-income homeowners and renters is not helpful to gaining SRA support for TOB.
3. Greater pilot specificity than now exists that suburban participants of low income, moderate income or "high users" of energy in under-insulated dwellings will have a fair and proportionate opportunity to participate rather than be too late to the "first come-first served" plan TOB seems to be. The TOB modified plan continues with a lack of assurance of balanced group and geographical participation opportunity to provide a broader base of information on the strengths and weaknesses of TOB.

While the TOB-CIP conflict is of concern to the SRA, part of the issue relates to the legal issues raised by the Department and OAG and are addressed in number 1 above. The additional conflict over TOB-CIP operational and services overlap is a complicated problem that may benefit from pilot data. The City and CPE insist that they will advise potential participants of CIP opportunities and provide TOB only as a complementary option. Though an important matter to

resolve, data from a TOB pilot may clarify this issue. Therefore, the SRA does not include resolution of the operational conflicts predicted between TOB and CIP programs as a condition to SRA support of TOB with additional modifications.

C. Summary of Recommendations

The SRA can support a pilot with flaws because of the valuable information derived on an important potential program for many CPE customers. Resolution of the above issues are important to the SRA's support for TOB.

If sufficient additional TOB pilot progress is not realized and the Petition is denied, the SRA reiterates its support for the Joint Commenters' recommendation, stated in the SRA's May 13, 2022 Reply, for a Commission order for CPE to submit an expanded low- to moderate-income CIP program by December 31, 2022.⁶

Respectfully submitted,

Dated: August 8, 2022

KENNEDY & GRAVEN, CHARTERED

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⁶ SRA Reply, p. 10.

provide the signed Successor Renter Notice and Acknowledgment to the Program Operator within 30 days of execution; and

C. ~~Failure~~ Owner acknowledges that failure to obtain the successor's signature on a Successor Renter Acknowledgment or ~~failure to obtain the signature on a Successor Owner Acknowledgment from a successor,~~ if required by the Utility ~~will constitute the Owner's acceptance of consequential damages in any action by a,~~ may expose Owner to liability to the successor renter or owner in a legal action they may bring against Owner related to [Program Name] ~~and permission for a tenant or purchaser to break their lease or purchase agreement without penalty,~~ potentially including cancellation of a purchase agreement or termination of a lease, or for damages caused by Owner's failure to make reasonable attempts to obtain their signature, which attempts must include Owner or Owner's agent presentment of the Acknowledgement to the successor renter or owner.

6. **MAINTENANCE OF UPGRADES:** Owner agrees to keep the Upgrades in place for the term of this Agreement, to maintain the Upgrades per manufacturers' instructions, and report the failure of any Upgrades to the Program Operator as soon as possible.

7. **REPAIRS:** Should Program Operator determine that the Upgrades are no longer functioning as intended, Program Operator will undertake to determine whether the failure of the Upgrades was caused by the Owner, Current or Future Customers, or other occupants at the Property.

A. If the Program Operator determines that the failure of the Upgrades was not caused by the Owner, Current or Future Customers, or other occupants at the Property, the Utility shall suspend the Upgrade Service Charges until such time as the Upgrades are repaired or this Agreement is terminated pursuant to section 11.

B. If Program Operator determines the Owner, Current or Future Customers, or other occupants at the Property deliberately or negligently caused the failure of the Upgrades, the Utility may, in its discretion, seek to recover the costs of repairs from

provide the signed Successor Renter Notice and Acknowledgment to the Program Operator within 30 days of execution; and

- C. Owner acknowledges that failure to obtain the successor's signature on a Successor Renter Acknowledgment or Successor Owner Acknowledgment, if required by the Utility, may expose Owner to liability to the successor renter or owner in a legal action they may bring against Owner related to [Program Name], potentially including cancellation of a purchase agreement or termination of a lease, or for damages caused by Owner's failure to make reasonable attempts to obtain their signature, which attempts must include Owner or Owner's agent presentment of the Acknowledgement to the successor renter or owner.
6. **MAINTENANCE OF UPGRADES:** Owner agrees to keep the Upgrades in place for the term of this Agreement, to maintain the Upgrades per manufacturers' instructions, and report the failure of any Upgrades to the Program Operator as soon as possible.
7. **REPAIRS:** Should Program Operator determine that the Upgrades are no longer functioning as intended, Program Operator will undertake to determine whether the failure of the Upgrades was caused by the Owner, Current or Future Customers, or other occupants at the Property.
- A. If the Program Operator determines that the failure of the Upgrades was not caused by the Owner, Current or Future Customers, or other occupants at the Property, the Utility shall suspend the Upgrade Service Charges until such time as the Upgrades are repaired or this Agreement is terminated pursuant to section 11.
 - B. If Program Operator determines the Owner, Current or Future Customers, or other occupants at the Property deliberately or negligently caused the failure of the Upgrades, the Utility may, in its discretion, seek to recover the costs of repairs from



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August 8, 2022

VIA E-FILING

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
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**Re: *In the Matter of the Petition by CenterPoint Energy and the City of Minneapolis to
Introduce a Tariffed on Bill Pilot Program***
MPUC DOCKET NO. G-008/M-21-377

Dear Mr. Seuffert:

On behalf of the Suburban Rate Authority, attached for filing in the above-referenced docket please find the Supplemental Comments of the Suburban Rate Authority. This document has been served on the parties on the attached Service List. A Certificate of Service is also attached.

Very truly yours,

KENNEDY & GRAVEN, CHARTERED

/s/ James M. Strommen

James M. Strommen

Attachment

cc: Service List

**Re: *In the Matter of the Petition by CenterPoint Energy and the City of Minneapolis to
Introduce a Tariffed on Bill Pilot Program***
MPUC DOCKET NO. G-008/M-21-377

CERTIFICATE OF SERVICE

I, Lisa Larson, hereby certify that I have this day served copies of the following document:

Supplemental Comments of the Suburban Rate Authority

on:

the list of persons on the attached Service List

by electronic filing and serving in the eDockets system, and/or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at Minneapolis, Minnesota.

Dated this 8th day of August, 2022.

/s/ Lisa Larson
Lisa Larson

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