BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Phyllis A. Reha	Vice Chair
David C. Boyd	Commissioner
J. Dennis O'Brien	Commissioner
Betsy Wergin	Commissioner

In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota	ISSUE DATE: April 3, 2012 DOCKET NO. G-008/GR-08-1075 ORDER APPROVING BILL ADJUSTMENT PLAN FOR INVERTED BLOCK RATE PILOT PROGRAM

PROCEDURAL HISTORY

On January 11, 2010, the Commission issued an order resolving the most recent rate case of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas (CenterPoint).[1] In that order the Commission authorized CenterPoint to initiate a three-year pilot program implementing inverted block rates for three classes of customers to encourage conservation and promote affordability. Under this rate structure, the price CenterPoint would charge a customer for energy would increase as the amount of energy the customer consumed during the billing period increased.

On October 4, 2011, the Commission issued an order directing CenterPoint to suspend the inverted block rate pilot program due to concerns about the program's unintended consequences.[2] CenterPoint discontinued charging inverted block rates on October 14, 2011.

On November 8, 2011, the Commission directed CenterPoint to propose a mechanism to adjust customers' bills to compensate for problems arising from elongated billing periods.[3]

On December 7, 2011, CenterPoint filed its refund proposal. The Commission received comments from the Minnesota Department of Commerce (the Department) and the Minnesota Office of the Attorney General, Antitrust and Utilities Division (the OAG). CenterPoint replied to the comments.

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[1] Findings of Fact, Conclusions of Law, and Order, this docket.

[2] Order Suspending Inverted Block Rate Structure, Authorizing Workgroup, and Requiring Revised Decoupling Rate Adjustment, this docket.

[3] Order Requiring Bill Adjustment Proposal, this docket.

The matter came before the Commission on February 23, 2012.

FINDINGS AND CONCLUSIONS

I. Summary

In this order the Commission does the following:

- Directs CenterPoint to reimburse customers who paid more than they otherwise would have due to CenterPoint's use of elongated billing periods while implementing its inverted block rate structure.

- Authorizes CenterPoint to recover the cost of these reimbursements generally in the same manner as it recovers other gas costs.

- Establishes criteria for identifying customers who qualify for reimbursement and for calculating the amount of the reimbursements.

- Directs CenterPoint to report when the reimbursements have been issued.

II. Background

A. Inverted Block Rates

Traditional gas rates establish a price for each unit of gas energy, or therm, that a customer consumes. In contrast, inverted block rates establish a variety of prices (rate blocks) for each therm a customer consumes during a billing period, charging the lowest rates for the earliest therms consumed, and increasing rates as the amount of consumption within the billing period increases.

The Commission approved the use of five inverted rate blocks for three classes of customers: Residential, Small Volume Commercial & Industrial Sales Service A (customers consuming less than 1500 therms per year), and Small Volume Commercial & Industrial Sales Service B (customers consuming at least 1500, but not more than 5000, therms per year). For example, the five blocks in CenterPoint's residential rate design, and their corresponding effect on gas rates, were as follows:

Blocks	Therms consumed per billing period	Rate adjustment per therm
Block 1	0-30	($0.1675)
Block 2	31-110	$0.0000
Block 3	111-165	$0.1466
Block 4	166-200	$0.1750
Block 5	201 +	$0.2250

The Commission subsequently suspended this rate structure – in effect, eliminating the rate adjustment per therm – due to a number of unintended consequences that resulted from the rate structure.

B. Elongated Billing Periods

Some unintended consequences arose from the nature of the inverted block rate structure itself. In contrast, the problem of elongated bills arose not merely from the rate structure but from CenterPoint's choice to bill some customers for unusually long periods.

As noted above, under the inverted block rate design the price a customer would pay for a unit of gas would vary depending upon the total amount of energy a customer consumed within the billing period. But the billing period is determined by the utility, not the customer. As a result, two customers with identical consumption patterns might pay different amounts depending upon when CenterPoint chose to bill the customers. In particular, bills that covered an unusually long period would be more likely to cause customers to pay higher rates -- and the record reveals that CenterPoint sometimes billed customers for periods exceeding 35 days.

Consequently the Commission directed CenterPoint to propose a means to compensate customers who were billed for elongated periods, CenterPoint's objections notwithstanding:

> CenterPoint makes three arguments opposing remedial measures. First, CenterPoint denies that there is anything wrong with its billing practices, noting that it has been using these same practices for years. But these claims are beside the point. Variations in billing periods had less impact under CenterPoint's prior rate design. Foreseeably, variations in billing periods have greater consequences in the context of an inverted block rate structure.
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> Second, CenterPoint argues that it does not bill customers over elongated periods intentionally, and does not profit from extending the billing period. Again, these claims miss the point. The record shows that individual customers have incurred higher gas bills as a result of the manner in which CenterPoint has exercised its discretion. The purpose of remedial measures is to compensate customers, not punish CenterPoint.
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> Finally, CenterPoint argues that adjusting bills for customers would be administratively difficult because CenterPoint's meters merely record the amount of gas a customer has used since the last meter reading, not the day when the gas was consumed. However, the Department identifies means for estimating appropriate bill adjustments. The Commission prefers providing an imperfect remedy to providing no remedy at all.
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> Because the record indicates that some customers have had to bear a disproportionate cost due to the manner in which CenterPoint has exercised its discretion, and because it is administratively feasible to remedy this harm, the

Commission will direct CenterPoint to adjust customers' bills to correct for overly long billing periods.[4]

III. CenterPoint's Proposal

In response to the Commission's October 4, 2011 order, CenterPoint offers a proposal for issuing refunds to qualified customers -- calculated according to a specified formula -- and to recover the cost from ratepayers. In summary --

Eligibility: CenterPoint proposes to give refunds only to customers who --

- received one or more bills for a billing period exceeding 35 days,
- received at least one elongated bill issued between November 2010 and March 2011,
- were billed for usage in Block 4 or 5 -- the top two tiers of the inverted block rate structure -- and
- were still receiving service from CenterPoint in the month prior to the application of the refund to customer bills.

Calculation: CenterPoint proposes to calculate a customer's refund as follows:

- For each bill that qualifies for a refund, CenterPoint would calculate the customer's average daily gas consumption during the billing period.
- Based on this average daily gas consumption, CenterPoint would estimate the amount of gas consumed during the elongated portion of the billing period – that is, after the first 35 days.
- CenterPoint would then estimate the incremental cost the customer incurred due to the elongated billing period. Specifically, CenterPoint would multiply the amount of gas consumed during the elongated period by the maximum rate adjustment for that billing period. For example, if CenterPoint had billed a residential customer at the Block 5 level during an elongated period, CenterPoint would generate an estimate of the incremental cost to that customer by multiplying the amount of gas consumed during the elongated period by the rate adjustment for Block 5, which is $0.2250 per therm.
- Finally, CenterPoint would calculate a total bill adjustment for each customer by adding together the adjustments for each eligible bill for that customer.

Implementation: CenterPoint proposes to implement its refunds by crediting the accounts of eligible customers.

[4] October 4, 2011 Order at 6-7.

Finance: CenterPoint proposes to treat the cost of the refund in the same manner as it treats under-recovered gas costs generally – that is, to increase the cost of gas prospectively to recoup the cost. In particular, CenterPoint proposes to include the refund costs as part of its 2012 annual automatic adjustment of charges (AAA).[5]

IV. Contested Issues and Commission Action

The Department and OAG each generally support the structure of CenterPoint's proposal for reimbursing customers, yet propose changes to aspects of CenterPoint's proposal.

The Commission considers the various proposals below.

A. Cost of Reimbursement

1. Positions of the Parties

As noted above, CenterPoint offers a plan to reimburse customers billed for elongated periods during the inverted block rate pilot program. And in its next AAA filing CenterPoint proposes to include the cost of the reimbursement with other gas costs that remain to be recovered from the customers. This would have the effect of permitting CenterPoint to recover the reimbursement costs from ratepayers prospectively.

OAG opposes this proposal. OAG notes that the Commission has already ruled that 1) certain customers were harmed by paying higher bills than they otherwise would have, 2) this harm arose from CenterPoint's exercise of discretion, and 3) CenterPoint should have foreseen this harm.[6] Moreover, OAG argues that CenterPoint's practice of issuing bills for elongated periods violated the Commission's Billing Error Rule.[7] Given this context, OAG argues that CenterPoint, not ratepayers, should bear the cost of any remedial measures.

In contrast, the Department largely supports this aspect of CenterPoint's proposal, but with one refinement: In its 2012 AAA filing CenterPoint should allocate the cost of reimbursements proportionately among the participating customer classes in the same manner that it implements its inverted block gas cost reconciliation (true-up). In this manner, the Department seeks to avoid having one customer class pay for the reimbursements in other classes. CenterPoint acquiesces in this suggestion.

2. Commission Action

Having reviewed the parties' proposals, the Commission concurs with CenterPoint and the Department.

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[5] See Minn. Rules, parts 7825.2800 to 7825.2840. AAA filings are due September 1 of each year.

[6] October 4, 2011 Order at 6-7.

[7] Minn. Rules, part 7820.4000, subp. 1.

The Commission's Billing Error Rule provides for a gas utility to reimburse its customers for overcharges arising from "incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons…."[8] The record does not indicate that CenterPoint misread the numbers on any meter, applied its tariffs inaccurately to those numbers, misconnected a meter to generate inaccurate numbers, or otherwise engaged in a billing error as contemplated in the Commission's rules. Consequently that rule will not guide the Commission's actions in the current situation.

And, while OAG correctly summarizes the Commission's prior findings regarding the need for remedial measures, the Commission also concluded that the purpose of remedial measures was to compensate harmed customers, not punish CenterPoint.[9] The Commission finds that CenterPoint's reimbursement proposal is well designed to undo the harm that resulted from elongated bills.

This conclusion flows from an understanding of the manner in which CenterPoint recovers gas costs. CenterPoint passes the cost of gas through to ratepayers and retains no profit or loss from the transactions. When CenterPoint over-recovered its gas costs from certain ratepayers, those sums were captured and offset by subsequent adjustments to the price of gas for all ratepayers through the annual reconciliation adjustments. CenterPoint's proposal is designed, as nearly as possible, to reverse the consequences of these transactions and reimburse those customers who previously bore a disproportionate share of gas costs.[10]

Because CenterPoint's remedy best achieves the goal of restoring all ratepayers in the pilot program to the positions they would have occupied in the absence of elongated billing, the Commission will approve this aspect of CenterPoint's proposal.

B. Eligibility for Reimbursement – Billing Date

1. Positions of the Parties

In determining which bills might be eligible for partial reimbursement, CenterPoint proposes to simplify the analysis by considering only bills issued between November 2010 and March 2011. CenterPoint argues that these months are the coldest part of the year, and therefore the months when customers would be most likely to consume enough gas to trigger application of the Block 4 and Block 5 rates. CenterPoint acknowledges that its proposal to ignore bills from other months would tend to reduce the total amount of reimbursements CenterPoint would pay. But CenterPoint argues that this dynamic merely offsets the effects of other simplifying assumptions that tend to increase the aggregate amount of refunds.

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[8] *Id.*

[9] October 4, 2011 Order at 6-7.

[10] While OAG alleges that a utility may profit from the proration of monthly fixed charges (January 9, 2012 OAG comments at 4), this allegation has no bearing on the gas costs at issue here.

OAG does not object to this part of CenterPoint's proposal; the Department does. If the Commission prefers to consider only bills issued during cold weather months, the Department suggests that the Commission evaluate all bills issued between October 15 and April 15, Minnesota's "cold weather season" as defined in statute,[11] rather than the narrow period identified by CenterPoint.

But ultimately the Department questions the purpose of excluding consideration of bills issued during the rest of the pilot program. First, while the demand for gas from residential customers fluctuates with the weather, the Department notes that the pilot program also affected commercial and industrial customers; it is unclear that the usage pattern of these customers tracks the usage pattern of residential customers. But more generally, the Department argues that all elongated bills that charged the Block 4 or 5 rates should be eligible for a refund.

2. Commission Action

The Commission concurs with the Department; CenterPoint has not stated a sufficient reason to exclude consideration of some elongated bills issued during the pilot program. Customers who paid for gas at the Block 4 or 5 rates due to being billed for elongated periods should be eligible to receive relief, regardless of the bill's issue date. Consequently the Commission will direct CenterPoint to evaluate elongated bills issued at any time during the inverted block rate pilot program, stretching from July 1, 2010, to October 13, 2011.

C. Eligibility for Reimbursement – Elongated Billing Period

1. Positions of the Parties

The parties use the concept of an "elongated billing period" for two related purposes: identifying bills that are eligible for partial refund, and calculating the amount of the refund.

As noted above, CenterPoint does not regard a billing period as elongated unless it exceeds 35 days in length. Minn. Rules, part 7820.3300, directs utilities to issue bills on "as nearly as practicable to 30-day intervals," but also provides that if "the billing period is longer or shorter than the normal billing period by more than five days" then the utility must prorate the customer's bill. CenterPoint reads the two parts of the rule together to authorize utilities to use billing periods of up to 35 days without need for remedial measures. According to CenterPoint, this policy reflects the fact that it is impractical for utilities to bill customers at precise 30-day intervals, and that remedial measures are not warranted for minor deviations in the billing period.

The Department and OAG dispute CenterPoint's interpretation of Minn. Rules, part 7820.3300. They deny that the rule's five-day grace period indicates the Commission's approval of any billing period between 25 and 35 days. These parties argue that the rule's proration policy applies only to fixed monthly charges, not to the gas costs at issue here – and that CenterPoint's tariff reflect this

[11] Minn. Stat. § 216B.096, subd. 2(b) (Cold Weather Rule).

interpretation of the rule.[12] Moreover, they argue that the rule was not designed to address the dynamics of an inverted block rate design.

The Department recommends making bills for any period exceeding 30 days potentially eligible for refund. This policy would honor the 30-day standard set forth in Minn. Rules, part 7820.3300. Moreover, the Department argues, this policy would provide the most thorough remedy for the harm caused by elongated billing periods.

In effect, OAG proposes a compromise position, advocating that the Commission regard bills for periods exceeding 32 days as elongated. This proposal balances the goal of billing customers at 30-day intervals, the practical challenges of achieving this outcome in every circumstance, and the need to direct remedies to the customers who incurred the greatest harm.

2. Commission Action

Having reviewed the positions of the parties, the Commission concurs with the Department and OAG that the five-day grace periods set forth in Minn. Rules, part 7820.3300, do not ensure automatic approval for any billing period a utility chooses between 25 and 35 days. Reading the rule in this manner would eviscerate the objective of maintaining a billing period as close to 30 days as practicable. The Commission will therefore decline CenterPoint's proposal to provide remedies only to people who received bills for periods exceeding 35 days.

The Department argues that even small remedies may be warranted where the burdens of paying for the remedy are similarly small. But CenterPoint estimates that the cost of providing refunds to all customers billed for longer than 30 days would exceed $3 million -- nearly $2 million more than the cost of providing refunds to customers with bills exceeding 32 days. This reflects the fact that a majority of CenterPoint's customers likely received at least one bill for a period exceeding 30 days in which they paid Block 4 or 5 rates; more than 47% of the customers did in the month of January 2011 alone. Under the Department's proposal, the list of customers *receiving* reimbursements comes to resemble the list of customers *financing* the reimbursements. In short, the proposal seems to require maximum rigor to achieve ever diminishing benefits.

Given the shortcomings of the prior two proposals, the Commission concludes that OAG's proposal is the most balanced. It reflects the desire to direct compensation to the most injured parties while acknowledging the imperfect nature of the remedies available. Consequently the Commission will direct CenterPoint to treat bills for periods exceeding 32 days as elongated, and to calculate any bill adjustment on that basis.

D. Eligibility for Reimbursement – Former Customers

1. Positions of the Parties

CenterPoint proposes to implement its remedies for elongated bills by providing a credit to the affected customers' bills. In the interest of administrative simplicity, and acknowledging that any remedy will be an imperfect remedy, CenterPoint does not propose to issue refunds to former customers.

[12] CenterPoint Energy Gas Rate Book (Minnesota), § 9.01.

The Department and OAG argue that CenterPoint's proposal discriminates inappropriately against former customers. While acknowledging the benefits of administrative simplicity, the Department argues that a remedy that excludes former customers would have a disparate impact on people with low income because they tend to move more frequently – and therefore become former customers more frequently -- than other customers.

Moreover the Department and OAG argue that CenterPoint, as part of its process for implementing rate changes, has already developed the administrative capacity to issue refunds to former customers. When a Minnesota public energy utility files a general case to raise rates, the utility will typically ask that some of the proposed rate increase take effect on an interim basis pending Commission decision on the entire case.[13] If the Commission ultimately sets rates lower than the interim rates, the utility must reimburse ratepayers for the difference between the interim and the final rates.[14] In this context CenterPoint issues refunds to its former customers.

Consequently the Department and OAG recommend that CenterPoint employ its process for administering interim rate refunds: current customers would receive a bill credit, and former customers would receive a refund – provided the amount of the refund exceeds some threshold level. The Department and OAG recommend that the Commission relieve CenterPoint of the duty to issue a refund to a former customer – and relieve ratepayers of the cost of financing the refund – if the sum involved is $2.00 or less.

Finally, the Department proposes that any unclaimed refunds be treated as abandoned property governed by Minn. Stat. § 345.34. Again, this recommendation is consistent with CenterPoint's past practice in administering interim rate refunds.

2. Commission Action

Because CenterPoint has developed the capacity to administer refunds when dealing with interim rates, the Commission will adopt the recommendations of the Department and the OAG to direct CenterPoint to employ those practices in the current docket.

In particular, CenterPoint must issue bill credits and refunds to current and former customers in the same manner it would issue refunds for interim rates. By issuing refunds to former customers, CenterPoint will avoid undue discrimination against low-income customers. But the Commission concurs with the Department and the OAG that CenterPoint need not issue a refund to any former customer if the refund does not exceed $2.00.

E. Housekeeping Matters

Finally, CenterPoint and the Department agree that CenterPoint should make the following compliance filings to ensure prompt compliance with this order:

[13] Minn. Stat. § 216B.16, subd. 3.

[14] *Id.* at subd. 3(c); Minn. Rules, part 7825.3300.

- Within 60 days of the date of this order, CenterPoint would implement a bill adjustment plan reflecting the decisions of this order.

- Within 10 days of completing all bill adjustments and refunds required by this order, CenterPoint would file a report summarizing the bill adjustments by month and by class.

The Commission finds that these filings would help facilitate oversight of these refunds. Consequently the Commission will incorporate them into this order.

<u>ORDER</u>

1. Within 60 days of the date of this order, CenterPoint shall implement a bill adjustment plan to compensate customers who CenterPoint billed for gas consumed for elongated periods, as set forth below:

   A. CenterPoint shall make bill adjustments for customers whom CenterPoint billed for a period exceeding 32 days if the billing date occurred and the bill was rendered between July 1, 2010 and October 13, 2011.

   B. In calculating the bill adjustment for each customer, CenterPoint shall estimate the amount of gas used during the “elongated” part of the billing period by multiplying the estimate of the customer’s average daily gas consumption by the number of days that the billing period exceeded 32 days.

   C. Where CenterPoint owes a bill adjustment exceeding $2 to a party that is no longer a customer of CenterPoint, CenterPoint shall issue a refund to the customer.

   D. Generally, CenterPoint shall apply the process used to determine eligibility for an interim rate refund to these bill adjustment and refunds.

2. CenterPoint shall file a report summarizing the bill adjustments, by month and by class, within 10 days after completing all bill adjustments and refunds.

3. In filing its September 1, 2012 Annual Automatic Adjustment (AAA) report and true-up filings, CenterPoint shall allocate the cost of the bill adjustment plan proportionally between the Residential customer class and the Small Volume Commercial & Industrial Sales Service classes A & B.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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