REPORT TO THE LEGISLATURE ON DECOUPLING AND DECOUPLING PILOT PROGRAMS UNDER MINNESOTA STATUTES §216B.2412

Submitted by the Minnesota Public Utilities Commission

April 2010

INTRODUCTION

The Statutory Requirement

Minnesota Laws 2007, Chapter 136, Article 2, Section 6 provides the following:

> **[216B.2412] DECOUPLING OF ENERGY SALES FROM REVENUES.**
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> 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*[1] 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.
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> Subd. 3.**Pilot programs.** The commission shall allow one or more rate-regulated utilities to participate in a pilot program to assess the merits of a rate-decoupling strategy to promote energy efficiency and conservation. Each pilot program must utilize the criteria and standards established in subdivision 2 and be designed to determine whether a rate-decoupling strategy achieves energy savings. On or before a date established by the commission, the commission shall require electric and gas utilities that intend to implement a decoupling program to file a decoupling pilot plan, which shall be approved or approved as modified by the commission. A pilot program may not exceed three years in length. Any extension beyond three years can only be approved in a general rate case, unless that decoupling program was previously approved as part of a general rate case. The commission shall report on the programs annually to the chairs of the house of representatives and senate committees with primary jurisdiction over energy policy.

This report is intended to fulfill the report requirement of this section.

Definition of Decoupling

Minnesota Statutes, Section 216B. 2412 states that decoupling is "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." In other words, decoupling is intended to minimize or remove financial inhibitions utilities claim limit their investment in cost effective energy efficiency and other clean energy resources located "behind the customer's meter."

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[1] On May 19, 2009, the Omnibus Energy Bill, SF 550 [Minn. Laws 2009, Chapter 110] was enacted. Section 21 of the law (italics added by Staff) amended Minn. Stat. §216B.2412 to provide the additional procedural options to the Commission for establishing criteria and standards.

Establishment of Revenue Decoupling Criteria and Standards

Minnesota Statutes 2008, Section 216B.2412, Subdivision 2 requires the Commission to establish criteria and standards for decoupling. In order to reach an informed decision on how best to establish these standards, the Commission contracted with the Regulatory Assistance Project (RAP) to coordinate a stakeholder input process and to prepare a written report detailing decoupling program options. RAP facilitated several meetings with commissioners, Commission staff, and stakeholders, and issued its final report on June 30, 2008.

Following receipt of the RAP Report, the Commission solicited comments from interested parties on the findings and recommended decoupling criteria and standards in the Report. Ten parties filed comments and reply comments. Parties discussed decoupling's objective, pilot program implementation and timing, ratepayer impact, customer class inclusion, pilot evaluation criteria, as well as several other issues raised by the RAP report and Commission staff's Notice Seeking Comments.[2]

The Commission met on May 28, 2009 and ordered the establishment of criteria and standards for pilot decoupling programs. The Commission detailed what information should be provided in the initial proposal of a decoupling pilot, how the proposal would be reviewed, and what information, at a minimum, should be provided for the annual evaluation of approved pilots. The Commission also ordered CenterPoint Energy to file additional information explaining how their proposed decoupling pilot satisfied the requirements of the Commission's Criteria and Standards Order.

The Commission's *Order Establishing Criteria and Standards to be Utilized in Pilot Proposals for Revenue Decoupling, In the Matter of a Commission Investigation Into the Establishment of Criteria and Standards for the Decoupling of Energy Sales from Revenues, Docket No. E,G-999/CI-08-132, June 19, 2009* is enclosed.

CenterPoint Energy's Conservation Enabling Rider, Pilot Decoupling Program

CenterPoint Energy's initial proposal was filed within their 2008 rate case, Docket No. G-008/GR-08-1075, and included a full decoupling mechanism.[3] On June 26, 2009 CenterPoint Energy, Energy Cents Coalition, and the Minnesota Center for Environmental Advocacy/Izaak Walton League of America (Stipulating Parties) filed a Stipulation that proposed a limited pilot

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[2] The Public Utilities Commission provided a copy of the Regulatory Assistance Project report with its January 30, 2009 legislative report. The report, comments, and related documents can be found via eDockets at www.edockets.state.mn.us under "08" – "132".

[3] Full decoupling insulates a utility's revenue from deviation of actual sales from expected sales, regardless of the cause of that deviation. Partial decoupling operates similarly to full decoupling, except only a portion of the deviation from actual sales is trued up. Limited decoupling limits adjustments for sales losses to specific causes of deviation, such as weather or conservation.

decoupling program (applicable to all small volume firm customers) and an inverted block rate (IBR) structure for gas costs of the Residential and Commercial/Industrial A and B classes.

The Stipulated Agreement modified the initial decoupling proposal by excluding adjustments based on impacts of weather on revenue, instituting a 'cap' on the amount of both upward and downward adjustments, and proposing an inverted block rate for the collection of gas costs for certain classes.

The Commission modified the agreement of the Stipulating Parties to:

1. eliminate the cap on over-collection and require the annual calculation of over-collection and subsequent refund to ratepayers;
2. reduce the cap on under-earning from four to three percent;
3. require the annual decoupling adjustment be displayed as a separate line item on customers' bills;
4. require the Company to provide an evaluation plan in addition to the reporting requirements established in the Criteria and Standards Order;
5. require the joint effort of the Stipulating Parties to provide, within 90 days of the Order, proposals for new/enhanced conservation projects.

Additional issues raised in the proceeding, such as the decoupling pilot's impact on cost of capital and the simultaneous implementation of the pilot and the IBR structure, are discussed in the body of the Commission's January 11, 2010 *Findings of Fact, Conclusions of Law, and Order 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*.

The portion of the January 11, 2010 Order detailing the Commission's decision on decoupling is enclosed.

Other Commission Actions in Response to 2007 Legislation on Energy Conservation

Minnesota Laws, chapter 136, Article 2, § 5, modified energy conservation improvement goals and requirements. Minn. Stat. §216B.241 states:

> Subd. 2c. **Performance incentives**. By December 31, 2008, the commission shall review any incentive plan for energy conservation improvement it has approved under section 216B.16, subdivision 6c, and adjust the utility performance incentives to recognize making progress toward and meeting the energy savings goals established in subdivision 1c.

The Commission's December 29, 2008 *Order Establishing Procedural Framework for Consideration of Utility Performance Incentives for Energy Conservation, In the Matter of Commission Review of Utility Performance Incentives for Energy Conservation Pursuant to Minn. Stat. §216B.241, Subd. 2c, Docket No. E,G-999/CI-08-133* established procedures for evaluation of whether and what changes to the current incentive were needed and requested the development of a Workgroup to define incentive models and implementation options.

Following a year of collaboration between utilities, the Office of Energy Security, and other interested stakeholders, the Commission's January 27, 2010 *Order Establishing Utility Performance Incentives for Energy Conservation, In the Matter of Commission Review of utility Performance Incentives for Energy Conservation Pursuant to Minn. Stat. §216B.241, Subd. 2c, Docket No. E,G-999/CI-08-133* established a new utility performance incentive for energy conservation. The Order incorporated several elements detailing the mechanics of the new Shared Savings Model including a cap on the potential incentive award and the calibration of the incentive for specific utilities.

The Order also addressed how the incentive should be adjusted for a utility with an approved decoupling pilot. The Order required CenterPoint and OES to evaluate the "proper adjustment (lowering) of the incentive calibration based on the Commission's recent rate case Order."[4]

On March 25, 2010, the Commission met to determine the proper adjustment of CenterPoint Energy's financial incentive in light of the utility's approved decoupling pilot program. The OES and CenterPoint agreed on a reduction of the incentive calibration from $4.50 per Mcf to $3.00 per Mcf[5], although the parties arrived at consensus using differing methods of analysis. The Commission ordered the agreed upon reduction in their April 12, 2010 *Order Reducing Financial Incentive Calibration, In the Matter of Commission Review of Utility Performance for Energy Conservation, Docket No. E,G-999/CI-08-133*.

The Commission's January 27, 2010 and April 12, 2010 Orders are enclosed.

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[4] ORDER ESTABLISHING UTILITY PERFORMANCE INCENTIVES FOR ENERGY CONSERVATION, I*n the Matter of Commission review of Utility Performance Incentives for Energy Conservation Pursuant to Minn. Stat. §216B.241, Subd. 2c*, January 27, 2010.

[5] Should CPE achieve the energy savings approved by the OES, reducing the incentive calibration has the effect of reducing the company's total incentive for 2010-2012 from approximately $10,132,093 to approximately $6,531,863.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of A Commission Investigation Into the Establishment of Criteria and Standards for the Decoupling of Energy Sales from Revenues

ISSUE DATE: June 19, 2009

DOCKET NO. E,G-999/CI-08-132

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 decoupling[1] 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

[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.

The Commission requested comments from interested parties by August 29, 2008, and reply comments by September 30, 2008.

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 <u>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</u> 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),[4] 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

[4] Full decoupling insulates a utility's revenue collection form 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[5]
- 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"[6]
- 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[7]

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[8]

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.

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[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

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota

ISSUE DATE: January 11, 2010

DOCKET NO. G-008/GR-08-1075

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL HISTORY

I. Initial Filings

On November 3, 2008, CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (CenterPoint or the Company), filed a general rate case seeking an annual rate increase of some $59,800,000, or approximately 3.9%.

The filing also included the first utility proposal to implement a pilot program under Minnesota's decoupling statute, Minn. Stat. § 216B.2412, which requires the Commission to permit at least one rate-regulated utility to participate in a pilot program to assess the merits of a rate-decoupling strategy to promote energy efficiency and conservation.

On December 22, 2008, the Commission issued three orders in this case: one finding the rate case filing substantially complete and suspending the proposed final rates; one referring the case to the Office of Administrative Hearings for contested case proceedings; and one setting interim rates for the period during which the rate case was being resolved. Also on December 22, the Commission issued an order setting a new base cost of gas for the period during which interim rates would be in effect.[1]

On December 17, 2008, the Company filed a limited waiver of its rights under Minn. Stat. § 216B.16, subd. 2 (a) and (e), agreeing to extend the due date for a final determination on the rate case to January 11, 2010.

[1] *In the Matter of a Petition by CenterPoint Energy to Zero Out the Purchased Gas Adjustment and Establish a New Base Cost of Gas to Coincide with the Implementation of Interim Rates*, Docket No. G-008/MR-08-1320.

indicate that the incidence of high usage in the group of LIHEAP eligible customers who do not receive LIHEAP is higher than in the group that does receive LIHEAP.

Further alleviating the impact of the inverted block rate structure on low-income high-usage customers, the Stipulating Parties have already identified for serious cooperative work conservation programs targeting high consumption LIHEAP customers and low-income renters. The Commission specifically encourages such work and will look to the annual report for progress in this regard.

Third, the OES raised a concern that if the higher blocks lead customers to switch to electric space heating there may be a negative effect upon the environment. CenterPoint persuasively responded that the likelihood of customers at the high usage end of the blocks switching to electric space heating as a result of the inverted block rate structure was remote due to high conversion costs making that eventuality economically unrealistic.

Fourth, the OES also expressed concern for the potential impact on electricity rates that may result if the rates in the higher blocks would lead customers to switch from gas to electricity. Again, the Commission finds that it is unlikely, in light of the high conversion costs necessary to switch from gas to electric heating, that electric rates would be significantly impacted.

Fifth, the OES raised for consideration the need to carefully monitor any changes to the PGA and the annual PGA true-up resulting from implementation of IBRs. The Commission appreciates the heads-up on those issues but finds that the monitoring called for can be done without preventing the inverted block rate structure from going into effect as a pilot project.

Finally, in terms of the goals of the decoupling statute, the Commission finds that the inverted block rate structure is designed to actually achieve the statutory goal of energy savings and is, in fact, the most specific part of the Stipulating Parties' proposed decoupling program to achieve those savings.

With respect to the statute's goal of reducing CenterPoint's disincentive to promote energy efficiency, the Commission finds that while this is not the purpose or effect of the inverted block rate structure, approval of this structure as part of the Decoupling Program does not impede achievement of that goal, a goal which is fully addressed in the next section focusing on the proposed Decoupling Program as a whole.

VI. The Pilot Decoupling Program

A. Introduction

Traditional regulation does not set a utility's revenues, only its prices. Once prices are set, the utility's financial performance depends on two factors: its levels of sales and its ability to manage its costs. Because, under most circumstances, a utility's marginal revenue significantly exceeds its short-run marginal costs, the impacts on profits from changes in sales can be profound. Moreover, the change in profits is disproportionately greater than the change in revenues. A utility therefore typically has a very strong incentive to increase sales and, conversely, an equally strong incentive to protect against decreases in sales.

These incentives, collectively referred to as the "throughput incentive," inhibit a company from supporting investment in and use of least-cost energy resources, even when those resources are the most efficient, and it encourages the company to promote incremental sales, even when they are wasteful.

In 2007, the Minnesota Legislature enacted a new statute, Minn. Stat. § 216B.2412, which defined an alternative approach to utility regulation, decoupling, and directed the Commission to "establish criteria and standards" by which decoupling could be adopted by the state's rate-regulated utilities. In addition, the legislation authorized the Commission to allow one or more utilities "to participate in a pilot program to assess the merits of a rate-decoupling strategy to promote energy efficiency and conservation," subject to the criteria and standards that the Commission will have established.

Minn. Stat. § 216B.2412 states that decoupling is "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." Specifically, decoupling takes aim at one of the critical barriers to increased investment in cost-effective energy efficiency and other clean energy resources located "behind the customer's meter," namely, the potentially deleterious impacts that such investment can have on utility finances under traditional cost-of-service regulation. Other key goals for decoupling expressed in the statute are to achieve energy savings[12] and not adversely affect ratepayers.[13]

B. The Decoupling Program Proposed in the Parties' Stipulation

On July 15, 2009, CenterPoint, ECC, and the Minnesota Center for Environmental Advocacy/Izaak Walton League (collectively, the Stipulating Parties or the Parties) filed a Stipulation of Certain Issues. The Stipulation included the Parties' agreement on specifics of a pilot decoupling program, including a mechanism to recover without filing a rate case financial losses due to reduced sales resulting from all factors other than abnormally warm weather, including economic conditions, rising gas costs, and increased building code and appliance standards. It also presented the Parties' agreement regarding the inverted block rate design for gas costs, a rate cap on the annual rate adjustment of four percent upward or downward, and the impact of that program on cost of capital.

The Stipulation 1) specified that no adjustment to the Company's authorized cost of capital would be appropriate due to Commission approval of the Decoupling Program, 2) announced the Stipulating Parties' support for the Company's proposed Residential and Commercial/Industrial rate design as set forth in the Company's initial filing, including a residential monthly basic charge of $8.00, 3) provided that the decoupling adjustment on a volumetric basis would be included on the customer's bill as part of the delivery charge and not be displayed as a separate line item on the customer bill, and 4) required the Parties to work cooperatively to identify and implement new

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[12] This goal is most directly indicated in Subd. 3 of the statute. In describing pilot decoupling programs, the statute states in part: "Each pilot program must . . . be designed to determine whether a rate-decoupling strategy achieves energy savings."

[13] This goal is stated in Subd. 2 of the statute. In describing the criteria and standards that the Commission is required to design for decoupling programs, the statute indicates that the purpose of the criteria and standards is to ". . . mitigate the impact on public utilities of the energy-savings goals under section 216B.241 *without adversely affecting utility ratepayers*." (Emphasis added.)

conservation programs, modifications to existing programs and new delivery mechanisms, including programs identified in the recent conservation and efficiency "potential study" performed by Navigant consulting (the "Navigant Report") and programs targeting high consumption LIHEAP households and low-income renters.

The Stipulation modified the Decoupling Program and accompanying Rider originally proposed by CenterPoint by 1) excluding adjustments based on variations in weather; 2) instituting a "cap" of the amount of any upward or downward rate adjustments; and 3) proposing an inverted block rate structure for gas costs for certain rate classes.

C. The Stipulating Parties' Comments

1. CenterPoint's Comments Regarding the Decoupling Program

CenterPoint argued that the Parties' stipulated Decoupling Program meets the legislative directive and Commission criteria and standards, is in the public interest, and should be approved.

The Company defended the exclusion of the dual fuel classes (Small Volume Duel Fuel and Large Volume Dual Fuel), explaining that the exclusion of these classes is reasonable since these customers' usage is more tied to general economic conditions than the firm sales classes that are included in the Decoupling Program, i.e., all Residential and Commercial/Industrial rate classes A, B, and C.

The Company asserted that the mechanics of the Decoupling Program have been set forth and provide a transparent, easy to follow process.

The Company stated that the Stipulation requires service quality monitoring that will allow for service quality levels to be maintained and proposes an annual evaluation that will allow the Commission to judge if the Program is meeting the Legislature's goals.

At the oral argument on this matter, CenterPoint and the other Stipulating Parties, agreed to modify their Decoupling Program proposal in the following respects. First, they agreed to be required to propose within 90 days of this Order, new or enhanced conservation projects for review through the Conservation Improvement Program (CIP) process for analysis and recovery, and to obtain Commission approval of those programs in the context of this rate case.

Second, they agreed that the rate cap provisions would be modified as follows: at the end of the Program year, any under recovery (revenues falling below the authorized amount by three percent or less) would be recovered by the Company through the annual Decoupling Program rate adjustment and any over recovery (i.e., revenues above the authorized target) would be refunded to ratepayers, also through the annual Decoupling Program rate adjustment.

2. ECC's Comments Regarding the Decoupling Program

ECC argued that the best evidence that the proposed decoupling mechanism does, in fact, reduce the Company's disincentive to promote energy efficiency, is that the Company has agreed to a rate design proposal that rewards low usage customers and provides incentives to higher usage customers to reduce their natural gas consumption.

In addition, ECC stated, the Company has agreed to implement new and enhanced conservation programs that would not have been offered without the decoupling proposal. According to the ECC, the proposed decoupling mechanism has not only removed CenterPoint's disincentive to promote energy efficiency but also provides an affirmative incentive to pursue additional conservation opportunities.

3. MCEA/IWLA's Comments Regarding the Decoupling Program

Minnesota Center for Environmental Advocacy/Izaak Walton League of America (MCEA/IWLA) stated that because of the societal imperative to reduce historical consumption levels of fossil fuels, efforts such as the Stipulation to neutralize and reverse public utilities' "throughput incentive" should be supported. With the Stipulation in place, MCEA/IWLA argued, stakeholders have the opportunity to address, on a pilot basis, an otherwise perverse dynamic that penalizes utilities' energy efficiency success and rewards their energy efficiency failure.

MCEA/IWLA stated that the record of this rate case demonstrates that the costs to consumers associated with implementation of the Stipulation are extremely low, and the potential cost savings to consumers are vastly greater. To fully evaluate the public interest, MCEA/IWLA acknowledged, the Commission must consider whether a pilot program like the Stipulation imposes significant costs to CenterPoint consumers, but must place the magnitude of the proposed change into perspective by viewing the increase resulting from the decoupling program in the context of the customer's entire bill.

MCEA/IWLA stated that since gas supply costs are the dominant component of average residential and small commercial customer bills, the potential reductions in those costs to customers in the long-term, due to efficiency-related reductions in gas use should far exceed the amount spent in the distribution component of the bill to implement the Stipulation.

MCEA/IWLA also disputed the OES and RUD-OAG assertion that the Decoupling Statute requires a showing that a Decoupling Program will exceed statutory energy sales reduction goals. MCEA/IWLA stated that the plain language of Minn. Stat. § 216B.2412 does not contain such a requirement. According to the MCEA/IWLA, when the Legislature instructed the Commission to adopt criteria and standards for decoupling "to mitigate the impact on public utilities of the energy-savings goals under Minn. Stat. § 216B.241without adversely affecting utility ratepayers."[14], it did not limit its directive to mitigate the impact on public utilities of exceeding those energy savings goals. If the Legislature intended that decoupling programs should be restricted in the way OES and RUD-OAG desire, MCEA/IWLA argued, it could have said so, but did not.

Further, MCEA/IWLA disputed the OES's expressed concern that approval of the Stipulation would risk upsetting customers' incentives to conserve energy. MCEA/IWLA stated that the record amply demonstrates that because natural gas costs make up 80 percent of a CenterPoint customer's bill, customers will receive the greatest share of the economic benefit from the reductions in energy use. Any increase in the distribution component of the customer's rate, MCEA/IWLA argued, is dwarfed in comparison.

[14] Minn. Stat. § 2168.2412, subd, 2.

4. The OES's Comments Regarding the Decoupling Program

The OES argued that the Stipulating Parties' Decoupling Program does not comply with the Decoupling Statute, Minn. Stat. § 216B.2412. First, it asserted, the Stipulation does not provide necessary details about how increased energy efficiency will be gained. Second, it argued, ratepayers will not benefit from increased energy efficiency beyond what the Company is already required to do pursuant to the Company's Triennial Plan under Minn. Stat. § 216B.241. Third, the pilot decoupling program inappropriately would allow the Company to impose adjustments to Small Volume Firm customer classes based on causes other than increased energy savings, except weather. Fourth, ratepayers will be adversely affected by implementation of the decoupling mechanism and the inverted block rate structure.

The OES also objected to several other specific features of the Stipulation's Decoupling Plan.

First, the OES objected to the provision capping the amount of the decoupling adjustment in the CE Rider at four percent. The OES noted that the Stipulation includes no requirement prohibiting the Company from assessing a surcharge even though the authorized rate of return is being achieved. The OES argued that if the Company earns more than its authorized revenue requirement, the Company will earn a rate of return based on unreasonable rates. The OES stated that this clearly would be an adverse impact upon ratepayers that should not be permitted.

Second, the OES objected to CenterPoint's proposal not to show the annual adjustment as a separate line item on customer bills. The OES stated that providing no information regarding the decoupling mechanism or the rate impact on their monthly bills would adversely affect customers, making it nearly impossible to provide feedback to the Commission regarding the program.

Third, the OES objected that while customers are in danger of increased charges that trigger the four percent cap in CenterPoint's favor, it is highly unlikely that the four percent cap triggering significant refunds to customers would ever occur, especially since the decoupling mechanism adjusts for increased numbers of new customers.

Fourth, the OES objected that the Parties' proposed evaluation plan lacks adequate reporting requirements. The OES specifically recommended that the Commission require, in addition to the reporting requirements identified in Docket No. E,G-999/CI-08-132, an evaluation plan modeled after a plan developed and implemented by the Washington Utilities and Transportation Commission to monitor and evaluate a decoupling pilot program.[15]

Fifth, the OES objected that the Stipulating Parties' stated commitment to work together to effectuate new conservation programs lacks explanation and supporting details demonstrating links between the decoupling mechanism and the attainment of energy savings. In connection with that objection, the OES continued to assert that the Company must provide identifiable details of programs that will be undertaken to achieve conservation saving "beyond what is required by law."

Sixth, the OES objected to applying the proposed decoupling mechanism to the Small Volume Firm customers only and excluding the other customer classes. Since all customer classes contribute to the fluctuation of the Company's revenue, the OES argued, all should be included in the Decoupling Program.

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[15] See OES Exh. 619, Attachment (VCC-19).

Seventh, the OES indicated that a decoupling mechanism should compensate the Company only for reduced revenues due to measurable increased energy efficiency. Since the Stipulating Parties' proposed decoupling mechanism adjusted for all variations in consumption (except for those due to weather) even when those factors were out of the control of both the Company and the ratepayers, the OES stated that it could not conclude that the proposed decoupling mechanism was in the public interest, addressed the purpose of Minn. Stat. § 216B.2412, and did not adversely impact ratepayers.

5. The RUD-OAG's Comments Regarding the Decoupling Program

The RUD-OAG recommended that CENTERPOINT's decoupling proposal should not be approved by the Commission. The RUD-OAG stated that because this is the first decoupling pilot project proposed since the passage of the statute which authorizes such pilots, it is incumbent upon the Commission to approve an initial pilot only if it satisfies the requirements established by the Legislature, including the requirement that it be implemented "without adversely affecting utility ratepayers." The RUD-OAG asserted that because CenterPoint's decoupling proposal does not meet these criteria, it should be denied.

The RUD-OAG objected that the Stipulated Decoupling Program lacked any commitment to new conservation programs. Further, like the OES, the RUD-OAG found the Stipulation objectionable because it does not require CenterPoint to demonstrate that decoupling results in decreasing CenterPoint's sales of natural gas, which, the RUD-OAG stated, is the goal of the decoupling statute.

The RUD-OAG also agreed with the OES that revenue decoupling mechanisms must be focused on energy savings accomplishments and not merely provide compensation for other events such as price or economic conditions that are out of the control of either the Company or ratepayers. The RUD-OAG stated that because Minn. Stat. § 216B.2412, subd. 2 limits the function of decoupling to "mitigate the impact on public utilities of the energy savings goals under section 216B.241 without adversely affecting utility ratepayers," the Commission cannot lawfully approve a decoupling proposal that ensures revenue stability for other reasons such as price variations or changing economic conditions.

The RUD-OAG agreed with the OES on several other objections to the Stipulated Decoupling Program, stating

- CenterPoint's decoupling proposal does not incorporate a reduced rate of return that acknowledges the reduced risk occasioned by decoupling, but instead asks for an increased authorized rate of return if its decoupling proposal is rejected.[16]

- CenterPoint's decoupling proposal excludes the large commercial/industrial customers, where there is the greatest energy saving potential, and would be imposed solely on residential and small business customers.

- The Stipulation includes an increase in the residential monthly customer charge from $6.50 to $8.00, which increases the guaranteed revenue stream that would already be incorporated in the decoupling proposal.

[16] The Commission addresses this issue separately, later in this Order.

- The decoupling proposal does not identify any specific conservation efforts that CenterPoint will undertake as a result of decoupling nor any higher conservation goals.

- The four percent cap on the upward limit of rate adjustments due to decoupling could provide CenterPoint with a $26.8 million windfall with regard to residential sales alone.

- It is unclear how the Stipulation's inverted block commodity rate will work in conjunction with the PGA.

- By proposing to have no separate line item on customers' bills showing the impacts of decoupling which institutes such a fundamental change in ratemaking, no price signal will be sent to the affected customers.

6. The SRA's Comments Regarding the Decoupling Program

The SRA opposed the Decoupling Proposal. The SRA objected to the decoupling-now conservation-programs-later approach of the Proposal. The SRA stated that the Decoupling Proposal leaves far too much to future negotiations while CenterPoint immediately mitigates its revenue recovery risk with decoupling. According to the SRA, decoupling and ready-to-implement conservation programs should go hand-in-glove under the pilot envisioned by the enabling statute.

D. The ALJ's Recommendation Regarding the Decoupling Program

The ALJ concluded, based on a thorough review of the record, that CenterPoint and the other Stipulating Parties demonstrated that, with the exception of the separate line item issue discussed below, that the Decoupling Program as agreed to and outlined in the Stipulation and accompanying CE Rider meets the requirements for a Pilot Decoupling Program pursuant to Minn. Stat. § 216B.2412 and the Commission's June 19, 2009 Decoupling Order.[17] The ALJ concluded that the Decoupling Program is designed to encourage CenterPoint to pursue energy efficiency free from the competing goals of profitability and support of the State's energy goals and that because the Decoupling Program will adjust rates annually on the gas delivery charge, which is typically only 20-30 percent of a customer's bill, the adjustment will not "adversely affect . . . ratepayers."

With respect to the separate line item issue, the ALJ recommended that CenterPoint be required to list the Decoupling Adjustment on a separate line on ratepayers' bills, as recommended by the OES and the RUD-OAG, rather than including it in the delivery charge.

E. The Commission's Analysis and Action Regarding the Decoupling Program

1. Summary

The Commission finds that the Stipulating Parties' pilot Decoupling Program, as modified in this Order, fully meets the Legislature's directive for a decoupling program by separating the Company's sales from revenues, in order to remove the disincentive for the Company to pursue

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[17] See *In the Matter of a Commission Investigation Into the Establishment of Criteria and Standards for the Decoupling of Energy Sales From Revenues*, Docket No. E,G-999/CI-08-132, ORDER ESTABLISHING CRITERIA AND STANDARDS TO BE UTILIZED IN PILOT PROPOSALS FOR REVENUE DECOUPLING (June 19,2009).

conservation, while not adversely impacting ratepayers. It will open the door to greater conservation and provide net ratepayer benefits.

Objections raised by opponents of the Program, some of which have resulted in modifications to the Program as identified below, do not persuade the Commission otherwise. Analysis of the Program utilizing the criteria and standards established by the Commission for pilot decoupling programs supports the Commission's action in this regard.

2. Objections to the Program

Since the OES's objections essentially encompassed the objections of all the objecting parties (OES, RUD-OAG, and the SRA), the following discussion focuses on them as a means of efficiently addressing them all. In other instances, concerns raised by the RUD-OAG as objections to the Decoupling Program are addressed in other sections of this Order.

Cap Issues: The OES argued that the provision capping the decoupling adjustment would allow CenterPoint to adjust for revenue losses even if this meant earning more than its revenue requirement. In such a case, the OES argued, the Company's effective rates would be unreasonable. However, it is the goal of the decoupling statute to separate utility revenue from sales, a goal which the cap feature achieves.

The OES also objected to the size of the cap. The Commission finds merit in that concern and will lower the cap on adjustments for underearning from four to three percent. The OES also objected that there should be no cap on refunds. The OES cautioned that even if the Company overearns, the trigger may never be activated. The Commission agrees and will require the cap mechanism to be altered so that all overearnings are to be annually calculated and returned to ratepayers.

Contrary to CenterPoint's assertion, there is nothing inherently fair about requiring overearnings to reach a certain threshold (4 percent) before they are recognized and returned to rate payers. In so deciding, the Commission recognizes that it departs from the ALJ's recommendation regarding the cap provisions in those two regards, but respectfully does so for the reasons stated.

Separate Line Item Issue: The Commission agrees with the ALJ that, as recommended by the OES and the RUD-OAG, the annual decoupling adjustment should appear on customer bills as a separate line item. The Commission will require CenterPoint to alter its Decoupling Program accordingly. Such a requirement is consistent with the Commission criteria that the Decoupling Program provide a transparent, easy to follow process.

Reporting Requirements: The OES objected that the Parties' evaluation plan lacked adequate reporting requirements. The Commission agrees with the OES that it is critical, particularly with respect to a pilot decoupling project, that the Commission be able to assess the effectiveness of the program. To conduct such an evaluation successfully, adequate information will be key. Accordingly, the Commission will increase its evaluation capacity by requiring the Company to provide an evaluation plan, in addition to the reporting requirements identified in Docket No. E, G-999/CI-08-132, modeled after the plan developed and implemented by the Washington Utilities and Transportation Commission to monitor and evaluate a decoupling pilot program. Finally, to help the Commission fulfill its statutory obligation to assess the merits of a rate-decoupling strategy to promote energy efficiency and conservation, the Commission will

direct CenterPoint to include, as part of its annual report, what level of energy savings has resulted from the decoupling mechanism and what level is attributable to the inverted block structure.

Parties' Commitment to Work Together: the OES objected that the Program proposed no specific conservation programs demonstrating a link between the decoupling mechanism and the attainment of energy savings. The Commission sees the inverted block rate structure, which is an integral part of the Stipulating Parties' proposal, as one specific conservation program aimed at achieving energy savings and does not believe that the lack of additional program specifics necessarily warrants disapproval of a pilot decoupling program, provided the Parties' commitment to work together to develop additional new conservation programs is shown to provide a real path to prompt initiation of new, well-planned conservation programs. Accordingly, as a condition of its approval of the Decoupling Program, the Commission will require CenterPoint to file, within 90 days of this Order, proposals for new and enhanced conservation projects with the Commission for evaluation in the context of this rate case, and with the OES through the CIP process for analysis and rate recovery.

Inclusion/Exclusion of Classes: the OES asserted that the decoupling mechanism should apply to all customer classes. The only classes not included in the Program are Large Firm General Service, and the Small Volume Dual Fuel and Large Volume Dual Fuel classes. The Commission finds, as did the ALJ, that the exclusion of these classes from the Program is reasonable because these classes' usage is more closely tied to general economic conditions than the firm sales classes.

Scope of Decoupling Mechanism: the OES argued that a decoupling mechanism could legally compensate the Company only for reduced revenues resulting from measurable increased energy efficiency. The Commission does not interpret Minn. Stat. § 216B.2412 as limiting decoupling programs to this extent. The plain language of the statute does not support the OES's narrow view. The statute states:

> For the purpose of this section, "decoupling" means a regulatory tool designed to separate a utility's revenue from changes in energy sales.

The statute does not state that decoupling is a tool to separate a utility's revenue from changes in energy sales "due to implementation of a decoupling mechanism" or "due to changes in energy sales resulting from specific energy conservation programs implemented as part of a decoupling project." If the legislature had intended to limit decoupling in the manner suggested by the OES, it could have easily done so but did not. The OES may not now read such a limitation into the statute.

Further indication that the legislature did not intend the limitation proposed by the OES is that in directing the Commission to establish standards and criteria for decoupling programs it required the Commission to consider "energy efficiency, weather, and cost of capital, among other factors."[18] To interpret the statute as limiting decoupling to mechanisms adjusting for measureable energy efficiency resulting from implementation of the decoupling mechanism would read that directive out of the statute. Under the established rules for statutory interpretation, the Commission cannot do that.[19]

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[18] Minn. Stat. § 216B.2412, subd. 2.

[19] See Minn. Stat. § 645.17(2).

As a consequence, the Commission finds that the scope of the decoupling proposed by the Stipulating Parties, a partial decoupling which adjusts for revenue losses due to some factors in addition to conservation savings, is within the scope of decoupling authorized by the statute.

3. Conclusion Regarding the Decoupling Program, As Modified

The Stipulating Parties' Pilot Decoupling Program will be approved, as modified. Such a Program will allow the Commission to determine, as the legislature has directed, whether a rate-decoupling strategy achieves energy savings. The Parties have expressed their belief that the Program will lead to increased energy savings and that the annual evaluations of the Program will demonstrate that fact.

While no pilot program can guarantee a particular result in advance, the Decoupling Statute does not require such a guarantee as a precondition for approving a pilot project. As constituted herein, however, CENTERPOINT's pilot Decoupling Program is prudently and providently launched toward energy conservation and net ratepayer benefits, with the Commission well-positioned to encourage meaningful conservation measures while carefully monitoring the Program's impacts and achievements.

VII. Decoupling Effect on Return on Equity

A. Introduction

In this Order, the Commission has authorized as a pilot project a partial decoupling plan for CenterPoint. Since decoupling acts, among other things, to stabilize CenterPoint's revenues by adjusting for the loss of revenues due to the reduction of sales due to certain factors, the issue arises whether that amount of revenue stabilization, by reducing the risk exposure of debt and equity investors, warrants a downward adjustment at this time to the cost of equity and hence, to the return on equity approved for CenterPoint.

B. Positions of the Parties

1. The RUD-OAG

In its initial post-hearing brief to the ALJ, the RUD-OAG asserted that, if the Commission adopted a decoupling program for the Company, CenterPoint's return on equity (ROE) should be adjusted downward by at least 27 basis points. As the basis for its assertion, the RUD-OAG stated that the parties' Stipulation did not incorporate a reduced rate of return that acknowledges the reduced risk occasioned by decoupling.

The RUD-OAG stated that a review of recent regulatory decisions pertaining to decoupling shows that for 19 of the 39 companies represented, the regulatory commissions reduced the authorized ROE as a condition of approval of decoupling, either with a specific number of basis points, a specific reduction in ROE by comparison with the previously authorized ROE, or a general acknowledgement that such reduction was included in its decision-making. The RUD-OAG stated that where a reduction in ROE was specified, or where a reduction in the ROE could be implied because of its being reduced from the previously authorized ROE, the average reduction in ROE is over 27 basis points, with a range of 5 to 125 basis points.

Noting that the OES's recommended ROE is 10.24 percent and a rate of return (ROR) of 8.09 percent, while CenterPoint recommended an ROE range of 10.50 percent to 11.00 percent, with an ROR of 8.03 percent to 8.28 percent, the RUD-OAG recommended a reduction of no less than 27 basis points should be made to these ROE recommendations.

Following the ALJ's Report, the RUD-OAG took exception to the ALJ's findings and recommendation that no downward adjustment to CenterPoint's approved ROE should be made if a decoupling program was approved for the Company. The RUD-OAG produced a shortened list of decisions (10) by other state regulatory commissions that it argued showed that on average, commissions approving decoupling mechanisms in rate cases lowered the utility's ROE by 28.9 basis points.

2. CenterPoint

CenterPoint argued that its expert witness on cost of capital demonstrated that the CE Rider *originally* proposed by the Company did not warrant any downward adjustment to the Company's cost of capital based on the proxy group he used to estimate CenterPoint's cost of equity. In the proxy group used by the Company's witness, seven of the nine proxy companies have some form of rate structure that eliminates or lessens the throughput incentive and five of the nine proxy group companies have more than 50 percent of their operations covered by such a mechanism. In addition, CenterPoint's witness stated, when other rate design mechanisms are incorporated into the analysis, "*all* of the proxy companies employ tariff structures across the majority of their operations that mitigate declining use per customer."

CenterPoint's witness also analyzed the potential impact of the CE Rider on the Company's credit rating. He stated that it appears that, because of the increasing prevalence of decoupling mechanisms and weather normalization adjustments, rating agencies will not necessarily upgrade the credit of a utility for the approval of a decoupling mechanism. He stated that rating agencies increasingly view decoupling mechanisms in the context of revenue stabilization mechanisms and view implementation of such structures as the new status quo for natural gas utilities.[20]

CenterPoint stated that in its expert witness's proxy group, all but one of the companies had a rate structure in place that mitigates the effect of weather, the factor having the greatest impact on consumption, hence revenues. Thus, according to the Company, by not adjusting for weather the stipulated CE Rider makes it more risky than nearly all the proxy group companies, further supporting a determination that no cost of capital downward adjustment is appropriate if the Commission approves it.

Responding to the RUD-OAG's recommendation that the Company's cost of capital be adjusted downward 27 points if the decoupling program were approved, CenterPoint stated that the ROE analyses conducted by both the Company's and the OES's expert witnesses considered and already reflected the impact of Commission approval of the Program. The Company argued that since the RUD-OAG offered no evidence to the contrary, the uncontested evidence in the record was that the Company and OES joint recommendation on cost of capital has already accounted for the decoupling program.

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[20] CPE Ex. 131 at 50 (Hevert).

3. The OES

The OES argued that adoption of the decoupling program proposed in the Stipulation should have no effect on CenterPoint's return on equity.

OES expert witness Dr. Griffing testified that rate-design matters such as the CE Rider must be examined in light of a utility's complete rate design and as part of a set of characteristics of a company that affects its risk. The enhanced revenue stability that may accompany a decoupling mechanism like the CE Rider or higher fixed monthly charges for customers, he stated, is already reflected in the debt ratings of utilities and, thus, need not be accounted for by reducing established ROE.

Such risk factors, the OES argued, were implicitly incorporated into Dr. Griffing's ROE analysis when he used debt ratings as the basis for selecting members of his proxy groups. Consequently, the OES argued, the ROE produced by Dr. Griffing's DCF analysis reflects the entire range of factors that go into establishing a debt rating for a company.

The OES identified CenterPoint's proposed CE Rider, a decoupling mechanism, as one of several revenue stabilization mechanisms (RSMs), which include such other mechanisms as monthly customer charges, purchased gas adjustments (PGAs), and weather normalization clauses. Dr. Griffing's position was that a company's debt rating captures all factors that affect risk and to single out a revenue stabilization mechanism as a reason for adjustment is to count it twice. The counting would occur, the OES argued, once in the selection of the proxy group and again as an *ad hoc* adjustment.

The OES acknowledged that implementation of any RSM, including decoupling, would reduce volatility of revenue collection, thus reducing the risk of the Company in the eyes of investors. However, the OES clarified, the record does not show that such a decrease in risk is large enough to cause a change in the credit rating of a local distribution company such as CenterPoint. The OES noted that the Company's expert testified, consistent with Dr. Griffing's analysis, that no company has had its credit rating increased as a result of implementing revenue decoupling.

C. Recommendation of the Administrative Law Judge

The ALJ found, after reviewing and summarizing the testimony of the Company, the OES, and the RUD-OAG on this issue, that the Company and OES expert witnesses demonstrated that approval of the decoupling program does not necessitate a downward adjustment to the Company's cost of capital. The ALJ rejected the RUD-OAG's proposal to make such an adjustment, finding that its proposal was not adequately supported.

D. Commission Action

1. Summary

The Commission will adopt the ALJ's conclusion that CenterPoint has demonstrated that implementation of the Decoupling Program does not warrant any adjustment to the Company's cost of capital (and resulting ROE) and the RUD-OAG has failed to demonstrate that the Commission should order a downward adjustment to the Company's cost of capital.

The direct testimonies of the Company's expert witnesses (Mr. Hevert) and the OES's expert witness (Dr. Griffing) focused on the Company's original CE Rider, which provided adjustments based on variations in weather and other factors. These witnesses provided extensive analysis that the reduction in Company risk caused by the original CE Rider was insufficient to warrant a downward adjustment to its proposed ROE.

Subsequently, the Stipulation has removed adjusting for variations in weather from the decoupling program (CE Rider), meaning that the amount of risk reduction effected by the approved decoupling program is considerably less than the risk reduction that would have resulted from the initially proposed program, the program analyzed by the CenterPoint and OES expert witnesses. This change considerably strengthens their conclusion that no reduction in the Company's cost of capital/ROE was warranted in response to the Company's decoupling program.

With respect to the RUD-OAG's recommendation, the Commission finds that it has no solid foundation in this record. Specifically, the RUD-OAG has not refuted the OES's analysis and warning against double counting factors already taken into account (credit rating analysis) or the Company's analysis (proxy group analysis). Nor does the Commission find persuasive the RUD-OAG's comparison table listing decisions in other jurisdictions.

2. Analysis of Risk Reduction Impact

Having reviewed the record established in this matter and considered the arguments of all parties, the Commission finds that adopting the stipulated revenue decoupling pilot proposal does not so alter CenterPoint's overall risk so as to warrant reducing the return on equity recommended by the Department.

The direct testimonies of the Company's expert witnesses (Mr. Hevert) and the OES's expert witness (Dr. Griffing) focused on the Company's original CE Rider, which provided adjustments based on variations in weather. They provided extensive analysis that the reduction in Company risk caused by the original CE Rider was insufficient to warrant a downward adjustment to their proposed ROE. Subsequently, the Stipulation has removed adjusting for variations in weather from the decoupling program (CE Rider), meaning that the impact of the approved decoupling program on reducing CenterPoint's risk is considerably less than the risk reduction that would have resulted from the initially proposed program.

The decoupling proposed by the Stipulating Parties and approved by the Commission in this Order classifies as "partial decoupling" and is, in fact, at the conservative end of partial decoupling. Its true up mechanism adjusts for some but by no means not all of the reasons that CenterPoint's actual revenues from the covered classes may be lower (or higher) than predicted and leaves the largest sources of risk unadjusted. Specifically, the decoupling proposed by the Stipulating

Parties and approved here adjusts for revenue losses due to such factors as economic conditions, rising gas costs, and increased building code and appliance standards but does not adjust for the factor which outweighs the sum of the others: fluctuations in Minnesota weather.

Since CenterPoint's revenues from the covered classes will vary depending on how warm or cold it is, the revenue stabilization impact of the decoupling approved in this Order will be relatively mild. For this reason, the OES's argument for not adjusting its recommended cost of equity downward is persuasive. The OES noted that a company's debt rating is based on all factors that affect risk, and that the cost of debt should not be changed based on a change in one risk factor (adoption of a decoupling program) risk factor. The OES's advice is especially appropriate in this case, where the limited decoupling program approved for CenterPoint will leave the Company exposed to the factor associated with the greatest amount of risk, the weather.

Further, the Company argued persuasively that the comparison group used to determine that 8.09 percent was reasonable was composed of companies most of whom had significant revenue stabilization arrangements in place (including decoupling and including decoupling that adjusted for weather) so that adopting the limited decoupling plan for CenterPoint simply made CenterPoint more like the comparison group. In these circumstances, lowering the cost of equity in response to CenterPoint's limited decoupling would overemphasize the risk reduction resulting from the limited decoupling approved in this Order.

3. RUD-OAG's Recommendation to Reduce ROE

The RUD-OAG recommended that the Commission lower CenterPoint's cost of capital by 27 basis points below whatever level the Commission determined was the appropriate ROE for CenterPoint before approving a decoupling plan for the Company. The RUD-OAG has not shown that any reduction to the Company's ROE is warranted. Like the ALJ, the Commission has considered the RUD-OAG's argument and rejects it. The RUD-OAG does not refute the OES's analysis and warning against double counting factors already taken into account (credit rating analysis) or the Company's analysis (proxy group analysis), nor are its comparison tables listing ROE decisions in other jurisdictions persuasive.

In its exceptions to the ALJ's decision and reasoning on this issue, the RUD-OAG did not dispute the ALJ's critique of the RUD-OAG's attempt in its post-hearing briefs to tie the reduction in ROE for the companies it listed to the existence of a decoupling program, even when the regulatory Commissions involved made no reference to such a program.

Instead, the RUD-OAG suggested that the reduction in CENTERPOINT's revenue requirement resulting from its proposed 27 point reduction in ROE would reduce the Company's revenue requirement by $1,588,000 which, it suggested, would be justified as a way to help mitigate what it asserted was the adverse impact of decoupling on the Company's rates. But since the Commission has found elsewhere in this Order that that the decoupling approved in this Order does not have an adverse impact on the Company's rates, this additional argument has no traction.

Finally, in its exceptions to the ALJ's recommendation, the RUD-OAG presented a reduced list of Commission decisions from other states (10 rather than the 39 initially presented in its post-hearing brief) in which, it asserted, regulatory commissions explicitly adjusted the ROE to account for the reduced risk afforded by decoupling. The Commission notes that seven of the ten cases listed by the RUD-OAG were settled rather than litigated and, hence, can provide little light on what the commissions actually decided about the impact of decoupling on ROE.

Moreover, arguments based on what commissions in other jurisdictions have decided, undeveloped as to all the relevant facts existing in those dockets, provide no basis for this Commission's decision in this matter, which must be based on the record established in this particular case regarding this particular company.

4. Conclusion

For all these reasons, the Commission concludes it would be inappropriate to reduce the Company's ROE to reflect the reduced risk represented by its decoupling pilot program.

VIII. Midwest Gas Replacement Project Costs

A. Introduction

1. The Project and its Rate Treatment in the Last Rate Case

On December 28, 2004, a natural gas fitting on one of the Company's service lines failed, causing an explosion that killed three persons, seriously injured another, and destroyed a building. A subsequent investigation by the Minnesota Office of Pipeline Safety determined that the fitting had been improperly installed and that a large number of service lines were likely to have similar defects. The defective service lines had been installed in 1980 by North Central Public Service Company, a predecessor company to Midwest Gas Company, which had sold the service lines to CenterPoint in 1993.

In May 2005, the Office of Pipeline Safety issued a Compliance Order requiring CenterPoint to replace or visually inspect all plastic service lines installed before 1984 by North Central Public Service Company, to maintain detailed records of these inspections, and to document all remedial measures taken. Under this order, the Company inspected over 30,000 service lines, replacing them where necessary. This project, the Midwest Gas Replacement Project, cost some $40,000,000.

In November 2005, the Company filed a rate case, which included a request to recover from ratepayers the costs of the Midwest Gas Replacement Project. The Commission permitted recovery of 90% of project costs, concurring with the Administrative Law Judge that, since the costs were incurred to comply with a state pipeline safety program, they were presumed recoverable under Minn. Stat. § 216B.16, subd. 11. The Commission deferred recovery of 10% of the costs, however, "pending the Company's exhaustion of its legal remedies against the third parties" it had identified in the rate case as potentially liable for some or all of the project's costs.[21]

CenterPoint had identified the following potential sources of compensation for project costs: (1) the Asset Exchange Agreement dated December 23, 1992 between Arkla. Inc. and Midwest Power Systems. Inc., which the Company stated contained indemnification and assumption of liabilities provisions; (2) a lawsuit already brought against MidAmerican Energy Company, the successor to Midwest Gas and North Central Public Service; and (3) its insurance policy with AEGIS Insurance Services, Inc., which it stated had already issued notices of potential liability to

[21] *In the Matter of the Application of CenterPoint Energy Minnesota Gas, a Division of CenterPoint Energy Resources Corp., for Authority to Increase Natural Gas Rates in Minnesota*, Docket No. G-008/GR-05-1380, Findings of Fact, Conclusions of Law, and Order (November 2, 2006) at 10.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of Commission Review of Utility Performance Incentives for Energy Conservation Pursuant to Minn. Stat. § 216B.241, Subd. 2c

ISSUE DATE: January 27, 2010

DOCKET NO. E,G-999/CI-08-133

ORDER ESTABLISHING UTILITY PERFORMANCE INCENTIVES FOR ENERGY CONSERVATION

PROCEDURAL HISTORY

I. Introduction and Factual Background

Demand Side Management (DSM) financial incentives have long been used in Minnesota to encourage conservation investment. Since 2000, the Shared Savings Incentive has been in force,[1] where the incentive is linked to the utilities' performance in achieving cost-effective conservation. Under the Shared Savings Incentive, the incentive grows for each incremental block of energy savings. The incentive for achieving each new increment of energy savings increases as the percent of goal achieved increases.

With the implementation in 2007 of the Next Generation Energy Act, the means by which to assess energy savings has changed. Minnesota Laws 2007, Chapter 136, Article 2 enacted changes to state energy conservation goals and programs, including establishing an annual energy-savings goal for each utility of 1.5 percent of annual retail energy sales. Prior to this change, the statute's key guideline hinged on a spending requirement, whereby energy savings were measured using a spending expectation as a percentage of gross operating revenues. With the new legislation, the measurement was altered by the implementation of an energy savings goal of 1.5 percent of retail sales.[2]

On October 14, 2008, the Commission issued a Notice of Comment period soliciting comments on: (1) whether adjustments are needed to existing conservation incentive plans; and (2) if so, what procedures the Commission should use to determine what specific adjustments are needed,

[1] *In the Matter of Requests to Continue Demand-Side Management Financial Incentives Beyond 1998*, Docket No. E,G-999/CI-98-1759, Order Approving Demand Side Management Financial Incentive Plans (April 7, 2000).

[2] Minn. Stat.§ 216B.241, subd. 1(c).

including procedures for considering the nature, scope, and timing of implementation of those adjustments.

After consideration of the comments received, on December 29, 2008, the Commission issued an Order Establishing Procedural Framework for Consideration of Utility Performance Incentives for Energy Conservation. The Commission required utilities to provide further information on how the current incentive model and any other proposed mechanisms would function under the new savings goal. The Commission specifically instructed each utility to provide the following information:

- An evaluation of how the current approved Shared Savings demand side management financial incentive plan would provide an incentive for each utility as it progresses towards meeting the 1.5 percent energy savings goal.

- An evaluation of how the alternative incentive models would motivate each utility as it progresses towards meeting the 1.5 percent energy savings goal.

- An explanation of how any change to the current financial incentive would better encourage utilities to exceed historical achievements, address energy savings goal challenges, and benefit ratepayers through increased energy savings.

Pursuant to the Commission's Order, a stakeholder workgroup was established to evaluate the current incentives and recommend adjustments. Members of the workgroup included: the Center for Energy and the Environment (CEE); CenterPoint Energy; Greater Minnesota Gas; Great Plains Natural Gas; Interstate Power and Light; Izaak Walton League of America; Minnesota Energy Resource Corporation (PNG and NMU); Minnesota Power; the Office of Energy Security of the Minnesota Department of Commerce (OES); Otter Tail Power Company; and Xcel Energy.[3]

II. Statutory Background

The 2007 Next Generation Energy Act established a goal for all Minnesota electric and natural gas utilities to achieve energy savings equal to 1.5 percent of retail sales. Specifically, Minnesota Statute § 216B.241 subd. 1c (the Conservation Improvement Program statute, or CIP) states:

> (a) The commissioner shall establish energy-savings goals for energy conservation improvement expenditures and shall evaluate an energy conservation improvement program on how well it meets the goals set.
>
> (b) Each individual utility and association shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average.

[3] Other parties participating in the comment process included the CIP Exempt group and the Minnesota Chamber of Commerce.

The same legislation amended the CIP statutes to require a review of DSM financial incentives approved under Minnesota Statutes § 216B.16, subdivision 6c.[4] Minnesota Statutes § 216B.241, subd. 2c states:

> Subd. 2c. Performance incentives. By December 31, 2008, the commission shall review any incentive plan for energy conservation improvement it has approved under section 216B.16, subdivision 6c, and adjust the utility performance incentives to recognize making progress toward and meeting the energy savings goals established in subdivision lc.

Minnesota Statutes § 216B.16, subd. 6c(b) provides the guidelines the Commission must consider in approving a utility's financial incentive plan:

(1) whether the plan is likely to increase utility investment in cost-effective energy conservation;
(2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;
(3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation; and
(4) whether the plan is in conflict with other provisions of this chapter.

III. Commission Proceedings to Date

A. The Comment Process

The timeframe for comments established in the Commission's December 29, 2008 Order required that: by January 30, 2009, utilities and other interested stakeholders recommend which incentive mechanism models merit further evaluation; by March 6, 2009, utilities file individual incentive information; and by April 10, 2009, utilities file reply comments if any.

On January 30, 2009, the OES filed a report outlining the five incentive models to be evaluated by the workgroup.[5]

On March 6, 2009, the parties filed their analyses of how the five alternative demand side management financial incentive mechanisms would encourage the utilities to progress towards meeting the 1.5 percent energy savings goal, and expressing their opinion as to which option was most appropriate.

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[4] Since this docket was opened, the 2008 Legislature has amended Minnesota Statutes §216B.16, subd. 6c (the CIP Incentive statute) to add a new subsection 6c(c)(3), which allows the Commission to:

> adopt any mechanism that satisfies the criteria of this subdivision, such that implementation of cost-effective conservation is a preferred resource choice for the public utility considering the impact of conservation on earnings of the public utility.

[5] The incentive models evaluated by the workgroup included the following models: the Shared Savings with No Cap; the New Shared Savings; the Flat Award with Shared Savings; the Increasing Block with Shared Savings Incentive; and the Beat the Average with Shared Savings.

The OES also filed comments on March 6, 2009, setting forth the principles agreed upon by the workgroup for evaluation of alternatives considered.

On April 10, 2009, the parties submitted reply comments. OES filed comments recommending guidelines for utilities to use when submitting their new DSM financial incentive proposals. OES further recommended that the financial incentive should be based on the New Shared Savings model.

On May 8, 2009, the OES filed supplemental comments, clarifying and refining its recommendations. Four utilities filed responsive comments.

By early July, 2009, ten utilities had filed financial incentive plan proposals – CenterPoint Energy, Great Plains Natural Gas, Interstate Power and Light (gas and electric), Minnesota Power, Minnesota Energy Resource Corporation (PNG and NMU) Northern States Power d/b/a Xcel Energy (gas and electric) and Otter Tail Power Company.

On September 11, 2009, the CIP Exempt Class filed comments,[6] asserting that as utility revenues from this class are specifically excluded from Minnesota's energy policy goals, and, to be consistent with the present savings incentive mechanism, the CIP Exempt Class should not be required to remit payment to utilities for any demand side management program.[7]

The Minnesota Chamber of Commerce (Chamber) filed comments on September 11, 2009, making recommendations for additional criteria for consideration in the review of utility incentive plans beyond the four criteria established by statute, and arguing that a utility with a decoupling program should not also receive a financial conservation incentive.

The OES also filed comments on September 11, 2009, further refining the guidelines proposed, making recommendations as to the appropriate incentive calibration for each utility, and recommending that the Commission approve calibration levels two-thirds lower for any utility that also has an approved decoupling mechanism.

Reply comments on the financial incentive proposals were filed by the OES, CEE and the Izaak Walton League, Xcel Energy, Great Plains Natural Gas Company, Interstate Power and Light Company, Otter Tail Power Company and CenterPoint Energy on September 24, 2009.

Additional comments were thereafter filed by the OES and CenterPoint Energy. Finally, each utility included in the workgroup filed comments in December 2009 addressing supplemental information requested by Commission staff.

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[6] The CIP Exempt Class includes Gerdau Ameristeel Corporation, Hibbing Taconite Company, United Taconite, LLC, Blandin Paper Company, Arcelor Mittal USA, NewPage Corporation, Marathon Petroleum Company, LLC, and United States Steel Corporation.

[7] The workgroup agreed that it is reasonable that CIP-exempt customers not be allocated any of the costs for a new shared saving incentive plan pursuant to the dictates in this docket, just as the CIP Exempt customers were not allocated any of the costs of the present shared savings incentive. Further, the amount of energy conservation by CIP-exempt customers, which is required under the statute to be "reasonable" is not before the Commission in this docket.

On December 21, 2009, the Commission met to consider the matter.

B. Related Proceedings

On June 19, 2009, the Commission issued its Order Establishing Criteria and Standards to be Utilized in Pilot Proposals for Revenue Decoupling.[8] In its Decoupling Order, the Commission established standards and criteria for decoupling pilot proposals to be used by Minnesota utilities. The Decoupling Order specifically required that a utility implementing a decoupling pilot must explain in detail:

> [h]ow 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.

On January 11, 2010, the Commission approved the first decoupling pilot proposal (for CenterPoint Energy) following the Decoupling Order.[9]

FINDINGS AND CONCLUSIONS

I. Proposed Financial Incentive Model

The workgroup participants have jointly requested Commission approval of a new Shared Savings DSM financial incentive to be applied voluntarily to all gas and electric utilities that participate in the OES's Conservation Improvement Program (CIP). The new program is intended to replace the current incentive plans and apply to CIP activities beginning with the 2010 project year. The proposal is the product of a series of work group meetings initiated and facilitated by the OES.

The workgroup ultimately agreed upon the majority of the components of the financial incentive mechanism proposed by the OES to motivate utilities to progress towards and meet the 1.5 percent energy savings goal. All ten of the financial incentive mechanisms proposed by the utilities used a shared savings model. The shared saving incentive mechanism awards a percentage of net benefits created by a utility's energy conservation investments. If a project is not cost-effective, then net benefits decrease. Thus, the shared saving approach encourages utilities to improve the overall cost-effectiveness of their conservation program.

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[8] *In the Matter of a Commission Investigation Into the Establishment of Criteria and Standards for the Decoupling of Energy Sales from Revenues*, Docket No. E,G-999/CI-08-132 (June 19, 2009) (Decoupling Order).

[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, Findings of Fact, Conclusions of Law, and Order (January 11, 2010).

The New Shared Savings approach emphasizes an 1.5 percent energy savings goal, and ties the incentive earned by the utility to pursuit of the 1.5 percent savings goal. The new approach sets a specific dollar amount per unit of energy saved that each utility will earn at energy savings equal to 1.5 percent of annual non-CIP exempt retail sales. This is referred to as the incentive calibration.

The higher the calibration, the higher the incentive will be at all energy savings levels after the threshold. Specifically, each utility's incentive is calibrated so that when the utility achieves energy savings equal to 1.5 percent of retail sales, electric utilities will earn an incentive equal to $0.09 times the number of kWh saved[10] and gas utilities will earn at a range from $4.50 to $6.50 times the number of thousand cubic feet (Mcfs) saved.

Importantly, the incremental incentive per additional energy savings achieved is higher than the average incentive achieved. Thus, the closer the energy savings is to reaching the 1.5 percent energy savings goal, the greater the incremental incentive. However, the incentive is still less than the net benefits created through the savings, therefore reserving a majority of the net benefits for ratepayers.

Mandated assessments to utilities will not be included in the calculation of net benefits. Further, as agreed to by the working group, a utility can elect before the beginning of each year whether to include third party programs in its incentive calculation. The costs and benefits of non-elected third party programs will not be included in the calculation.

Working with the OES throughout the nearly year-long process, the workgroup's final recommendations included the following agreed-upon elements with respect to the proposed financial incentive model:

- The threshold shall be set at half of the utility's average achievements from 2004 to 2008, removing both the maximum and minimum achievements, or at 0.4 percent of retail sales, whichever is lowest.

- The calibration of 1.5 percent of retail sales for each utility shall be set as follows:

  $4.50 per Mcf for CPE,[11] IPL-Gas, and Xcel-Gas
  $5.50 per Mcf for Great Plains
  $6.50 per Mcf for MERC-NMU and MERC-PNG
  $0.09 per kWh for IPL-Electric, MP, OTP, and Xcel Electric

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[10] This calibration was modeled to result in a utility receiving an incentive at historical levels when historical energy savings are achieved.

[11] The OES recommended that the Commission approve calibration levels two-thirds lower for any utility that also has an approved decoupling mechanism, and recommended that the calibration level for CenterPoint Energy be set at $1.50, should the Commission approve the Company's proposal for decoupling in its rate case. At the December 21, 2009 hearing on this matter, the OES agreed to meet with CenterPoint Energy to further evaluate the appropriate adjustment (lowering) of the incentive calibration based on the Commission's recent rate case Order. See discussion at Section VB of this Order.

- If a utility desires to modify its incentive to correct for non-linear benefits, the correction factor applied to net benefits beyond the utility's proposed or currently approved energy-savings goals should be increased by 0.05 for each additional 0.1 percent of energy savings.

- The percentage of net benefits to be awarded to each utility at different energy savings levels will be set at the beginning of each year.

- The CIP-Exempt Class shall not be allocated costs for the New Shared Savings Incentive. Sales to the CIP-Exempt Class shall not be included in calculation of utility energy savings goals.

II. Third Party Projects

The workgroup also reached the following agreed-upon principles with respect to the treatment of third-party projects, which it recommends that the Commission adopt.

- If a utility elects not to include a third-party CIP project, the utility cannot change its election until the beginning of subsequent years.

- If a utility elects to include a third-party project, the project's net benefits and savings will be included in calculation of the percentage of net benefits awarded at specific energy savings levels (calculated before the CIP year begins) and in the post CIP year calculations of net benefits and energy savings achieved and incentive awarded. In any case, the energy savings will count toward the 1.5 percent savings goal.

- The energy savings, costs, and benefits of non third party project modifications will be included in the calculation of a utility's DSM incentive, but will not change the percent of net benefits awarded at different energy savings levels.

- The costs of mandated, non-third party projects (e.g., Net Generation Energy Act assessment, University of Minnesota Institute for Renewable Energy and the Environment costs) should be excluded from the calculation of net benefits awarded at specific energy savings levels (calculated before the CIP year begins) and in the post-CIP year calculations of net benefits and energy savings achieved and incentive awarded.

- Costs, energy savings, and energy production from Electric Utility Infrastructure Projects (EUIC), solar installation and biomethane purchases shall not be included in energy savings for incentive purposes. [12]

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[12] CenterPoint Energy originally disagreed with this recommendation of the OES, as it relates to the Company's proposed biomethane purchases in its 2010-2012 biennial CIP in Docket No. G-008/CIP-09-644, on the basis of statutory interpretation and net cost. CenterPoint subsequently withdrew its objection to the OES recommendation "for the time being." CenterPoint indicated its intention to continue to work with the OES and stakeholders to analyze the cost-effectiveness of such projects for possible inclusion of such projects in the financial incentive at a later date.

III. The Cap

The current demand side management financial incentive is capped at 30 percent of the Company's approved CIP budget, or actual CIP expenditures, whichever is less. The cap limits ratepayer costs and helps ensure against excessive rates charged to ratepayers, who are the ultimate decision-makers as to whether or not to conserve energy.

In this docket, the workgroup and OES evaluated an alternative incentive cap in which the incentive awarded per unit of energy saved shall not exceed 125 percent of a utility's calibration level at 1.5 percent. The workgroup was also asked to comment on the potential magnitude of incentives should utilities far exceed this goal, e.g., what the potential incentive would be should a utility achieve a goal of 3 percent of retail sales. [13]

The alternative cap mechanism, or limiting the average incentive per unit of energy saved to 125 percent of the mechanism calibration point, received general support in working group discussions. The OES also supported the alternative cap mechanism, which has the effect of limiting the growth in the incentive (and thus limiting the cost to customers) while retaining an incentive for the utility to pursue additional energy savings above and beyond its goal.

IV. The Effect of a Decoupling Pilot on the Approved Shared Saving Incentive Mechanism for a Utility

A. Introduction

As explained above, in 2007 the Legislature enacted Minn. Stat. § 216B.2412, which required the Commission to establish the criteria and standards to mitigate the impact on public utilities of the energy-savings goals under Minn. Stat. § 216B.241 without adversely affecting utility ratepayers. The statute defines decoupling as 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.[14]

In June 2009, the Commission issued its Order establishing the criteria and standards to be used in pilot proposals for revenue decoupling in Docket No. E,G-999/CI-08-132. Since that time, one utility -- CenterPoint Energy -- has proposed a decoupling pilot project, which was approved by the Commission, in January 2010.

The issue in the present docket with respect to decoupling concerns what effect, if any, the approval of a decoupling pilot project should have on the shared saving incentive mechanism for that utility.

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[13] Utilities responded to the potential magnitude of incentives of up to 3 percent as very unlikely and /or not sustainable.

[14] Minn. Stat. § 216B.2412, subd. 1.

B. Positions of the Parties

Initial comments from the parties in this docket agreed that any adjustments to the shared savings demand side management financial incentive plans approved in 2000 in Docket No. E,G-999/CI-98-1759, would need to recognize the effects of a Commission order regarding decoupling, anticipated sometime in 2009.

In recommending guidelines for the utilities to consider for a new demand side management financial incentive mechanism, the OES, in its April and May 2009 comments, took the position that no utility should have both an incentive mechanism and a decoupling mechanism at the same time, asserting that having both would result in additional costs to ratepayers. The OES recommended that if the Commission were to approve both decoupling and a financial incentive, the shared savings incentive should be calibrated to a much lower level than the level recommended in this docket.[15]

In comments filed in May and June 2009, several utilities disagreed with the OES's recommendation, asserting that demand side management incentives and decoupling have distinct and different functions and are both part of a well-constructed conservation program. The utilities argued that both tools have a place in helping Minnesota achieve the goals expected in the Next Generation Energy Act of 2007, as decoupling removes an existing disincentive to conservation, while a demand side management incentive provides an incentive.

On July 15, 2009, CenterPoint Energy along with other stipulating parties proposed, in its then ongoing rate case, the first decoupling pilot mechanism (the Conservation Enabling Rider) to be considered following the Commission's June 19, 2009 Decoupling Order.[16]

The Minnesota Chamber of Commerce (the Chamber) filed comments on September 11, 2009, recommending that the Commission disallow the use of both a decoupling program and a financial incentive, arguing that decoupling is intended to make utilities agnostic on conservation, while an incentive is designed to make them into advocates. The Chamber asserted that the policies are incompatible, and should not be used in tandem.

The CIP Exempt class also maintained that an incentive and a decoupling pilot should be seen as opposite sides of the same coin, and that approval of one mechanism necessarily impacts the other. The Class, therefore, requested that the Commission disallow both a DSM financial incentive and decoupling pilot program for a utility.

The OES subsequently revised its original recommendation that a utility should not have both a decoupling mechanism and an incentive mechanism at the same time. In its September 24, 2009 comments, the OES agreed that the effects of decoupling and financial incentives for utility

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[15] For example, the OES recommended that for CenterPoint Energy, which now has a decoupling pilot in place, the incentive should be 2/3 lower, or $1.50 instead of $4.50 times the number of Mcfs saved.

[16] The Commission subsequently approved CenterPoint's partial decoupling plan, as modified by the parties and the Commission. *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, Findings of Fact, Conclusions of Law, and Order (January 11, 2010).

demand side management incentives must be considered in tandem, as both are intended to promote more conservation than would be the case without such measures. OES recommended, however, that the incentive calibration at 1.5 percent of retail sales be reduced by two-thirds in the event the Commission approves a decoupling mechanism for that utility, asserting that for a utility to receive both decoupling and an incentive at the levels herein proposed would be unreasonable and place an undue burden on ratepayers.

Several utilities – CenterPoint Energy, Great Plains, Interstate Power and Light -- as well as the Center for Energy and Environment and the Izaak Walton League, voiced their disagreement with the Chamber's recommendation to disallow a utility's use of both decoupling and a financial incentive. These utilities also disagreed with the OES's proposal to reduce the incentive for a utility with a decoupling program, describing the two-thirds proposed reduction as arbitrary. The utilities asserted that both decoupling and the financial incentive are tools that have a place in helping Minnesota achieve the goals expected in the Next Generation Energy Act of 2007.

CenterPoint argued that there should be no trade off between decoupling and financial incentives, since the two serve different but complementary purposes, and that a decoupled utility's financial incentive should not be reduced at all.[17] CenterPoint asserted that the OES had not established that having both an incentive mechanism and a decoupling program would result in significant costs for ratepayers, and that the OES's argument fails to recognize that any increased rates which may come about due to decoupling would be overwhelmed by the cost savings ratepayers would see in their overall bills.

CenterPoint further argued that combining decoupling and a financial incentive is the best way to promote conservation, because decoupling removes a utility's inherent disincentive to promote conservation, citing to the opinions of experts, advocates and policy-makers in Minnesota and across the nation. Further, the combination of decoupling and a significant financial incentive clearly establishes conservation as the preferred resource choice, first by eliminating the penalty the utility pays for each unit of energy saved (decoupling) and then by creating a positive reward when the utility helps its customers conserve instead of consuming energy.

Xcel, while agreeing that the pairing of a decoupling mechanism to remove disincentives and a performance incentive to motivate utilities to exceed goals can be an effective way to maximize energy efficiency, acknowledged that an incentive plan for a utility with decoupling should be evaluated differently than a plan without decoupling.

V. Commission Action

A. Commission Action Regarding the Shared Savings Financial Incentive Plan

The Commission recognizes and appreciates the extensive efforts devoted to the CIP financial incentive issues by the workgroup and other parties to this proceeding. The Shared Savings

[17] CenterPoint requested a calibration level of $4.50 per Mcf saved if the Commission were to approve the decoupling proposal in its rate case; if the Commission were not to approve the decoupling mechanism, CenterPoint requested a calibration level of $15.00 per Mcf saved.

Incentive in place in Minnesota since 2000 has served as a very good mechanism for achieving higher energy savings levels and for increasing the cost-effectiveness of conservation programs. The proposed new financial incentive continues along the same design, but improves upon it by discontinuing the statutory spending goal, and replacing it with an energy savings goal.

The proposed changes to the CIP financial incentive clearly received an appropriate and thorough evaluation and vetting by the parties in this year-long proceeding. The parties have displayed both judgment and flexibility as the exchange of comments narrowed the issues. This exchange of comments has provided an important framework for the Commission's consideration of the relevant issues in the current Order.

Based on its review and analysis of the workgroup recommendations and the parties' comments, the Commission concludes that the proposed New Shared Savings Model, as detailed by the OES and the workgroup, is a reasonable approach to achieve the requirements and purposes of the Next Generation Energy Act (Minn. Stat. § 216B.241), taking into consideration the factors listed in Minn. Stat. § 216B.16, subd. 6c and the Commission's duty under Minn. Stat. § 216B.03 to assure just and reasonable rates.

Specifically, the Commission has reflected upon the four considerations listed in Minn. Stat. § 216B.16, subd. 6c. Based on its review of the agreed-upon Shared Savings Incentive Plan, the Commission finds as follows.

The new Shared Savings Incentive Plan is likely to increase utility investment in cost effective energy conservation. The incentive is generous, but the 1.5 percent goal is difficult to reach, and the incentive will motivate utilities to achieve the level of conservation the statute contemplates, and in a cost-effective manner.

The new Shared Savings Incentive Plan is compatible with the interest of utility ratepayers and other interested parties. The incentive is only a small fraction of net benefits achieved by the CIP programs. Ratepayers continue to receive the vast majority of benefits achieved under the CIP programs.

Importantly, the new Shared Savings plan links the incentive to the utilities' performance in achieving cost-effective conservation. The required linkage is clear. If a utility's CIP program is not cost-effective, there are no net benefits and thus no incentive. As a CIP program's cost effectiveness increases, net benefits increase and the incentive increases. The purpose of the new financial incentive is to encourage utilities to increase their energy savings achievements from what they were formerly able to attain.

Accordingly, the Commission will approve the workgroup's recommendations with respect to the new Shared Savings Model.

B. Commission Action Regarding the Shared Savings Financial Incentive Plan for a Utility with an Approved Decoupling Pilot Project

As set forth above, the Commission accepts and adopts the proposed calibration levels recommended for each utility by the workgroup. However, consensus was not reached as to the

issue of whether the financial incentive calibration level for a utility with an approved decoupling pilot program should be adjusted in some manner. The Commission, having considered the written and oral arguments of the OES and the parties, is not prepared at this juncture to accept either the recommendation of the OES to reduce the calibration level for a decoupled utility by two-thirds, or to make no adjustment at all to the calibration level of a utility with a decoupling pilot project, as recommended by many of the utilities.

The Commission cautions that it has not concluded that the OES's recommendation with respect to CenterPoint Energy is unreasonable; indeed, after careful consideration of the arguments raised, the Commission is convinced that a utility's financial incentive should be lowered, or adjusted in some way, if the utility also has an approved ongoing decoupling program. Instead, the Commission simply cannot now say that such a determination is appropriate for all other utilities which might later propose decoupling programs, recognizing that there are varying degrees of decoupling (from limited to full) which might require differing calibration levels to be imposed.

The Commission notes that only one utility to date has an approved decoupling mechanism, and that Commission action approving CenterPoint's pilot decoupling proposal has only just occurred. Therefore, the Commission finds that it would be premature to address this issue at this juncture as it relates to all utilities which may later come forward with decoupling proposals. Instead, the Commission finds that setting an appropriate calibration level for a utility with a decoupling pilot program could be better addressed and more carefully crafted on a utility-by-utility basis, and with the recognition that an incentive plan for a utility with decoupling should be evaluated differently than a plan without decoupling.

At the Commission hearing on December 21, 2009, the OES and CenterPoint Energy agreed to further discuss and evaluate, by January 31, 2010, the appropriate adjustment -- or lowering -- of the incentive calibration set for CenterPoint in this Order based on the Commission's Order in CenterPoint's recent rate case, and to report any recommendations reached to the Commission. The Commission will so order.

C. Miscellaneous Matters

The Commission will require the new shared savings demand side management incentive to be in operation for the length of each utility's triennial CIP plan.

All utilities except CenterPoint shall make a compliance filing on or before February 1, 2010, integrating the Commission's decision into their individual incentive proposal. CenterPoint shall make its compliance filing on or before March 1, 2010. Utilities shall thereafter file yearly incentive proposals on or before February 1 of each year.

On or before July 1, 2012, the OES will be required to make an evaluative filing reviewing, proposing changes to and/or recommending continuation/discontinuation of the New Shared Savings model.

ORDER

1. The Commission hereby adopts the new Shared Savings Model which will incorporate the elements set forth below.

Incentive Model

2. The threshold shall be set at half of the utility's average achievements from 2004 to 2008, removing both the maximum and minimum achievements, or at 0.4 percent of retail sales, whichever is lowest.

3. The calibration of 1.5 percent of retail sales for each utility shall be set as follows:

$4.50 per Mcf for CPE, IPL-Gas, and Xcel-Gas

$5.50 per Mcf for Great Plains

$6.50 per Mcf for MERC-NMU and MERC-PNG

$0.09 per kWh for IPL-Electric, MP, OTP, and Xcel Electric

4. If a utility desires to modify its incentive to correct for non-linear benefits, the correction factor applied to net benefits beyond the utility's proposed or currently approved energy-savings goals should be increased by 0.05 for each additional 0.1 percent of energy savings.

5. The percentage of net benefits to be awarded to each utility at different energy savings levels will be set at the beginning of each year.

6. The CIP-Exempt Class shall not be allocated costs for the New Shared Savings Incentive. Sales to the CIP-Exempt Class shall not be included in calculation of utility energy savings goals.

Third Party Projects

7. If a utility elects not to include a third-party CIP project, the utility cannot change its election until the beginning of subsequent years.

8. If a utility elects to include a third-party project, the project's net benefits and savings will be included in calculation of the percentage of net benefits awarded at specific energy savings levels (calculated before the CIP year begins) and in the post CIP year calculations of net benefits and energy savings achieved and incentive awarded. In any case, the energy savings will count toward the 1.5 percent savings goal.

9. The energy savings, costs, and benefits of non third party project modifications will be included in the calculation of a utility's DSM incentive, but will not change the percent of net benefits awarded at different energy savings levels.

10. The costs of mandated, non-third party projects (e.g., Next Generation Energy Act assessment, University of Minnesota Institute for Renewable Energy and the Environment costs) shall be excluded from the calculation of net benefits awarded at specific energy savings levels (calculated before the CIP year begins) and in the post-CIP year calculations of net benefits and energy savings achieved and incentive awarded.

11. Costs, energy savings, and energy production from Electric Utility Infrastructure Projects (EUIC), solar installation and biomethane purchases shall not be included in energy savings for incentive purposes.

Cap

12. The Commission adopts the Alternative Incentive Cap in which the incentive awarded per unit of energy saved shall not exceed 125% of a utility's calibration level at 1.5 percent.

Decoupling

13. The calibration of the incentive mechanism shall be adjusted in the event that the Commission approves a decoupling mechanism for that utility. The level of adjustment shall be determined on a case-by-case basis.

    A. CenterPoint and OES shall evaluate the proper adjustment (lowering) of the incentive calibration based on the Commission's recent rate case Order.

    B. CenterPoint and OES shall complete any recommendations that result from the evaluation in 13A by January 31, 2010, and thereafter report such recommendations to the Commission.

Incentive Timing, Compliance and Evaluation

14. The new shared savings DSM incentive shall be in operation for the length of each utility's triennial CIP plan.

15. All utilities except CenterPoint shall make a compliance filing on or before February 1, 2010, integrating the Commission's decision into their individual incentive proposal. CenterPoint shall make its compliance filing on or before March 1, 2010. Utilities shall thereafter file yearly incentive proposals on or before February 1 of each year.

16. On or before July 1, 2012, the OES shall make an evaluative filing reviewing, proposing changes to and/or recommending continuation/discontinuation of the New Shared Savings model.

17. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of Commission Review of Utility Performance Incentives for Energy Conservation

ISSUE DATE: April 12, 2010

DOCKET NO. E,G-999/CI-08-133

ORDER REDUCING FINANCIAL INCENTIVE CALIBRATION

PROCEDURAL HISTORY

For many years in Minnesota, demand side management financial incentives have been used to encourage utility investment in conservation programs behind-the-meter.[1]

The 2007 Next Generation Energy Act, among other things, required the Commission to establish criteria and standards for decoupling and approve at least one pilot decoupling program.

On June 19, 2009, the Commission issued its ORDER ESTABLISHING CRITERIA AND STANDARDS TO BE UTILIZED IN PILOT PROPOSALS FOR REVENUE DECOUPLING (the Decoupling Order) in this docket. The Decoupling Order detailed the criteria and standards to be used for Minnesota utilities' decoupling pilot, including how pilots should address financial incentives.

On January 11, 2010, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in CenterPoint Energy's (CenterPoint's) most recent rate case.[2] In its Order, the Commission, among other things, approved CenterPoint's pilot Decoupling Program, subject to certain conditions.

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[1] In the late 1980s, the Commission examined how demand side management incentives could be used to encourage conservation investment. *See In the Matter of a Summary Investigation into Financial Incentives for Encouraging Demand-Side Resource Options for Minnesota Electric Utilities and Bidding Systems*, Docket No. E-999/CI-89-212, ORDER REQUIRING ELECTRIC UTILITIES TO FILE FINANCIAL INCENTIVE PROPOSALS IN 1991 (February 28, 1991).

[2] See *In the Matter of an Application by CenterPoint for Authority to Increase Natural Gas Rates in Minnesota*, DOCKET NO. G-008/GR-08-1075, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (January 11, 2010).

In the Commission's January 27, 2010 ORDER ESTABLISHING UTILITY PERFORMANCE INCENTIVES FOR ENERGY CONSERVATION in this docket, the Commission detailed the incentive mechanism and calibration levels for all rate-regulated utilities except CenterPoint Energy (CenterPoint), the only utility that had, at that point, a Commission-approved decoupling program in place. Among other things, the Order directed CenterPoint and the Office of Energy Security (OES) to evaluate the proper lowering of CenterPoint's incentive calibration based on the Commission's January 11, 2010 rate case Order and report their recommendations to the Commission.

On February 1, 2010, CenterPoint and the OES filed comments regarding the level of adjustment warranted in light of the approved decoupling pilot. Both recommended that the Commission adjust CenterPoint's initial incentive calibration from $4.50 per Mcf saved to $3.00 per Mcf saved.

The Commission met on March 25, 2010 to consider this matter.

FINDINGS AND CONCLUSIONS

In its January 27, 2010 Order, the Commission's Ordering Paragraph 13 stated:

> The calibration of the incentive mechanism shall be adjusted in the event that the Commission approves a decoupling mechanism for that utility. The level of adjustment shall be determined on a case-by-case basis.
>
> > a. CenterPoint and OES shall evaluate the proper adjustment (lowering) of the incentive calibration based on the Commission's recent rate case Order.
> >
> > b. CenterPoint and OES shall complete any recommendations that result from the evaluation in 13A by January 31, 2010, and thereafter report such recommendations to the Commission.

Though they used different methods in arriving at their recommendations, the OES and CenterPoint both recommended that the Commission reduce the incentive calibration to $3 per Mcf saved. The Commission agrees that this reduction is reasonable; it appears to neither over-compensate the Company for energy savings nor to sacrifice the financial incentive for the Company to continue pursuing those energy savings. The Commission will adopt the recommendation of the parties, finding it unnecessary to address their methodological differences in light of their identical and reasonable outcomes.

ORDER

1. The Commission hereby sets CPE's financial incentive calibration at $3.00 per Mcf saved.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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