

**Minnesota Public Utilities Commission**  
*Staff Briefing Papers*

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Meeting Date: **May 24, 2007** ..... Agenda Item #     

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Company: Northern States Power Company, a Minnesota corporation and wholly owned subsidiary of Xcel Energy Inc.

Docket Nos. G-002/CI-07-541  
In the Matter of a Commission Investigation into Xcel Energy's Fixed Monthly Payment Pilot Program

G-002/M-05-393  
In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Fixed Bill Option Tariff and Rule Variance

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Company: CenterPoint Energy Minnesota Gas, a division of CenterPoint Energy Resources Corp.

Docket Nos. G-008/CI-07-542  
In the Matter of a Commission Investigation into CenterPoint Energy's No Surprise Bill Program

G-008/M-05-602  
In the Matter of the Petition of CenterPoint Energy for Approval to Continue the No Surprise Bill and Revise the No Surprise Bill Tariff to Allow for the Inclusion of Planned Rate Increases in the Bill

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- Issues:
1. Should the Commission grant OAG's (and ECC's) request for interim relief?
  2. Should the Commission suspend Xcel's and CenterPoint's authority to offer their fixed bill programs in 2007-2008 unless certain modifications are made to these programs?
  3. Status report on these investigations.
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Staff: Robert Harding..... 651-201-2237

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*Relevant Documents*

**Docket Nos. G-002/M-05-393 & G-008/M-05-602**

OAG

Complaint and Request for a Summary Investigation, Interim Relief,  
and an Expedited Hearing ..... Feb. 15, 2007

Comments

CenterPoint ..... Mar. 2, 2007  
Xcel ..... Mar. 2, 2007  
WeatherWise ..... Mar. 2, 2007  
Energy CENTS ..... Mar. 2, 2007  
DOC ..... Mar. 1, 2007

Reply Comments

CenterPoint ..... Mar. 9, 2007  
Xcel ..... Mar. 16, 2007  
Energy CENTS ..... Mar. 9, 2007  
OAG ..... Mar. 9, 2007

PUC

Staff Briefing Papers ..... Apr. 19, 2007  
Order Appointing Lead Commissioner, Commencing Investigations  
and Requiring Further Data ..... Apr. 27, 2007

**Docket Nos. G-002/CI-07-541 & G-008/CI-07-542**

CenterPoint - Informational Filing ..... May 3, 2007  
Xcel - Informational Filing (amended copy, includes errata) ..... May 4, 2007

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

This document can be made available in alternative formats (i.e., large print, Braille or audio tape) by calling 651-201-2202 (voice) or 1-800-627-3529 (TTY relay service).

## **Statement of the Issues**

1. Should the Commission grant OAG's (and ECC's) request for interim relief?
2. Should the Commission suspend Xcel's and CenterPoint's authority to offer their fixed bill programs in 2007-2008 unless certain modifications are made to these programs?
3. Status report on these investigations.

## **Introduction**

At its April 19, 2007 agenda meeting, the Commission opened investigations into Xcel's and CenterPoint's fixed bill programs. In response to CenterPoint's and Xcel's request for a delay so that they could provide additional information, and OAG's representation that it would provide comments on the Companies' additional information within one to two weeks of that information being filed, the Commission deferred making a decision on OAG's and ECC's requests for interim relief. The Commission was concerned about the Companies' claims that stranded costs that might arise if customers were allowed to leave these programs before the end of the program year. The Commission indicated it would take up the interim relief question at one of its May 2007 agenda meetings after the parties provided preliminary information and comments about potential stranded costs. As of Friday morning, May 18, 2007, no comments had been received on the Companies' information filings, however, staff expects there will be late-filed comments from ECC, and perhaps OAG.

The timeline for a Commission decision on any modifications (or termination) of these programs for the 2007-2008 program year is very tight because the Companies typically lock in their gas supplies for these programs during the summer, and the enrollment period for the 2007-2008 program year begins in mid September. Staff raises this concern because the Commission expressed an interest at the April 19, 2007 agenda meeting in requiring modifications to these programs before they are offered for the 2007-2008 program year. At present, unless the programs are modified, CenterPoint is authorized to continue offering its fixed bill program indefinitely, and Xcel is authorized to offer its program as a pilot for one more year, pursuant to Commission orders and the Companies' tariffs.

Staff also believes it would be appropriate for the parties to give the Commission a status report on these investigations at the Commission's May 17, 2007 agenda meeting because of the accelerated timeline requested by some of the parties. As of Friday morning, May 18, 2007, there had been no formal motions (or requests) for discovery rights or protective orders. A Lead Commissioner scheduling conference has not been held. It should also be noted that after the April 19 agenda meeting, the Department indicated that it does not have Analyst-resources available to devote to this investigation, and will wait for the investigation report and, if resources are available, will file comments if the Department has thoughts to share.

## **Background**

On February 15, 2007, OAG submitted its Complaint and Request of the Office of the Minnesota Attorney General for a Summary Investigation, Interim Relief, and an Expedited Hearing

(“Complaint”) regarding CenterPoint’s No Surprise Bill (“NSB”) program, and Xcel’s fixed monthly payment (“Fixed Bill” or “FMGP”) pilot program.

In March 2007, parties submitted comments and replies.

On April 27, 2007, the Commission issued its *Order Appointing Lead Commissioner, Commencing Investigations and Requiring Further Data*.

OAG’s February 15, 2007 Complaint, and the parties March 2007 comments and replies, were summarized in the staff briefing materials for the Commission’s April 19, 2007 agenda meeting, and are included on the list of relevant documents for this meeting.

### **Public Comment Files**

As of May 16, 2007, the Commission’s public comment file on CenterPoint’s NSB program contained six complaint letters. The public comment file on Xcel’s Fixed Bill program contained twenty-two complaint letters. All of the comments were from participants who want to get out of these programs. Many of the letters are from senior citizens on fixed incomes. A significant number were from people who had already contacted the Office of Attorney General, and included copies of their correspondence with OAG. The concerns raised in the OAG’s Complaint accurately reflect the concerns expressed in these public comment and complaint letters.

### **CenterPoint Energy<sup>1</sup>**

On May 3, 2007, CenterPoint submitted its informational filing in the CenterPoint investigation docket.<sup>2</sup> CenterPoint explained the purpose of its NSB program was to respond to consumers who are concerned about high and volatile natural gas prices. CenterPoint developed this program (with help from WeatherWise) to provide a choice to consumers and to stabilize a portion of CenterPoint’s non-gas margin revenue. CenterPoint objected to the conclusions in the Commission’s April 27, 2007 Order about the transparency and performance of the NSB program. Specifically, CenterPoint disagreed with the following statements

- customers who participated in the program may not have received sufficient, clear information to allow them to make an educated decision about whether to participate, and
- it appears that customers almost certainly will pay significantly more for natural gas at a fixed rate pursuant to these programs [Order at p. 5]

CenterPoint does not believe any interim relief is appropriate for the following reasons:

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<sup>1</sup> CenterPoint Energy Minnesota Gas (“CenterPoint” or “CenterPoint Energy”)

<sup>2</sup> In the Matter of a Commission Investigation into CenterPoint Energy's No Surprise Bill Program, Docket No. G-008/CI-07-542

- Cancellation (or abrogation) of CenterPoint’s contracts with its fixed bill customers would violate the federal Filed Rate Doctrine<sup>3</sup>
- CenterPoint and its NSB customers agreed to the fixed bill amount and twelve equal monthly payments in these contracts and the parties to these contracts should be required to live up to these agreements.
- Unwinding these contracts could cause unintended negative consequences, e.g. exiting customers may owe CenterPoint money if they leave the program, and cancelling these contracts may create new “stranded” costs for CenterPoint that would have to be recovered from CenterPoint’s customers. (CenterPoint suggested that these costs might be recovered from exiting NSB customers, its system customers or some other set of CenterPoint’s customers.)

Instead of considering this request for interim relief, CenterPoint believes parties and the Commission should focus on prospective changes that will improve the fixed bill programs and allow these programs to continue.

CenterPoint provided a preliminary estimate of potentially stranded costs based on actual weather, sales, and PGA results from November 2006 through March 2007, and three different hypothetical weather and price scenarios for April through October 2007. CenterPoint identified seven categories of stranded costs that it believes should be considered eligible for recovery:

	<b>Scenario A</b> Summer gas price spikes and 10% colder than normal weather	<b>Scenario B</b> Summer gas prices equal NYMEX prices as of 4/27/07, and normal weather	<b>Scenario C</b> Summer gas prices decline, and 10% warmer than normal weather
Foregone non-gas margin revenue (i.e. the weather hedge)	\$1,270,000	\$1,415,000	\$1,559,000
Cost of gas difference	\$2,549,000	\$7,244,000	\$8,062,000
Sales tax difference	(\$119,000)	\$116,000	\$162,000
Franchise fee difference	\$18,000	\$42,000	\$47,000
WeatherWise fee difference	\$2,030,000	\$2,030,000	\$2,030,000
Carrying charge difference	\$700,000	\$700,000	\$700,000

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<sup>3</sup> Filed rate doctrine. (1) Doctrine which forbids a regulated entity from charging rates for its services other than those properly filed with the appropriate federal regulatory authority. *Arkansas Louisiana Gas Co. v. Hall, La.*, 453 U.S. 571, 576, 101 S.Ct. 2925, 2930, 69 L.Ed.2d 856. [Black’s Law Dictionary, 6<sup>th</sup> ed.] (2) The Doctrine under the [federal] Natural Gas Act which requires rates to be on file with the [Federal Energy Regulatory] Commission and which prevents increased rates from being imposed retroactively. [Natural Gas Desk Book, 1994]

	<b>Scenario A</b> Summer gas price spikes and 10% colder than normal weather	<b>Scenario B</b> Summer gas prices equal NYMEX prices as of 4/27/07, and normal weather	<b>Scenario C</b> Summer gas prices decline, and 10% warmer than normal weather
Cost to inform eligible customers	\$40,000	\$40,000	\$40,000
<b>Total</b>	\$6,488,000	\$11,587,000	\$12,600,000

If all participating NSB customers are allowed to exit the NSB program, stranded costs could total \$6.5 to \$12.6 million. This is equivalent to \$8 to \$16 for each one of CenterPoint’s 789,000 firm system customers.

If only the 844 LIHEAP grant recipients are allowed to exit the NSB program, stranded costs could total \$54 to \$171 thousand. This would be equivalent to \$0.07 to \$0.22 for each one of CenterPoint’s 789,000 firm system customers.

CenterPoint objects to the Commission granting interim relief to any of the participants in the NSB program, and submitted this comment on cost recovery under protest. For the purpose of the above stranded cost calculations, CenterPoint “assumes that this recovery would be made from all firm customers.”

CenterPoint indicated that it could, if required, provide the following comparison data to NSB program customers that are given an opportunity to exit the NSB program:

- the true-up (or cash-out) amount for each customer (i.e. the difference between what the customer has paid so far during this program year under the fixed bill program, and what the customer would have paid if billed under standard rates.)
- a comparison of CenterPoint’s gas costs under the fixed bill program and gas costs under standard rates.
- a comparison of actual to normal weather year-to-date for the fixed bill program year expressed as a percentage warmer or colder than normal.
- a comparison between what the “average” NSB customer would have paid using NSB gas costs and normal weather for the program year-to-date (non-levelized) and what the average NSB customer would have paid using actual gas costs and actual weather for the same time period.

## **Xcel Energy<sup>4</sup>**

On May 3, 2007 Xcel submitted its information filing in the Xcel investigation docket,<sup>5</sup> and amended its filing on May 4. (Xcel did not provide additional comments about fixed bill programs or an opinion about the Commission's April 27, 2007 Order.)

Xcel provided the following preliminary estimates of stranded costs but did not provide any details about what it would consider potentially stranded gas costs and potentially stranded administrative costs.

- Xcel estimated there would be \$172,679 in stranded start-up costs if the program is allowed to run its course for the rest of this program year without any early exits, and the three-year pilot program is terminated at the end of year two, i.e. at the end of the 2006-2007 program year.
- Xcel estimated there would be \$203,951 in stranded costs if all 593 LIHEAP grant recipients currently enrolled in the program were to leave without being charged the \$30 exit fee. (This estimate is based on \$167,217 for stranded gas costs, and \$36,734 for stranded administrative costs.)
- Xcel estimated there would be \$4,425,305 in stranded costs if all 14,040 fixed bill customers were allowed to leave the program under the current cash-out provisions, and if they all paid the \$30 exit fee. Xcel notes that in addition to these stranded costs, if customers leave the program at this time of year, most of them will exit the program owing Xcel money. (This estimate is based on \$3.959 million in stranded gas costs, and \$466,305 in stranded administrative costs.)

Xcel reported that it is working with OAG (and ECC) to develop alternative scenarios that would allow customers to exit the program over an extended period of time, or when the customer's fixed monthly gas payments are likely to just exceed the customer's total annual bill. This would allow the customer to leave the fixed bill program without owing Xcel any additional money. Xcel expects to have this information available in time for the Commission's next meeting on this matter.

Xcel believes that because it has operated this program in compliance with its tariff and Commission orders, it should be allowed to recover any costs that may be stranded due to changes in the program or due to the program's early termination. Xcel believes any proposed modification should be carefully considered to ensure fairness to all of Xcel's customers, and to minimize stranded costs.

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<sup>4</sup> Northern States Power Company, a Minnesota corporation and wholly owned subsidiary of Xcel Energy Inc. ("Xcel")

<sup>5</sup> In the Matter of a Commission Investigation into Xcel Energy's Fixed Monthly Payment Pilot Program, Docket No. G-002/CI-07-541

If interim relief is ordered, Xcel would propose:

- to assign responsibility for the fixed price gas that was purchased for this program to Xcel’s system customers, i.e. Xcel’s firm and interruptible sales customers, and to recover these costs through Xcel’s PGA mechanism and annual true-up. And
- “for any stranded administrative costs not recovered through program or exit fees, [Xcel] would propose deferred accounting to allow for recovery in a future natural gas rate case. ...”

Xcel does not have a proposal at this time for providing comparison data to customers that may be eligible to leave the fixed bill program but thinks the information it is providing to OAG includes useful comparisons between customer costs under the fixed monthly gas payment program and standard rates. Xcel noted that estimates of an individual customer’s annual bill under standard rates is subject to many variables and is uncertain. Xcel also noted that providing relevant comparative data also depends on the modifications that are made to the program in this proceeding. Xcel indicated it is continuing to provide information to the parties, and believes this will help parties develop the communications part of their proposal if interim relief is granted.

**Staff Comment**

As of Friday morning, May 18, 2007, no comments had been received on the Companies’ information filings, however, staff expects there will be late-filed comments from ECC, and perhaps OAG.

**1. Should the Commission grant OAG’s (and ECC’s) request for interim relief?**

There are several issues the Commission may want to consider in deciding whether to grant interim relief. The first is whether OAG (and ECC) have made an adequate showing that CenterPoint’s and Xcel’s programs should be modified in the middle of the 2006-2007 program year. Requiring CenterPoint and Xcel to modify or cancel their fixed bill tariffs and their fixed bill contracts with their customers would be a significant shift in Commission policy.

However, it also seems unlikely, based on the Companies’ 2006-2007 fixed bill rates and their January 2007 standard rates,<sup>6</sup> that participants will have saved money at the end of this program year. In fact, Xcel’s customers may wind up paying as high a premium to participate in this year’s program as they did in 2005-2006. The Commission will need to decide if this provides

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	2006-07 Fixed Rate	Jan. 2007 standard rate (includes PGA)	Percentage difference between 2006-07 fixed rate and Jan. 2007 standard rate
Xcel	\$1.44/therm	\$0.974/therm	47.8%
CenterPoint	\$1.24/therm	\$1.06/therm	17.0%

sufficient cause to modify these programs, and to order the Companies to waive the hardship requirements in these tariffs that prevent most customers from leaving these programs.

#### Eligible customers

If the Commission decides that certain customers should be allowed to leave these programs early, then the Commission will need to decide which customers, and on what terms this will be allowed. The main question is whether all fixed bill program participants should be eligible for interim relief, or only the LIHEAP grant recipients enrolled in these programs.

CenterPoint has over 40,000 customers enrolled in its NSB program this year. 844 (or approximately 2%) of these customers have received LIHEAP grants. Xcel has approximately 14,000 customers enrolled in its program. 593 (or approximately 4.2%) of these customers have received LIHEAP grants. Granting interim relief only to LIHEAP customers would greatly reduce the amount of stranded costs that are at issue in this proceeding. On the other hand, if the programs are such that the Commission does not believe it is in the public interest for these programs to be offered to LIHEAP grant recipients, then it may not be in the public interest for any of CenterPoint's or Xcel's customers to continue participating in these programs.

A third, more complicated alternative would involve requiring the Companies to modify the definition of financial hardship in their fixed bill tariffs so that more customers would be clearly eligible to leave these programs. The "financial hardship" exit language from the tariffs is in these two footnotes.<sup>7, 8</sup> Staff believes this alternative would probably be too complicated to implement for the purpose of granting interim relief.

If the Commission grants interim relief to certain customers, it may want to specify whether this offer is for a certain time period only (e.g. 30 days) after comparative information is provided to customers, or for an extended period of time after information is provided to customers.

The Commission may also want to address whether exiting customers are will be required to pay the \$30 exit fee, and the cash-out balance due on their account. CenterPoint's tariff does not require the \$30 exit fee from customers who leave the program because of a move or non-

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<sup>7</sup> (4) "Customers shall lose qualification for, and be removed from this rider if they: (a) move from their address during the current program year, or (b) allow their bill to include a past due balance of greater than two times the monthly No Surprise Bill amount." (5) "Customers may lose qualification for, and may be removed from this rider after notification, if they Dial-Up excessively. ..." (6) "CenterPoint Energy may allow a customer to exit the rider before the completion of the 12 month term in the event of extraordinary or unusual circumstances such as dramatic reductions in usage due to an extended hospital stay." No Surprise Bill Rider, Special Conditions No. 4, 5, and 6, CenterPoint Energy, Gas Rate Book, Section V, Second Revised Page 12.a

<sup>8</sup> "Customers shall become ineligible for Fixed Bill service, and be removed from this Rider, if: (a) the customer moves from the current address during the program year; (b) customer does not have a current payment status with the Company's utility bill; or (c) excessive non-weather related gas usage, as defined in section 5 below." Fixed Monthly Payment Pilot Program Rider, Other Terms and Conditions No. 1, Xcel Energy, Gas Rate Book, Section 5, Original Sheet 66

payment of their bill. Xcel's tariff allows a waiver of the exit fee if the customer receives cold weather rule protection. In practice, Xcel waives the exit fee for LIHEAP recipients if the customer is removed from the program and has been experiencing hardship. (See footnotes 7 & 8 for the exact tariff language.) Xcel believes collecting the \$30 exit fee from departing customers may help defray some of the stranded administrative costs. If the Commission grants interim relief only for LIHEAP grant recipients, it may want to require CenterPoint and Xcel to exempt these customers from the exit fee as well.

Both Companies' tariffs require all customers who leave the program before the end of twelve months to settle their accounts by paying the cash-out balance specified in the tariff, or by taking a refund if the Company owes the customer money. ECC believes the Companies should be required to waive the cash-out charge for LIHEAP customers who leave these programs because public monies were used to help pay their monthly fixed bills.

#### Notification of eligible customers

If CenterPoint and Xcel are required to allow early exits from these programs for any reason (e.g. if the Commission requires the Companies to waive the hardship requirements in their tariffs), then the Commission should require the Companies to send letters or notices to their customers explaining these changes to the programs. Staff expects there will be disagreement over the content of any communication that is sent to these customers. In particular, staff expects there will be a dispute over what is included in the comparative billing data that OAG and ECC believe should be provided to customers.

OAG recommended that eligible customers be provided with comparative billing data.

CenterPoint suggested that if required, it could provide the following information to customers:

- the true-up (or cash-out) amount for each customer (i.e. the difference between what the customer has paid so far this program year under the fixed bill program, and what the customer would have paid if billed under standard rates.)
- a comparison of CenterPoint's per unit gas cost under the fixed bill program and gas costs under standard rates. (Gas costs under standard rates could be provided as a high and low number for the period, the monthly PGA rates, or as a weighted average.)
- a comparison of actual to normal weather, for the 2006-2007 fixed bill program year, year-to-date, expressed as a percentage warmer or colder than normal. (This may provide some indication of the difference between the customers actual consumption and the customers expected, normal consumption amount that WeatherWise would have used to calculate the fixed bill amount.)
- a comparison between what the "average" NSB customer would have paid using NSB gas costs and normal weather for the program year-to-date (non-levelized) and what the average NSB customer would have paid using actual gas costs and actual weather for the same time period. (The intent of this is to show the customer what they owe CenterPoint if they cash out of the program in the middle of the year.)

If the Commission grants interim relief, staff recommends requiring CenterPoint and Xcel to work with the Department, OAG, ECC, and Commission staff on developing materials (including, at a minimum, appropriate comparison data) that will be provided to program participants immediately, and require CenterPoint and Xcel to provide copies of those materials to the Commission in a compliance filing within 15 days of the Commission's Order in this docket.

#### Potential stranded costs

CenterPoint suggested seven categories of stranded costs. The three largest categories of stranded cost include over 90% of the estimated costs. These are:

- non-gas margin revenue (i.e. the weather hedge). This is the estimated amount of margin revenue that CenterPoint expects to lose if NSB customers are charged for the actual amount of gas they used rather than the NSB weather normal amount of gas. CenterPoint's filing does not address whether this weather normal amount of gas is the same amount of sales forecasted for these customers in CenterPoint's 2005 rate case. CenterPoint's filing also does not address why it should be guaranteed recovery of these monies if these sales never occurred and the NSB program is found to no longer be in the public interest.
- the cost of gas difference. This is the estimated difference between the fixed price of gas used for the NSB program and the cost of gas recovered from system customers through the PGA, and
- the WeatherWise fee difference.

If all participating NSB customers are allowed to exit the NSB program, stranded costs could total \$6.5 to \$12.6 million. This is equivalent to \$8 to \$16 for each one of CenterPoint's 789,000 firm system customers. If only the 844 LIHEAP grant recipients are allowed to exit the NSB program, stranded costs could total \$54 to \$171 thousand. This would be equivalent to \$0.07 to \$0.22 for each one of CenterPoint's 789,000 firm system customers. This assumes LIHEAP grant recipients are charged the \$30 exit fee and pay the cash-out balance.)

Xcel did not provide an explanation of its estimated stranded costs beyond the fact that some of Xcel's stranded costs would be gas costs and some would be administrative costs. Xcel did not provide per customer stranded cost estimates. Staff does not know if the dollar amount of stranded costs that Xcel would propose to recover from its system customers is similar to CenterPoint's. However, Xcel did suggest that it would propose recovering stranded gas costs from all of its system customers (i.e. from all firm and interruptible sales customers) through the PGA, and stranded administrative costs through deferred accounting.

If the Commission believes it has enough information about stranded costs to make a decision about interim relief, it could grant interim relief and allow actual stranded cost recovery proposals to be filed at the end of the 2006-2007 program year when their actual stranded costs have been accounted for.

## **2. Should the Commission suspend Xcel's and CenterPoint's authority to offer their fixed bill programs in 2007-2008 unless certain modifications are made to these programs?**

The Commission expressed an interest at the April 19, 2007 agenda meeting in requiring modifications to these programs before they are offered for the 2007-2008 program year. Unless these programs are modified, CenterPoint is authorized to continue offering its NSB program indefinitely, and Xcel is authorized to offer its program as a pilot for one more year. The timeline for a Commission decision on any modifications (or termination) of these programs for the 2007-2008 program year is very tight because the Companies typically lock in their gas supplies for these programs during the summer, and the enrollment period for the 2007-2008 program year begins in September.

### Communication materials

Staff believes the Commission indicated that the communication materials used to promote these programs should be revised to include comparative data about the experience of the average participant in these programs in previous years. For example, the Commission could require

- CenterPoint to disclose that in four out of the five previous years, 82% of customers paid at least \$50 more than they would have under standard billing, and in three out of the five previous years, 95% of customers paid at least \$50 more than they would have otherwise. Conversely, in four out of the five previous years, only fewer than 3.4% of customers paid less than they would have under standard billing, and in three out of the five previous years, fewer than 1.2% of customers paid less than they would have otherwise. And require
- Xcel to disclose that in 2005-2006, the average fixed bill customer paid \$682.76 more than they would have under standard rates, and 99.4% of participants paid at least \$50 more than they would have under standard billing.

Staff also believes, the Commission should also require Xcel and CenterPoint to revise their communications materials to provide all customers, for the years this information is available, a side-by-side comparison between what the individual customer was quoted in previous years (i.e. the fixed bill quote), and what they paid (or would have paid) under standard billing. For example, for the CenterPoint customer who moved into their home three years ago this information should be provided for each of the three previous years.<sup>9</sup>

Given the apparent confusion about the difference between fixed bills and budget bills, staff believes this should be explained better in all of the Companies' program-related communications with their customers.

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<sup>9</sup> For current fixed bill customers this means, at a minimum, a comparison of what the customer paid the preceding year as a program participant and what the customer would have paid if he (or she) had not participated in the program, and for potential customers, this means a side-by-side comparison of the customer's fixed bill quote with payment and usage data from the customer's residence for the previous two years.

### Other program modifications

There are two other modifications that the Commission may want to address if these programs are going to be offered in 2007-2008 prior to the completion of the Commission's investigations.

- Customer re-enrollment

The first issue is for the parties to revisit the re-enrollment opt-in or opt-out question. OAG and ECC believe the automatic re-enrollment provision in these programs should be discontinued. The Companies are opposed because changes to the program may cause customer confusion, and would be inconsistent with how the Companies operate their budget billing programs. The parties may want to consider this in conjunction with any revisions that are made to the Companies' communication plans and materials.

- Should LIHEAP grant recipients be excluded from these programs?

The other issue that should be addressed is the question about whether the Commission should prohibit LIHEAP<sup>10</sup> recipients from participating in these programs. Eligibility for CenterPoint's affordability program, and Xcel's proposed affordability program is conditioned on being eligible for and receiving a LIHEAP grant. If the Commission decides LIHEAP recipients are not eligible for these fixed bill programs, then affordability program customers will not be eligible either.

OAG argued that the Commission should not allow the public monies used to fund LIHEAP, and ratepayer monies used to fund affordability programs, to be used to maintain low-income ratepayers on these fixed bill programs, given the apparent profitability of these programs, and the probability that these customers: (1) may be on a payment plan already if they received a LIHEAP grant, and (2) are likely to pay more for natural gas service if they enroll in these programs. ECC also objects to LIHEAP recipients participating in these programs. However, CenterPoint argued that this sort of prohibition might be considered discriminatory, and questioned whether the Commission can find that it would be legal under state and federal law.

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<sup>10</sup> Low Income Heating Energy Assistance Program ("LIHEAP")

## Decision Alternatives

### Interim relief

1. Deny OAG's (and ECC's) request for interim relief. or
2. Order CenterPoint and Xcel to allow eligible customers to withdraw from the fixed bill programs retroactively to the start of the 2006-2007 program year.
  - A. Definition of eligible customers
    1. All program participants (for any reason, upon request), or
    2. LIHEAP grant recipients only (for any reason, upon request), or
    3. Only those customers that currently meet the current tariff definition for financial hardship, or otherwise show good cause to withdraw, or
    4. Only those customers that currently meet a modified (i.e. relaxed) definition of financial hardship (to be defined), and show good cause to withdraw.
  - B. Amount of time customers are allowed to consider withdrawing from the fixed bill programs
    1. A limited, but reasonable, time period (e.g. 30 days) after comparative information is provided to customers, or
    2. An extended period of time after the information is provided to customers.
  - C. \$30 exit fee
    1. Require all exiting customers to pay the \$30 exit fee pursuant to the existing tariffs, or
    2. Require CenterPoint and Xcel to waive the \$30 exit fee for all customers who are allowed to leave these programs, or
    3. Require CenterPoint and Xcel to waive the \$30 exit fee for LIHEAP grant recipients only.
  - D. Cash-out
    1. Require the Companies and all customers who leave these programs to settle the cash-out amount pursuant to the existing tariffs, or
    2. Require the Companies and all customers who leave these programs to settle the cash-out amount, but require the Companies to allow customers to settle their accounts over time by converting to budget billing or entering into a payment arrangement over a reasonable time period, or
    3. Require CenterPoint and Xcel to waive settlement of the cash-out amount for all customers who leave these programs when the customer owes the Company money, or
    4. Require CenterPoint and Xcel to waive settlement of the cash-out amount for LIHEAP grant recipients only when the customer owes the Company money.

If the Commission adopts alternative 2, staff recommends the Commission also consider alternatives 3 through 6.

3. Order CenterPoint and Xcel to immediately provide: (A) comparison data to eligible program participants to enable an informed choice, and (B) authorize the Commission's Consumer Affairs Office to help mediate claims that the customer has established good cause to withdraw from the fixed bill programs.
4. Require CenterPoint and Xcel to work with the Department, OAG, ECC, and Commission staff on developing communication, marketing and promotional materials (including historical comparison data) that will be provided immediately to program participants who become eligible to leave these fixed bill programs. Require CenterPoint and Xcel to provide copies of these materials to the Commission in a compliance filing within 20 days of the Commission's Order in this docket. Require the following information, at a minimum, to be provided to eligible customers:
  - A. comparative billing data, or
  - B. • the true-up amount for each customer (i.e. the difference between what the customer has paid during the 2006-2007 program year under the fixed bill program and what the customer would have paid if billed under standard rates.), and
    - a comparison of gas costs under the fixed bill program and gas costs under standard rates, and
    - a comparison of actual and normal weather year-to-date for the fixed bill program year expressed as a percentage warmer or colder than normal, and
    - a comparison between what the "average" NSB (or FMGP) customer would have paid using NSB (or FMGP) gas costs and normal weather for the program year-to-date (non-levelized) and what the average NSB (or FMGP) customer would have paid using actual gas costs and actual weather for the same time period.
5. Require CenterPoint and Xcel to file revised NSB and Fixed Bill interim tariff language within 20 days of the Commission's Order in this docket.
6. Allow parties to comment on CenterPoint's and Xcel's communications materials, and tariff language, within 10 days of the Companies's compliance filings in alternatives 3 and 4 above.

**Potential stranded costs**

7. Authorize CenterPoint and Xcel to submit proposals for recovering stranded costs at the end of the 2006-2007 program year, and allow parties to comment on CenterPoint's and Xcel's stranded cost recovery proposals within 60 days of the Companies' filings.

If the Commission adopts alternative 7 it may want to make a decision on alternatives A & B below. These would be advisory directions. Parties have not provided comments on the Companies suggestions.

- A. Direct that one or more (or all) of the following types of potentially stranded costs may be considered eligible for recovery:

1. Unrecovered non-gas margin revenue (i.e. the weather hedge)
2. Cost of gas difference
3. Sales tax difference
4. Franchise fee difference
5. WeatherWise fee difference
6. Carrying charge difference
7. Cost to inform eligible customers

- B. Design of the cost recovery proposal

1. Direct that stranded costs should be recovered from firm customers only, or
2. Direct that CenterPoint and Xcel should assign responsibly for the fixed price gas that was purchased for these programs to system customers, i.e. firm and interruptible sales customers, and recover these costs through the PGA mechanism and annual true-up. For any stranded administrative costs not recovered through program fees or exit fees, authorize deferred accounting to allow for recovery in a future natural gas rate case.

8. Do not address stranded cost recovery until CenterPoint and Xcel make actual proposals for recovery of stranded costs.

**Authority to offer fixed bill programs in 2007-2008 and beyond**

9. Modify the Commission's earlier Orders<sup>11, 12</sup> that authorized these programs, and suspend Xcel's and CenterPoint's authority to offer fixed bill programs in 2007-2008, and beyond, unless one or more of the following modifications are made to these programs.

A. Require Xcel and CenterPoint to revise their communications, marketing and promotional materials for these programs for 2007-2008 and beyond, to include, at a minimum, providing:

1. All customers, for the years this information is available, a side-by-side comparison between what the individual customer was quoted in previous years (i.e. the fixed bill quote), and what they paid (or would have paid) under standard billing. For example, for the CenterPoint customer who moved into their home three years ago this information should be provided for each of the three previous years.

2. Current and potential customers comparative data that discloses that for

- CenterPoint, in four out of the five previous year's, 82% of customers paid at least \$50 more than they would have under standard billing, and in three out of the five previous years, 95% of customers paid at least \$50 more than they would have otherwise. Conversely, in four out of the five previous years, only fewer than 3.4% of customers paid less than they would have under standard billing, and in three out of the five previous years, fewer than 1.2% of customers paid less than they would have otherwise. and for

- Xcel, in 2005-2006, the average fixed bill customer paid \$682.76 more than they would have under standard rates, and 99.4% of participants paid at least \$50 more than they would have under standard billing.

- this information should be updated with information from 2006-2007 if reliable estimates for 2006-2007 are available when by the time this information is provided to current and potential customers.

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<sup>11</sup> Order Approving Tariff for No Surprise Bill Program, as Revised, In the Matter of the Petition of CenterPoint Energy for Approval to Continue the No Surprise Bill and Revise the No Surprise Bill Tariff to Allow for the Inclusion of Planned Rate Increases in the Bill, Docket No. G-008/M-05-602 (September 6, 2005)

<sup>12</sup> Order Granting Petition with Modifications and Reporting Requirements, In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Fixed-Bill Option Tariff and Rule Variance, Docket No. G-002/M-05-393 (September 6, 2005)

3. All customers, a better explanation of the difference between the fixed bill programs and the budget bill programs in all of the Companies' fixed bill program-related communications, marketing and promotional materials.
  4. Require CenterPoint and Xcel to work with the Department, OAG, ECC, and Commission staff on developing the communication, marketing and promotional materials (including historical comparison data) that will be provided to current and potential program participants.
- B. Require Xcel and CenterPoint to discontinue the automatic re-enrollment feature of these programs. Require all new and continuing participants to affirmatively opt-in each program year.
- C. Do not permit LIHEAP eligible ratepayers to enroll in these fixed bill programs.
10. Require CenterPoint and Xcel to file revised communication, marketing and promotional materials (including historical comparison data), and revised NSB and FMGP tariff language within 30 days of the Commission's Order in this docket.
  11. Allow parties 10 days to file comments on the compliance filings required in alternative 9.
  12. Suspend Xcel's and CenterPoint's authority to offer these fixed bill programs at the conclusion of the 2006-2007 program year until the Commission is satisfied that it is in the public interest for CenterPoint and Xcel to resume offering these program, or after the Commission proceedings involving these fixed bill investigations have concluded, and there is a finding that these programs are in the public interest.

**Status reports on these investigations**

13. Request OAG, and any other party, to provide an oral briefing at the Commission's May 24, 2007 agenda meeting on the status of these investigations. These briefings may include procedural and substantive issues.
14. Request OAG, and any other interested party, to submit periodic summary reports at 30 day intervals on the status of these investigations.