Is CenterPoint "Having Its Cake and Eating it Too" When Recovering Winter Storm Uri Costs from Minnesotans?

A White Paper Exploring CenterPoint's Equity Interest in Energy Transfer, LP and what it represents for CenterPoint's Minnesota Customers

The Citizens Utility Board of Minnesota
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About the Citizens Utility Board of Minnesota ("CUB"):

CUB is a nonprofit organization that represents the interests of residential customers across Minnesota. Our mission is to advocate for affordable and reliable utility service and clean energy. CUB is committed to reducing utility costs for the people of Minnesota by improving public policy, educating consumers about energy options, and offering personalized guidance on how to lower electricity and natural gas bills. Founded in 2016, CUB participates frequently in regulatory proceedings before the Minnesota Public Utilities Commission, represents the consumer interest before the Minnesota legislature, and has consulted with thousands of individuals across the state.

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Disclaimers:

This white paper presents facts, as we understand them, that we obtained solely from public sources, including public filings made with the Securities and Exchange Commission and Minnesota Public Utilities Commission, Energy Transfer, LP and CenterPoint Energy, Inc. press releases, and published media sources. We have not shared this white paper with CenterPoint prior to its publication, nor have we sought CenterPoint's comments on the transactions discussed herein. We welcome CenterPoint to comment on the white paper to identify any errors or misunderstandings present within it and to present additional facts related to the transactions discussed below. We are open to revising this white paper to correct any errors or misunderstandings that may be inadvertently included herein.

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Introduction

One year ago, in February 2021, Winter Storm Uri caused temperatures to plummet across much of the United States. These widespread cold temperatures caused demand for natural gas to increase as households and businesses consumed more gas for heating purposes. Meanwhile, the cold weather also caused "freeze off" events at some natural gas generation and transportation systems—particularly in Texas and other southern states—which reduced the available supply of natural gas. Finally, Winter Storm Uri coincided with the President's Day Holiday weekend, when there were limited opportunities for natural gas purchases and sales. These coinciding factors caused natural gas prices to spike to historic levels between February 13-17, 2021.

CenterPoint Energy, Minnesota's largest natural gas utility, was among many natural gas utilities impacted by Winter Storm Uri. In a filing made with the Minnesota Public Utilities Commission (the "Commission") soon after the storm, CenterPoint estimated it incurred approximately $500 million in costs providing gas to its Minnesota customers between February 12 and February 22, 2021.[1] To put these costs into context, CenterPoint's total commodity costs for providing gas to Minnesotans during the entire previous gas year were approximately $321 million.[2]

CenterPoint is now in the process of passing Winter Storm Uri-related costs through to its Minnesota customers: beginning in September 2021, most of CenterPoint's Minnesota customers began seeing a monthly surcharge appear on their natural gas bills for this purpose.[3] That surcharge is currently scheduled to continue for a total of 63 months, subject to the outcome of a contested case proceeding reviewing the prudency of the company's spending. This proceeding (to which CUB is a party) is currently in process before the Minnesota Office of Administrative Hearings.

Meanwhile, some natural gas suppliers and transporters made enormous profits during the storm. Texas-based Energy Transfer, LP is among such entities. One of the largest midstream energy companies in North America, Energy Transfer owns and operates approximately 114,000 miles of pipelines.[4] Energy Transfer made $2.4 billion during Winter Storm Uri and posted quarterly net income of $3.29 billion in the first quarter of 2021.[5] By comparison, Energy Transfer reported a net loss of $855 million for the first quarter of 2020[6] and a net income of $509 million for the last quarter of 2020.[7] At least one Texas utility, CPS Energy, sued Energy Transfer for price gouging during Winter Storm Uri, noting in its lawsuit that gas prices CPS paid to Energy Transfer were 15,000% higher than

[1] CenterPoint Energy, Initial Filing – Petition for Recovery of Cost Due to Extreme Gas Market Conditions, Minnesota PUC Docket No. G-008/M -21-138 (March 15, 2021) ("CenterPoint Petition"), p. 2. (As described in more detail below, CenterPoint later revised this estimate to be $466,083,062 incurred between February 13-17, 2021.)
[2] Id., p. 8 (CenterPoint measures this gas year as July 1, 2019 through June 30, 2020).
[3] The surcharge is labeled "Feb 2021 Weather Event" on CenterPoint bills.
[4] Energy Transfer, Press Release: Energy Transfer Completes Acquisition of Enable Midstream (Dec. 2, 2021), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-completes-acquisition-enable-midstream
[5] Gerson Freitas Jr, "Energy Transfer Made $2.4 Billion From Texas Winter Storm," BLOOMBERG (May 6, 2021), available at https://www.bloomberg.com/news/articles/2021-05-06/energy-transfer-made-2-4-billion-gain-from-texas-winter-storm.
[6] Energy Transfer, Press Release: "Energy Transfer Reports First Quarter 2020 Results And Reduces Capital Expenditures (May 11, 2020), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-reports-first-quarter-2020-results-and-reduces
[7] Energy Transfer, Press Release: "Energy Transfer Reports Fourth Quarter 2020 Results (Feb. 17, 2020), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-reports-fourth-quarter-2020-results

usual.[8] A year after Winter Storm Uri, Texas power-generator Vistra Energy again accused Energy Transfer of price gouging ahead of a February 2022 winter storm, but later dropped those allegations.[9]

On February 17, 2021—in the midst of Winter Storm Uri—CenterPoint's parent company, Texas-based CenterPoint Energy, Inc., issued a press release announcing its support for a proposed merger between CenterPoint Energy Inc.'s affiliate, Enable Midstream Partners, LP, and Energy Transfer.[10] Prior to the merger closing, CenterPoint Energy Inc. owned 53.7% of the common units of Enable Midstream Partners, LP.[11] According to a subsequent CenterPoint press release, this merger closed on December 2, 2021.[12] Upon the merger closing, CenterPoint Energy, Inc. received $5 million in cash and a significant equity interest in Energy Transfer in exchange for transferring CenterPoint Energy Inc.'s interest in Enable Midstream Partners to Energy Transfer.[13] It appears that, in the time since the merger closed, CenterPoint Energy, Inc. has sold most of its equity interest and has become eligible to receive Energy Transfer dividends on its remaining common units, collectively amounting to over $1.3 billion in gross proceeds.[14]

Our intention in distributing this white paper is to present facts, as we understand them, about the merger involving CenterPoint and Energy Transfer and various transactions that have followed that merger. To be clear, our intention is *not* to accuse CenterPoint, either directly or implicitly, of engaging in price gouging or other unlawful activity. However, the facts presented in this white paper raise several concerns and questions that we believe warrant further explanation from CenterPoint, including the following:

- What is the exact total (both gross and net) of proceeds or earnings CenterPoint Energy, Inc. has received to date as a result of the merger involving CenterPoint and Energy Transfer, its

[8] *CPS Energy v. Houston Pipe Line Co., LP and Oasis Pipeline, LP*, Plaintiff's Original Petition and Application for Temporary Restraining Order and Temporary Injunction, Cause No. 2021CI05138, Bexar County, Texas District Court (March 19, 2021), available at https://www.cpsenergy.com/content/dam/corporate/en/Documents/StormUpdates/Original%20Petition%20and%20App%20TRO%20TI%20without%20exhibits%20-%20Houston%20Pipe%20Line%20and%20Oasis%20Pipeline%20(3-19-2021)%20(002).pdf; *see also* Bloomberg Wire, "'Disaster should not be a jackpot,' says San Antonio utility in lawsuit naming Energy Transfer, two others," THE DALLAS MORNING NEWS (Mar. 23, 2021), available at https://www.dallasnews.com/business/energy/2021/03/23/disaster-should-not-be-a-jackpot-says-san-antonio-utility-in-lawsuit-naming-energy-transfer-two-others/; Emily Baucum, "Lawsuit reveals shocking timeline of rising power prices during February freeze," News 4 San Antonio (Jan. 11, 2022), available at https://news4sanantonio.com/news/trouble-shooters/lawsuit-reveals-shocking-timeline-of-rising-power-prices-during-february-freeze.

[9] Naureen S. Malik and Mark Chediak, "Vistra Accuses Energy Transfer of Price Gouging Before Storm," YAHOO! FINANCE (Feb. 2, 2022), available at https://finance.yahoo.com/news/vistra-accuses-energy-transfer-price-201722587.html; *see also* Naureen S. Malik, "Vistra Drops Price-Gouging Complaint Against Energy Transfer," BLOOMBERG (Feb. 10, 2022), available at https://news.yahoo.com/vistra-drops-price-gouging-complaint-164553911.html.

[10] CenterPoint Energy, Press Release: "CenterPoint Energy Announces Its Support of the Proposed Merger Between Enable Midstream Partners, LP and Energy Transfer LP" (Feb. 17, 2021), available at https://investors.centerpointenergy.com/news-releases/news-release-details/centerpoint-energy-announces-its-support-proposed-merger-between.

[11] *Id.*

[12] CenterPoint Energy, Press Release: "CenterPoint Energy Begins Exit of Midstream Following Energy Transfer's Completed Acquisition of Enable Midstream Partners" (Dec. 2, 2021), available at https://investors.centerpointenergy.com/news-releases/news-release-details/centerpoint-energy-begins-exit-midstream-following-energy.

[13] *Id.*

[14] See the remainder of the white paper for further facts and sources supporting this calculation. As explained further below, this is an estimate of gross proceeds. It does not account for transaction fees, indebtedness of CenterPoint Energy, Inc. or its affiliates, or value lost through equity in Enable Midstream Partners that CenterPoint exchanged through the merger.

financial interests in Energy Transfer, and/or its subsequent sale or liquidation of Energy Transfer equity interests?

- What is the estimated amount of proceeds or earnings CenterPoint Energy, Inc. expects to receive in the future through its financial interest in Energy Transfer (including any future liquidation or sale of such interest)?

- Do CenterPoint's Minnesota customers/ratepayers benefit from the merger involving Energy Transfer? If so, how?

- How do revenue and earnings CenterPoint received through the merger, its financial interest in Energy Transfer, and/or subsequent sales of its interest in Energy Transfer affect CenterPoint's need to recover Winter Storm Uri-related costs from Minnesotans?

- How do revenue and earnings CenterPoint received through the merger, its equity interest in Energy Transfer, and/or subsequent sales of its interest in Energy Transfer affect CenterPoint's need to raise Minnesotans' rates?

- Does CenterPoint's financial interest in Energy Transfer create a conflict of interest for CenterPoint to participate in regulatory investigations of price-gouging or market manipulation during Winter Storm Uri (or in subsequent extreme weather events, including the winter storm affecting Texas in February 2022)?

- Does CenterPoint's financial interest in Energy Transfer create a conflict of interest for CenterPoint to pursue contract, or other private, claims (if any exist) against Energy Transfer or other entities involved in the sale, storage, or transport of natural gas during Winter Storm Uri?

- Does CenterPoint's affiliation with Energy Transfer create a conflict of interest for CenterPoint to negotiate terms in new or renewed contracts with Energy Transfer that allow CenterPoint to better protect ratepayers from financial harm arising from future price spike events?

Procedural History at the Minnesota Public Utilities Commission

Between February 13-17, 2021, Winter Storm Uri coincided with the 2021 President's Day Holiday weekend. Due to widespread demand for natural gas coinciding with reduced supply, prices on natural gas spot markets spiked to historic levels. Prices at natural gas delivery points to Minnesota increased to as much as $231 per dekatherm ("Dth"), as compared to the forecasted February weighted average cost of gas at $3.06 per Dth.[15] This price spike caused several of Minnesota's natural gas utilities—including CenterPoint—to incur substantial costs procuring and delivering gas to Minnesotans.

[15] CenterPoint Petition, p. 1.

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, a Delaware corporation ("CERC"), is an indirect, wholly-owned subsidiary of CenterPoint Energy, Inc., a Texas corporation.[16] For simplicity, our references to "CenterPoint" and the "Company" throughout the remainder of this whitepaper refer, unless otherwise indicated, collectively to CenterPoint Energy, Inc. and its subsidiaries, including CERC. A more detailed explanation of CenterPoint's corporate structure is available in its most recent 10-K filing.[17] CenterPoint is the largest natural gas utility serving Minnesota, providing natural gas to approximately 890,000 Minnesota customers. CenterPoint is a public utility, as that term is defined in Minn. Stat. 216B.02, subd. 4 and, as such, is regulated by the Minnesota Public Utilities Commission.

On March 16, 2021, CenterPoint filed a petition with the Commission seeking expedited recovery of $500 million in Winter Storm Uri-related costs from its Minnesota customers.[18] In July 2021, CenterPoint revised its calculation of costs incurred providing gas to Minnesotans between the narrower timeframe of February 13-17, 2021 to be $466,083,062.[19]

On May 6, 2021, CenterPoint held a quarterly earnings call to communicate with CenterPoint shareholders and potential investors.[20] In this call, CenterPoint President and CEO, David Lesar, discussed the impact of Winter Storm Uri on the company's ability to generate revenue and earnings for its shareholders. For example, he said, "[b]ecause the higher natural gas costs are pass through costs for our business [i.e., because costs are passed through to CenterPoint's customers], they did not impact this quarter's utility results" and "[w]e are off to a great start for the year. So let's check the utility earnings box as being on track."[21]

On August 5, 2021, the Minnesota Public Utilities Commission held a public hearing to evaluate the Winter Storm Uri-related costs that CenterPoint (along with three other impacted Minnesota natural gas utilities[22]) incurred. The primary objective of the hearing was to determine whether and how the impacted utilities would be permitted to recover extraordinary storm-related costs from their Minnesota customers. The Commission first defined "extraordinary costs" to be "the margin between $20/dekatherm and the actual average price experienced by the utilities" during the timeframe of February 13-17, 2021 (the "Extraordinary Costs").[23] Under this definition, CenterPoint incurred approximately $409 million in Extraordinary Costs.[24] The Commission then permitted the impacted

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[16] A more detailed explanation of CenterPoint's corporate structure can be found in CenterPoint Energy Inc.'s Form 10-K Annual Report for the Fiscal Year Ended December 31, 2021 (Feb. 22, 2022), available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1130310/000113031022000023/cnp-20211231.htm.
[17] *Id.*
[18] See generally, CenterPoint Petition.
[19] CenterPoint Energy, Comments in Response to the Minnesota Public Utilities Commission's May 19, 2021 Notice, Docket No. 21-138 (July 6, 2021), p. 3 and Exhibit 1, available at https://efiling.web.commerce.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId=%7bE09C7D7A-0000-C638-91C4-35FC42A94574%7d&documentTitle=20217-175872-02.
[20] CenterPoint Energy Inc, Q1 2021 Earnings Call (May 6, 2021), transcript available at https://investors.centerpointenergy.com/static-files/08c25333-f801-4736-8569-491082f5d555.
[21] *Id.*
[22] The other impacted regulated utilities are Xcel Energy, Minnesota Energy Resources Corporation (MERC), and Great Plains Natural Gas Co.
[23] Minnesota Public Utilities Commission, Order Granting Variances and Authorizing Modified Cost Recovery Subject to Prudence Review, and Notice of And Order for Hearing, Docket No. 21-135 (Aug. 30, 2021), p. 20.
[24] *Id.*

utilities to begin recovering non-extraordinary costs (those not meeting the above definition) through a standard, automatic "true-up" mechanism, while Extraordinary Costs would be recovered via separate, volumetric surcharges added to customers' bills.[25] The Commission also referred an ongoing "prudency review" of the impacted utilities' Extraordinary Costs to a contested case proceeding before the Minnesota Office of Administrative Hearings for further record development.[26] In that contested case proceeding, the impacted utilities—including CenterPoint—bear the burden of proving the decisions and actions that led to them incurring Extraordinary Costs were prudent. If they are unable to meet that burden, the Commission may ultimately "disallow" recovery of some Extraordinary Costs. CUB is a party to this contested case proceeding, which is ongoing as of the date of this document.

During the August 5, 2021 hearing, several of Minnesota's Commissioners expressed frustration and dismay over the impact Winter Storm Uri will have on Minnesotans if the impacted utilities are permitted to recover all their Extraordinary Costs from Minnesota customers. In closing comments, some Commissioners also disapprovingly referenced statements made by corporate officers about how the storm would affect their business. For example, Chair Katie Sieben alluded to CenterPoint CEO David Lesar's comment quoted above, saying she "was really troubled" by Mr. Lesar's suggestion that "all costs are recoverable [from customers]." She went on to say, that "[Mr. Lesar] did not understand the legal framework we have in Minnesota, and [while] that may fly in Texas, […] it won't fly, or won't be reasonable, if that [argument is what] comes back to us from a contested case."[27] Further, Commissioner John Tuma referenced a *Bloomberg* article[28] discussing the $2.4 billion in profits Energy Transfer received during the February storm. Commissioner Tuma noted of Energy Transfer:

> That's the thing that I carry into this that is probably the heaviest on my heart: we allowed people like [Energy Transfer co-CEO, Tom Long] to reach into the pockets of our ratepayers and reap unreasonable and egregious profits. It's mind-boggling to me that this happened. […] To paraphrase Mr. Long, [Energy Transfer] played by the rules – unfortunately, rules they set, in a market they created. And that's the part that really bothers me. I've seen this happen before. I'm not too young to remember Enron.[29]

It is unclear whether Commissioner Tuma (or any other Commissioner) was aware that CenterPoint had supported a pending merger involving a CenterPoint affiliate and Energy Transfer when he made this statement.

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[25] *Id*.
[26] *Id*., p. 22.
[27] A webcast of this hearing is available at https://minnesotapuc.granicus.com/MediaPlayer.php?view_id=2&clip_id=1510. Chair Sieben made these comments near the 3:08 minute mark.
[28] Kevin Crowley, Naureen S Malik, and Mark Chediak, "Gas Sellers Reaped $11 Billion Windfall During Texas Freeze," BLOOMBERG (July 9, 2021), available at https://www.bloomberg.com/news/articles/2021-07-09/gas-sellers-reaped-11-billion-windfall-during-texas-freeze
[29] A webcast of this hearing is available at https://minnesotapuc.granicus.com/MediaPlayer.php?view_id=2&clip_id=1510 Commissioner Tuma made these comments near the 2:40 minute mark.

The Merger involving CenterPoint and Energy Transfer

Energy Transfer, LP is a publicly traded, Fortune 500, Delaware limited partnership headquartered in Texas (together with its wholly owned subsidiaries, "Energy Transfer"). According to Energy Transfer's website, "Energy Transfer is one of the largest and most diversified midstream energy companies in North America with approximately 114,000 miles of pipelines and associated energy infrastructure across 41 states transporting the oil and gas products that make our lives possible." [30] Approximately 30% of the nation's natural gas and crude oil moves through Energy Transfer pipelines.[31]

According to statements made in its Quarter 1, 2021 Earnings Call, Energy Transfer earned "approximately $2.4 billion from [Winter Storm Uri] for full-year 2021, inclusive of $100 million of expenses, which may be incurred throughout 2021, related to the storm."[32] Energy Transfer reported its 2021 First Quarter net income to be "$3.29 billion, an increase of $4.14 billion compared to the same period the previous year."[33] In a press release reporting these results, Energy Transfer indicates that these Quarter 1 financial results "reflected the one-time impacts of [Winter Storm Uri] and reliable operations of [Energy Transfer]'s flexible, well-maintained asset base, particularly its storage and transportation facilities in Texas."[34]

On December 2, 2021, CenterPoint issued a press release[35] announcing the completion of the merger involving Energy Transfer, which it described in more detail in a December 3, 2021 SEC filing.[36] Energy Transfer also issued a press release announcing the merger. [37] Oklahoma-based business and legal news source, *The Journal Record,* summarized the terms of the merger as follows:

> CenterPoint's 53.7% of Enable common units converted into 201 million Energy Transfer (ET) common units. The settlement of CenterPoint's previously announced contingent forward sale for 50 million ET common units, representing approximately 25% of CenterPoint's ownership in ET common units, was triggered upon completion of the merger between Enable and ET.
>
> CenterPoint also received $5 million in cash in exchange for its Enable general partner interest and ET Series G Fixed-Rate Reset Cumulative Redeemable Perpetual Preferred units with a liquidation preference of approximately $385 million in exchange for the

[30] *See* https://www.energytransfer.com/ (last visited Feb. 10, 2022).
[31] *Id.*
[32] Energy Transfer's (ET) Management on Q1 2021 Results - Earnings Call Transcript (May 6, 2021), transcript available at https://ir.energytransfer.com/static-files/93baa9e3-688a-428a-989c-59b8ddd768d9.
[33] Energy Transfer, Press Release: "Energy Transfer Reports First Quarter 2021 Results" (May 6, 2021), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-reports-first-quarter-2021-results.
[34] *Id.*
[35] CenterPoint Energy, Press Release: "CenterPoint Energy Begins Exit of Midstream Following Energy Transfer's Completed Acquisition of Enable Midstream Partners" (Dec. 2, 2021), available at https://investors.centerpointenergy.com/news-releases/news-release-details/centerpoint-energy-begins-exit-midstream-following-energy.
[36] CenterPoint Energy, Inc., Form 4, Statement of Changes in Beneficial Ownership (Dec. 3, 2021), available at https://www.sec.gov/Archives/edgar/data/0001591763/000089924321046821/0000899243-21-046821-index.html.
[37] Energy Transfer, Press Release: "Energy Transfer Completes Acquisition of Enable Midstream" (Dec. 2, 2021), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-completes-acquisition-enable-midstream.

> $363 million liquidation preference of Enable Series A Fixed-to-Floating Non-Cumulative Redeemable Perpetual Preferred units owned by CenterPoint.[38]

According to a Beneficial Ownership report CenterPoint filed on December 10, 2021: "CenterPoint Energy Midstream, Inc. ('CNP Midstream'), of which CenterPoint Energy, Inc. ('CenterPoint') is the Parent Holding Company, was the record owner of 200,999,768 Common Units of Energy Transfer LP [...] on December 2, 2021."[39]

On January 3, 2022, CenterPoint filed a Petition with the Commission seeking approval of an affiliated interest agreement between CenterPoint and Energy Transfer.[40] This filing was triggered by the requirement found in Minn. Stat. 216B.48, subd. 3, which requires regulated utilities to obtain the Commission's approval before entering into an "affiliated interest contract." According to the filing, CenterPoint owned 6.52% of the total outstanding common units of Energy Transfer on December 2, 2021 (the date the merger closed).[41]

As is evident from the above descriptions, the merger is complicated; it involves multiple contracts between CenterPoint Energy, Inc., Energy Transfer, LP, subsidiaries of both entities, Enable Midstream Partners, and other parties. CUB has not reviewed all these contracts. At a high level, the terms of the merger relevant to this white paper, as we understand them, can be simplified as follows: (1) CenterPoint conveyed all of its ownership interest in Enable Midstream Partners to Energy Transfer; (2) in exchange, Energy Transfer conveyed to CenterPoint: $5 million; 6.52% of Energy Transfer's then outstanding common units (think of "common units" as loosely equivalent to common stock in a corporation); and a right to convert to cash additional equity in Energy Transfer (the Series G Preferred Units) worth about $385 million.

CenterPoint Securities and Asset Sales following Merger involving Energy Transfer

On December 7, 2021, Energy Transfer issued a press release announcing that CenterPoint Energy Midstream, Inc., would be offering to sell 86,956,522 Energy Transfer common units for gross proceeds of $665,217,393.[42] The announcement further provided that CenterPoint had granted

[38] Business Wire, "Enable, Energy Transfer merger complete; CenterPoint reduces midstream exposure, "THE JOURNAL RECORD (Dec. 3, 2021), available at https://journalrecord.com/2021/12/03/enable-energy-transfer-merger-complete-centerpoint-reduces-midstream-exposure/.
[39] CenterPoint Energy, Inc., Schedule 13G Beneficial Ownership Report (Dec. 10, 2021), Ex-99.2, available at https://www.sec.gov/Archives/edgar/data/0001130310/000119312521354009/0001193125-21-354009-index.html.
[40] CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, Petition of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas, for Approval of an Affiliated Interest Agreement Between CenterPoint Energy Minnesota Gas and Energy Transfer LP, Docket No. 22-28 (Jan. 3, 2022). *See also* Minnesota Department of Commerce, PUBLIC Comments of the Minnesota Department of Commerce, Docket 22-28 (Jan. 31, 2022) (showing the agreement in question was a gas supply agreement between CenterPoint Energy Resources Corp, a subsidiary of CenterPoint Energy, Inc., and ETC Marketing Ltd, a subsidiary of Energy Transfer).
[41] *Id*, p. 2. (further showing that CenterPoint's ownership decreased to 1.66% of Energy Transfer's total outstanding common units following CenterPoint's sale of some of those units in December 2021).
[42] Energy Transfer, Press Release: "Energy Transfer Announces Pricing of Secondary Public Offering of Common Units" (Dec. 7, 2021), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-announces-pricing-secondary-public-offering.

underwriters of this sale a 30-day option to purchase up to 13,043,478 additional common units from CenterPoint "at the public offering price less underwriting discounts and commissions."[43]

On December 13, 2021, CenterPoint Energy, Inc. filed a Form 8-K noting that the Company completed the sale of 192,390 of its Energy Transfer Series G Preferred Units "for gross proceeds of approximately $193.4 million."[44]

On Jan 25, 2022, Energy Transfer announced a distribution of $0.175 per Energy Transfer common unit for the fourth quarter ending December 31, 2021, which will be paid on February 18, 2022 to unitholders of record as of the close of business on February 8, 2022.[45] This represents a 15% increase from the previous quarterly distribution.[46] In a January 25, 2022 article on the distribution, *Bloomberg* described Energy Transfer as "cash-rich" and noted that Energy Transfer will be "reporting a record annual profit next month, boosted by sales of gas at skyrocketing prices during last February's Texas freeze."[47]

On February 22, 2022, CenterPoint filed a 10-K annual report with the Securities and Exchange Commission. According to the filing, "In December 2021, [the Company] completed sales of 150 million Energy Transfer Common Units (inclusive of the Energy Transfer Common Units sold pursuant to the Forward Sale Agreement) and 192,390 Energy Transfer Series G Preferred Units for net proceeds of $1,320 million."[48] The 10-K reported three dates in December 2021 when these sales occurred:

1) on December 8, 2021, the Company sold 50,000,000 Energy Transfer Common Units for $384 million;
2) on December 10, 2021, the Company sold 100,000,000 Energy Transfer Common Units for $745 million; and
3) on December 13, 2021, the Company sold 192,390 Series G Preferred Units for $191 million.[49]

The Company also reported in its 10-K that, as of December 31, 2021, it owned 50,999,768 shares of Energy Transfer common units and 192,390 shares of Energy Transfer Series G Preferred Units.[50] Finally, the Company indicated in its 10-K that its "anticipated 2022 cash needs" will be met, in part, with "distributions from Energy Transfer or proceeds from future dispositions of Energy Transfer Common Units or Energy Transfer Series G Preferred Units."[51]

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[43] *Id.*
[44] CenterPoint Energy, Inc. Form 8-K (Dec. 13, 2021), available at https://www.sec.gov/Archives/edgar/data/0001130310/000119312521355555/d193146d8k.htm.
[45] Energy Transfer, Press Release: Energy Transfer Announces Increase in Quarterly Cash Distribution (Jan 25, 2022), available at https://ir.energytransfer.com/news-releases/news-release-details/energy-transfer-announces-increase-quarterly-cash-distribution.
[46] *Id.*
[47] Gerson Freitas Jr., "Cash-rich Energy Transfer Set for Highest Return in Sector," BLOOMBERG (Jan 25, 2022), available at https://www.bloomberg.com/news/articles/2022-01-25/cash-rich-energy-transfer-set-for-the-highest-return-in-sector?utm_campaign=socialflow-organic&utm_source=twitter&cmpid=socialflow-twitter-business&utm_medium=social&utm_content=business.
[48] CenterPoint Energy Inc., Form 10-K Annual Report for the Fiscal Year Ended December 31, 2021 (Feb. 22, 2022) p. 41, available athttps://www.sec.gov/ix?doc=/Archives/edgar/data/1130310/000113031022000023/cnp-20211231.htm
[49] *Id.*, p. 145.
[50] *Id.*, p. 146.
[51] *Id.*, p. 56

Based on the above information, it appears CenterPoint may have received the following, gross amounts (so far), through, or following, the merger involving Energy Transfer.

$5,000,000	cash upon merger closing
$384,000,000	Dec. 8, 2021 sale of 50,000,000 Energy Transfer common units
$745,000,000	Dec. 10, 2021 sale of 100,000,000 Energy Transfer common units
$191,000,000	Dec. 13, 2021 sale of 192,390 Series G preferred units
+ $8,924,959	distribution on remaining 50,999,768 Energy Transfer common units
$1,333,924,959	**Total**

Our calculations of the above amounts assume the following:

- To the extent there were discrepancies between the Company's 10-K filing and earlier-filed 8-K reports, we assumed information included in the 10-K filing was correct;
- The Company sold common units and Series G preferred units on the dates, and for the amounts, reported in its 10-K filing; and
- The Company held 50,999,768 as of the close of business on February 8, 2022 and was therefore eligible to receive a distribution on those units that was paid on February 18, 2022 under the terms described in Energy Transfer's January 25, 2021 press release.

We also again note that the above amounts are gross amounts. They do not account for any fees associated with these events or any indebtedness of CenterPoint Energy, Inc. or its subsidiaries. The above amounts also do not account for any value lost by virtue of CenterPoint no longer holding an equity interest in Enable Midstream Partners, LP following the merger. Calculating net proceeds resulting from the merger involves a more complicated financial analysis than we are able to perform.

However, CenterPoint's corporate officers have made statements suggesting the net proceeds CenterPoint made through the merger and its subsequent sales of Energy Transfer equity were substantial. For example, on February 22, 2022, CenterPoint held an earnings call reporting information on the company's financial results for the full year of 2021, including the fourth quarter. In this call, CenterPoint's Chief Executive Officer cited the merger amongst CenterPoint's 2021 accomplishments and noted, "2021 was a great year for CenterPoint with quarter after quarter of meeting or exceeding expectations."[52] Later in the call, CenterPoint's Chief Financial Officer noted:

> After closing the [merger], we completed sales of a portion of our Energy Transfer securities and inclusive of the previously announced forward sale of common units, we have now sold approximately 70% of our interest in Energy Transfer, which includes half of the Energy Transfer Series G preferred units and 150 million common units, for nearly $800 million of net after-tax proceeds which were used to pay down parent level debt.[53]

[52] CenterPoint Energy Inc., Fourth Quarter 2021 Earnings Conference Call, (Feb. 22, 2022), transcript available at https://investors.centerpointenergy.com/static-files/2140c431-cb18-4125-b43d-2a4850dabda4.
[53] *Id*.

Online trade publication, T&D World, included the following statement in its summary of CenterPoint's 2021 Fourth Quarter earnings results:

> For the fourth quarter, CenterPoint produced a profit of $641 million, more than four times its year-prior number thanks to a big gain related to the recently completed merger of Enable Midstream Partners, in which CenterPoint held a majority stake, with Energy Transfer LP.[54]

Finally, as indicated above, CenterPoint may receive additional distributions on its remaining Energy Transfer common units in 2022 and retains additional Energy Transfer Series G preferred units that could be liquidated "at any time."[55]

Overlap with CenterPoint's Rate Case Filing

Meanwhile, on November 1, 2021, CenterPoint filed a general rate case with the Commission, seeking approval to increase its Minnesota revenues by approximately 6.5%.[56] While that petition is pending Commission approval, CenterPoint proposed an interim rate hike of about 5.1%.[57] (Minnesota law allows utilities to charge interim rates while proposed rate increases are pending Commission final approval; if final rates are lower than the interim rates, customers receive refunds with interest.)

On the same day CenterPoint filed its rate case, CenterPoint also filed a proposed rate "Stabilization Plan" offering to withdraw its 6.5% rate increase request in exchange for a smaller increase of about 3.9%.[58] Among other things, the Stabilization Plan would have also extended the recovery period for CenterPoint to recover its Winter Storm Uri-related costs from 27 to 63 months.[59]

On December 2, 2021, the Commission decided unanimously to not approve CenterPoint's proposed Stabilization Plan.[60] However, in an order setting interim rates and allowing CenterPoint's general rate case to proceed, the Commission adopted aspects of the Stabilization Plan.[61] Pointing to ongoing hardships associated with the COVID-19 pandemic and recent inflation in energy prices, the Commission took the unusual step of finding that "exigent circumstances" exist for Minnesota's ratepayers.[62] Under these circumstances, the Commission limited CenterPoint's interim rate increase for residential customers to 3.9% instead of the 5.1% increase CenterPoint had requested.[63] Finally, the Commission ordered that recovery of CenterPoint's Winter Storm Uri-related surcharges be stretched over 63 months, rather than 27 months. As stated previously, the total amount CenterPoint

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[54] Geert De Lombaerde, "CenterPoint Eyes More Regional Master Energy Plans," T&DWORLD (Feb. 22, 2022), available at https://www.tdworld.com/utility-business/article/21234220/centerpoint-eyes-more-regional-master-energy-plans.

[55] CenterPoint Q1 2021 Earnings Call (CenterPoint EVP and CFO Jason Wells: "As a reminder, we will have $385 million of Energy Transfer preferred units that we can liquidate at any time after the merger closes.")

[56] *See generally* MN PUC Docket No. G-008/GR-21-435.

[57] *Id.*

[58] *See generally* MN PUC Docket No. G-008/M-21-755.

[59] Minnesota Public Utilities Commission, Order Denying Rate Stabilization Plan But Extending Amortization Period, MN PUC Docket No. G-008/M-21-755 (Dec. 30, 2021).

[60] *See* Minnesota Public Utilities Commission, Minutes – December 2, 2021 Minutes, MN PUC Docket No. G-008/GR-21-435 (Dec 17, 2021).

[61] Minnesota Public Utilities Commission, Order Setting Interim Rates, Docket No. G-008/GR-21-435 (Dec. 30, 2021).

[62] *Id.*, pp. 4-5.

[63] *Id.*, p. 7.

is permitted to recover through those surcharges remains subject to an ongoing prudency review before the Minnesota Office of Administrative Hearings.

As a result of its reduced interim rate increase, CenterPoint gas rates increased by about $2.40 per month for the average Minnesota household beginning in January 2022. This increase does not include or account for Winter Storm Uri-related surcharges, nor does it account for the generally rising cost of natural gas that has also been reflected in increases to Minnesotans' natural gas bills in recent months.[64]

Conclusion

Our intention in distributing this white paper is to present facts, as we understand them, about intersecting issues that cause us concern – and that we think CenterPoint's Minnesota customers deserve to know more about. As noted above, CenterPoint's President and CEO recently told CenterPoint's shareholders and potential investors that "2021 was a great year for CenterPoint with quarter after quarter of meeting or exceeding expectations." Many Minnesotans, of course, have not been experiencing "quarter after quarter" of strong financial health. On the contrary, many Minnesotans are continuing to struggle with the economic fallout of the COVID-19 pandemic, inflation, rising costs of natural gas, and now Winter Storm Uri-related surcharges added to their natural gas bills.

We, as consumer advocates, are concerned about the "tale of two economies" present in this scenario. On one hand, CenterPoint Energy, Inc.—a large Texas-based, corporation—seems to have performed very well for its shareholders in 2021. This performance appears to be at least partially driven by significant financial interests CenterPoint acquired in another, large Texas-based company that made egregious profits during Winter Storm Uri. On the other hand, CenterPoint's subsidiary, and the largest natural gas utility serving Minnesota, is passing hundreds of millions of dollars in Winter Storm Uri-related costs through to CenterPoint's Minnesotan customers.

We believe CenterPoint owes its Minnesota customers an explanation of the financial gains it derived through the merger involving Energy Transfer, and how those gains are considered and accounted for as CenterPoint continues to pass through Winter Storm Uri-related costs to Minnesota customers and seeks to raise their rates.

[64] *See, e.g.*, Deanna Weniger, "Energy costs rising, a double whammy for Twin Cities homeowners already behind due to the pandemic," PIONEER PRESS (Feb. 2, 2022), available at https://www.twincities.com/2022/02/02/mn-energy-costs-rising-natural-gas/.