PROCEEDINGS

IN THE MATTER OF A COMMISSION INVESTIGATION
INTO THE ESTABLISHMENT OF CRITERIA AND STANDARDS FOR THE DECOUPLING OF ENERGY SALES FROM REVENUES

ORDER ESTABLISHING CRITERIA AND STANDARDS TO BE UTILIZED IN PILOT PROPOSALS FOR REVENUE DECOUPLING

PROCEDURAL HISTORY

In 2007, the Minnesota Legislature enacted Minn. Stat. § 216B.2412, which requires the Commission to establish criteria and standards for the decoupling1 of energy sales from revenues. Subdivision 2 provides:

The commission shall, by order, establish criteria and standards for decoupling. The commission shall design the criteria and standards to mitigate the impact on public utilities of the energy-savings goals under section 216B.241 without

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1 Minn. Stat. § 216B.2412, subd. 1 defines decoupling as follows:

"[d]ecoupling" means a regulatory tool designed to separate a utility's revenue from changes in energy sales. The purpose of decoupling is to reduce a utility's disincentive to promote energy efficiency.
adversely affecting utility ratepayers. In designing the criteria, the commission shall consider energy efficiency, weather, and cost of capital, among other factors.\(^2\)

In addition, Minn. Stat. § 216B.2412, subd. 3 allows the Commission to approve one or more pilot programs, to assess the merits of decoupling as a means of energy savings, based on the criteria and standards it establishes under subdivision 2.

In April 2008, the Commission, with the assistance of the Regulatory Assistance Project (RAP), convened stakeholder workshops to discuss criteria and standards for revenue decoupling. RAP invited participants in the workshops to submit comments and suggestions to aid in the preparation of its report. RAP also met with commissioners, commission staff and representatives of the Office of Energy Security of the Minnesota Department of Commerce (OES) and the Office of the Attorney General - Regulatory Utilities Division (OAG-RUD). On June 30, 2008, RAP issued its final report to the Commission, entitled *Revenue Decoupling: Standards and Criteria* (RAP Report).

On July 15, 2008, the Commission issued a Notice of Comment soliciting comments on what criteria and standards should be established regarding decoupling. The Commission also requested comments on the procedural track for approval of criteria and standards to be developed.


On May 19, 2009, the Omnibus Energy Bill, SF 550 [Minn. Laws 2009, Chapter 110] was enacted. Section 21 of the new law amends Minn. Stat. § 216B.2412 to provide additional procedural options to the Commission for establishing criteria and standards under the Act.\(^3\)

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\(^2\) The Act also requires the Commission to review existing demand side management financial incentives pursuant to Minn. Stat. § 216B.241, subd. 2c. This is being carried out in Docket No. E, G-999/CI-08-133.

\(^3\) The law as amended provides:

Subd. 2. Decoupling criteria. The commission shall, by order, establish criteria and standards for decoupling. The commission may establish these criteria and standards in a separate proceeding or in a general rate case or other proceeding in which it approves a pilot program, and shall design the criteria and standards to mitigate the impact on public utilities of the energy savings goals under section 216B.241 without adversely affecting utility ratepayers. In designing the criteria, the commission shall consider energy efficiency, weather, and cost of capital, among other factors.
On May 28, 2009, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. The RAP Report

The RAP Report, dated June 30, 2008, discussed definitions and descriptions of the various forms of decoupling available (full, partial and limited), issues associated with decoupling, alternatives to decoupling, decoupling programs in other states, and the mechanics of decoupling. The Report contains recommendations on the criteria and standards by which the Commission could design and evaluate a decoupling proposal, and a “straw proposal” for a decoupling mechanism for a natural gas utility.

II. Comments of the Parties

Ten parties filed comments in response to the Commission’s July 15, 2009 Notice of Comment, including:

- Xcel Energy
- Minnesota Energy Resources Corporation (MERC)
- Otter Tail Power Company
- Izaak Walton League of America
- Great Plains Natural Gas Company
- Energy CENTS Coalition
- CenterPoint Energy
- OAG-RUD
- Galvin Electricity Initiative
- OES

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4 Full decoupling insulates a utility’s revenue collection from any deviation of actual sales from expected sales. It is akin to a budget, in which the revenue requirement provides the full measure of what a utility can collect, and where any change in sales is “trued up.” The most common form is revenue-per-customer decoupling, which allows the revenue requirement to change between rate cases only when the number of customers changes.

Partial decoupling operates much like full decoupling, except a deviation from actual sales is only partially trued up. Limited decoupling limits adjustments for sales losses derived only from specific causes, such as weather or conservation efforts.
Ten parties filed reply comments:

- MERC
- Great Plains Natural Gas Company
- Izaak Walton League of America
- CIP Exempt Customers
- Dakota Electric Association
- OES
- OAG-RUD
- CenterPoint Energy
- Xcel Energy
- Interstate Power & Light Company.

Key issues addressed by the RAP Report and the commenting parties include:

- the purpose of decoupling
- the appropriate time to implement a decoupling pilot project, i.e., must the pilot project be implemented in conjunction with a rate case
- interpretation of the statutory phrase “without adversely affecting utility ratepayers”
- whether service quality issues need be addressed in utility proposals
- whether the selection of customer classes to be included in a proposal/pilot program should be pre-determined by the Commission
- appropriate evaluation criteria and procedures for decoupling proposals/pilot programs

**A. Purpose of Decoupling**

The parties differed in their interpretation of the purpose of decoupling as set forth in Minn. Stat. § 216B.2412, subd. 1. Some parties argued that a utility’s investment in conservation should increase when a decoupling pilot is implemented; without such an increase a decoupling pilot is

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5 Gerdau Ameristeel US, Inc.; Hibbing Taconite Company; United Taconite, LLC; UPM-Blandin Paper Company; Arcelor Mittal USA; NewPage Corporation; Marathon Petroleum Company, LLC; and United States Steel Corporation.

6 Minn. Stat. § 216B.2412, subd. 2.

7 Other questions addressed by the commenting parties and RAP include: 1) whether decoupling proposals/pilots should be judged based on an increase in energy savings and/or an increase in conservation investment; 2) whether there should be a cap on the revenue adjustment; and 3) how the Commission should address an assumed decrease in risk for utilities implementing a revenue decoupling pilot and how such a decrease should be handled when evaluating a utility’s return on equity.
contrary to the purpose of the legislation. Other parties focused on the statutory directive to consider factors other than direct conservation investment - such as weather and cost of capital - in approving decoupling proposals. No agreement was reached as to the decoupling statute’s objective.

The OES argued that any interpretation of the Legislature’s reference to weather and other factors should be read in the context of the Conservation Improvement Program (CIP) (Minn. Stat. § 216B.241) and the “other factors” should only be considered indirectly within the context of impacting CIP. Xcel urged caution in addressing CIP elements in this docket, as the CIP program is already administered and regulated by other means. Xcel also argued that the type of decoupling approved (full, partial or limited) should be left to individual pilot program evaluation.

B. Timing of Implementation of a Pilot Program

The parties agreed that the information generally produced in a rate case will be instructive to a decoupling proposal, but certain utilities disagreed as to whether the proposal itself should be filed only in the context of a rate case. The Izaak Walton League asserted that filing within a rate case is essential in order to verify the revenue requirement. Energy CENTS agreed, but added that a proposal could be filed within a year of a rate case. Great Plains asserted that a pilot should not have to be proposed in a rate case.

The OES recommended that the revenue components of a decoupling pilot be determined within a rate case, but that a pilot need not be filed at the same time so long as, if filed outside of a rate case, the Commission-approved revenue components are adjusted item-by-item. The majority of the commenting parties did not express an opinion on the timing of proposals.

C. Adverse Affect on Utility Ratepayers

The OAG-RUD commented that full decoupling would result in an automatic rate increase, without a coincident increase in conservation investment, and recommended that if a full decoupling pilot is introduced, it should focus entirely on large industrial customers. The CIP Exempt class argued against that assertion, given that the large industrial and commercial customers are not participants in CIP programs as they are routinely exempted by the Commissioner of Commerce. Energy CENTS also raised concerns that high usage, low income residential customers are more likely to be harmed by decoupling.

MERC asserted that a properly designed full revenue decoupling would not harm anyone, including the ratepayer, as the utility would collect no more and no less than the revenue requirement approved in a general rate case. Other utilities argued that reading the statute to mean

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8 Minn. Stat. § 216B. 2412, subd. 2 states that “... The Commission shall design the criteria and standards to mitigate the impact on public utilities of the energy-savings goals under section 216B.241 without adversely affecting utility ratepayers.”
no rate impact would render it a nullity. Xcel asserted that decoupling would have only modest bill impacts, as any decoupling program would impact only the distribution portion of a customer’s gas bill.

D. Service Quality

RAP recognized that consumer advocates have concerns that decoupling would decrease a utility’s incentive to provide acceptable customer service, as decoupling assures specific levels of revenue recovery regardless of actual sales. To address this concern, RAP included service quality standards in its gas utility straw proposal. Most utilities, with the exception of MERC, commented that service quality is addressed by other fully regulated processes, and need not be addressed in decoupling pilots.

MERC did not oppose measuring service quality against a baseline service index with sanctions for bad performance. MERC did, however, oppose including within that measurement the number of customers disconnected for non-payment.

E. Selection of Customer Classes

The RAP Report encouraged the Commission to extend the pilot to all firm service customers, but specifically recommended that, at a minimum, the pilot should include residential and small commercial customers. In contrast, the OAG-RUD recommended that, as to gas utilities, the Commission should approve a decoupling proposal that targets large industrial/commercial customers and does not exclusively target residential and small business customers. CenterPoint Energy, Great Plains, MERC and the CIP Exempt customers all disagreed with the OAG-RUD’s recommendation, arguing that large customers, due to their rate sensitivity, should be excluded from any decoupling programs.

Most commenting utilities voiced general disagreement with the Commission identifying the customer classes that should be targeted in decoupling pilot proposals. Most utilities expressed the need for flexibility to choose what classes will be affected in a decoupling pilot. Xcel emphasized the need for flexible standards, and the need to be alert to the opposite trends in customer use per customer between gas and electric utilities.

The Galvin Electric Initiative commented that RAP’s straw proposal did not adequately address electric concerns, and recommended that the Commission allow utilities to establish a decoupling program for a discrete set of customers, rather than being required to do so for an entire system or class of customers.

The OES asserted that all customer classes that are billed CIP charges potentially contribute to the need for a decoupling mechanism, and urged the Commission not to limit the pilot programs to certain rate classes.
Otter Tail Power cautioned against allowance of programs that focus solely on one class of customers within a utility, commenting that the effectiveness of a proposal cannot be properly evaluated without information gained from all customer classes.

F. Evaluation Criteria

All utilities commenting recommended that the Commission exercise flexibility, both in terms of allowing utilities to decide whether or not they will propose a pilot, and in shaping the pilot they present. Utilities also recommended that the Commission define its expectations, so that the proposal process can proceed expeditiously.

III. Commission Action

The Commission appreciates the timely, thorough and thoughtful responses of the stakeholders to its requests for comments. The commenting parties largely agree with the draft criteria and standards for decoupling pilot projects proposed by Commission staff, modeled on the Regulatory Assistance Project’s proposal and party comments throughout this proceeding.

The Commission is not ready at this juncture to set final criteria and standards regarding decoupling, believing that the most promising approach is to examine the pilot proposals that will be submitted based on the criteria and standards established by this Order. After implementation and review of these pilot projects, utilities will be in the position to tackle the details of implementing an effective decoupling program. Other stakeholders are equally engaged and will help refine and perfect these programs. It is only in the context of assessing actual proposals that this important work can move forward, and that the practical issues posed by decoupling can be analyzed and addressed.

Therefore, after careful consideration of the submissions of the parties, the RAP Report, and the discussion of the parties at the Commission meetings, the Commission will adopt the following Revenue Decoupling Criteria and Standards:

All utility decoupling pilot proposals under Minn. Stat. 216B.2412 shall provide the following information in the initial filing:

1. **Purpose**: All utilities shall state how their proposed decoupling mechanism adheres to the guiding statute. Each utility shall explain the purpose of their mechanism in the context of the Next Generation Energy Act of 2007's energy savings goals and how their mechanism will further the state policy of increased conservation investment.

2. **Form**: All utilities shall state the form of decoupling proposed and the purpose behind such choice. This should provide a detailed definition of what types of sales changes are included in the mechanism, i.e. weather-related sales changes, declining use per customer, etc., and the reason for such inclusion.
3. **Cost of Capital**: All utilities shall detail how their proposed mechanism will/will not impact the company’s cost of capital.

4. **Classes Included**: All utilities must identify the rate classes involved in the pilot, as well as provide rationale for the inclusion of participating classes and the exclusion, if any, of other classes.

5. **Mechanics**: All utilities must provide precise detail on how the decoupling mechanism will operate, with the understanding that any decoupling pilot program be transparent and easy to follow from a customer perspective. Details to be provided are as follows:
   
   A. how rate adjustments will be calculated;
   B. when rate adjustments will be made;
   C. whether a rate cap or collar is provided to mitigate the risk of rate shock and justification for not so providing if a proposal lacks such safeguards;
   D. what portion of the customer’s bill will be impacted by the true-up (volumetric vs. customer charge);
   E. how will the rate adjustment be displayed on the customer’s bill;
   F. length of pilot (with the understanding that no pilot may extend longer than 36 months except through implementation in a rate case);
   G. how the decoupling mechanism will work in concert with any automatic recovery mechanism or financial incentive; this evaluation requires that all utilities provide a list of all automatic recovery mechanisms and incentives as well as justification for any such mechanism/incentive that the utility plans to continue throughout the course of the pilot including an explanation as to how the decoupling pilot mechanism, coupled with any other automatic adjustments and incentives, will not result in double recovery.

6. **Service Quality**: All utilities must provide detail, consistent with other service quality documentation, on how the utility plans to measure and maintain service quality under the pilot program. Phone answer time, gas emergency response time, missed appointments for service installations, time to reconnect service, and number of customers disconnected for non-payment should all be addressed in a pilot service quality evaluation.

7. **Review**: All utility pilot proposals shall be reviewed yearly. If the Commission determines that the pilot is harming ratepayers and/or failing to meet objectives, the Commission may suspend the pilot at any time or recommend modifications. As part of this annual review, all utilities shall provide information that shall be specified in an evaluation plan established as part of the pilot plan that shall include, but not be limited to the following information:
   
   A. total adjustments by class
   B. total adjustment charges collected
C. number of customer complaints
D. has the pilot stabilized revenues for the class(es) under the pilot and how has such stabilization impacted the utility’s overall risk profile
E. comparison of how revenues under traditional regulation would have differed from those collected under the decoupling pilot
F. is the utility meeting energy efficiency savings goals? has the decoupling pilot influenced the achievement or likelihood of achievement of those goals?
G. problems encountered and improvements/suggestions for the future.

8. Pilot Implementation:

A. Pilot proposals should be filed and implemented within a rate case; or
B. Pilot proposals may be filed outside of a rate case if the following conditions are met:
   (1) updated sales forecasts are provided with the pilot proposal;
   (2) detailed evaluation of how any decrease in risk as a result of the pilot proposal will impact the cost of capital; and
   (3) proposals are filed within one year of the final Commission order in a rate case.
C. Class Exclusion. The Commission requires that all decoupling pilot programs be implemented in more than one customer class.
D. Deadline for filing Pilot Programs
   (1) All utilities shall file a non-binding notice of intent as to their plans for filing a decoupling pilot by June 1, 2010.
   (2) All pilot proposals shall be filed by December 30, 2011.

Finally, the Commission will require CenterPoint Energy to file additional information explaining how its pilot decoupling proposal, filed within its ongoing rate case,9 meets the criteria and standards for decoupling adopted by the Commission at its May 28 hearing.

ORDER

1. The Revenue Decoupling Criteria and Standards set forth herein are hereby adopted.

2. All utilities shall file a non-binding notice of intent as to their plans for filing a decoupling pilot program by June 1, 2010.

3. All decoupling pilot proposals shall be filed by December 30, 2011.

9 In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota, Docket No. G-008/GR-08-1075.
4. CenterPoint Energy shall submit, within 10 days of the date of this Order, a filing addressing how its decoupling proposal, filed in its rate case, addresses the Revenue Decoupling Criteria and Standards adopted herein.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary
STATE OF MINNESOTA) )SS
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 19th day of June, 2009 she served the attached
ORDER ESTABLISHING CRITERIA AND STANDARDS TO BE UTILIZED IN PILOT
PROPOSALS FOR REVENUE DECOUPLING.

MNPUC Docket Number: E.G-999/CI-08-132

XX By depositing in the United States Mail at the City of St. Paul, a
true and correct copy thereof, properly enveloped with postage
prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
Carol Casebolt
Peter Brown
Eric Witte
Marcia Johnson
Kate Kahlert
Bob Harding
Chris Fittipaldi
Janet Gonzalez
Susan Mackenzie
Louis Sickmann
Jerry Dasinger
Burl Haar
Mary Swoboda
DOC Docketing
AG - PUC
Julia Anderson - OAG
John Lindell - OAG

Subscribed and sworn to before me,

Notary Public

Margie DeLaHunt

JANUARY 31, 2010

ROBIN J. BENSON
NOTARY PUBLIC: MINNESOTA
MY COMMISSION EXPIRES
JANUARY 31, 2010
EG999/CI-08-132, ListID# 1 All Electric and Gas Utilities: In the Matter of Criteria and Standards for Revenue Decoupling.

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