

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MIDAMERICAN ENERGY COMPANY	DOCKET NOS. SPU-05-9 SPU-05-12
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**ORDER TERMINATING DOCKET, APPROVING SETTLEMENT,  
APPROVING CONTRACT TERM, AUTHORIZING DISCONTINUANCE  
AND TRANSFER OF SERVICE, AND GRANTING  
MODIFICATION OF SERVICE AREA BOUNDARIES**

(Issued July 29, 2005)

**PROCEDURAL HISTORY**

On June 13, 2005, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) an "Application for Review of Reorganization, Approval of Settlement Agreement and Approval of Term of Electric Service Contract" (Application). MidAmerican states the purpose of the reorganization is to enable MidAmerican to provide retail electric service to IPSCO Steel, Inc. (IPSCO), an industrial facility located in Muscatine County, Iowa, currently served by Eastern Iowa Light and Power Cooperative (Eastern Iowa).

Eastern Iowa and MidAmerican propose an exchange of some electric service territory, an exchange of assets of equal value between MidAmerican and Central Iowa Power Cooperative (CIPCO), and a series of transactions that will enable MidAmerican to provide retail electric service to IPSCO. Approval of the asset exchange is required pursuant to Iowa Code § 476.77 (2005) and 199 IAC 32.2 (2005) because the assets to be sold or otherwise disposed of by MidAmerican are

used in the generation of utility service to Iowa customers and have a value in excess of \$10 million. Eastern Iowa and MidAmerican filed a separate "Joint Petition for Modification of Service Area Boundary, Discontinuance of Service, and Transfer of Service," identified as Docket No. SPU-05-12, on June 23, 2005. The parties ask that Eastern Iowa be authorized to discontinue service to IPSCO and that MidAmerican be authorized to commence service to IPSCO, as of October 1, 2005.

MidAmerican's Application also contains a settlement agreement between MidAmerican and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) addressing issues related to rate recovery of the costs of new generation that will be used in part to provide retail service to IPSCO. Finally, the Application asks for approval of the term of an electric service contract between IPSCO and MidAmerican.

MidAmerican requests expedited treatment of its Application in order to accommodate the transfer of service on October 1, 2005. Pursuant to Iowa Code § 476.77(2), a reorganization cannot be disapproved without providing for a hearing and the notice of hearing must be issued within 50 days of filing the reorganization proposal. Subrule 199 IAC 32.9(1) gives intervenors the opportunity to file written testimony and exhibits within 40 days after the reorganization proposal is filed. This testimony is to assist the Board in determining whether to schedule a hearing.

The Board issued an order on June 27, 2005, setting an intervention deadline of July 15, 2005. IPSCO filed a petition to intervene and a statement in support of the reorganization. There were no other interventions filed and no intervenor

testimony was filed on or before July 22, 2005, the 40<sup>th</sup> day after the reorganization filing.

### **DESCRIPTION OF THE PROPOSED REORGANIZATION**

The purpose of this proposed reorganization is to allow MidAmerican to begin serving IPSCO, beginning October 1, 2005. Currently, IPSCO receives power from Eastern Iowa through lines owned by CIPCO. Eastern Iowa is a cooperative providing retail electric service while CIPCO is a generation and transmission cooperative. CIPCO and MidAmerican signed an agreement on May 2, 2005, calling for an exchange of properties of equal value between CIPCO and MidAmerican which would allow MidAmerican to begin serving IPSCO using the existing lines. The value of the assets being transferred is \$13,958,907 to each utility.

As part of the agreement, MidAmerican will receive the following from CIPCO: all equipment and facilities of the Walcott Switchyard necessary to provide service to IPSCO; all equipment located at the IPSCO Switchyard necessary to provide service to IPSCO; approximately 7.5 miles of 345 kV line extending from the Walcott Switchyard to the IPSCO Switchyard; and approximately 13.5 miles of 161 kV line extending from MidAmerican's Substation 56 to the IPSCO Switchyard.

In return, CIPCO will receive approximately 8.0 MW of MidAmerican's interest in the new Council Bluffs Energy Center Unit 4 (CBEC-4), including a similar interest in the associated transmission and substation facilities. CIPCO currently has an interest in CBEC-4, and the proposed transfer would reduce MidAmerican's stake in CBEC-4 from 60.67 to 59.66 percent and increase CIPCO's interest from 8.9 to 9.01

percent. MidAmerican has also agreed to terminate two existing wholesale power purchase contracts with CIPCO and revise a third.

### **THE SETTLEMENT AGREEMENT**

In its Application, MidAmerican stated that it is able to serve IPSCO in part because of the new Iowa-based generation that has been added in response to legislation promoting the expansion of rate-regulated generation. The Iowa-based generation added includes the Greater Des Moines Energy Center (517 MW), CBEC-4, and wind generation (360 MW) (collectively, New Generation). This New Generation has been the subject of Board orders in various ratemaking principles proceedings, identified as Docket Nos. RPU-01-9, RPU-02-10, RPU-03-1, and RPU-04-3.

As part of the Application, MidAmerican and Consumer Advocate filed a settlement agreement that ensures that all principles approved in the Board's ratemaking principles dockets are met. The settlement also ensures that New Generation capital costs and expenses do not receive less than 100 percent cost recovery and that no more than 100 percent of the capital costs become embedded in rates.

MidAmerican states that the transfer of the IPSCO load will increase MidAmerican's peak demand by approximately 40 MW, but that it can adequately serve the load, in part because of its New Generation. MidAmerican will reallocate to Iowa electric customers all of the New Generation capital costs and expenses that had been allocated to Illinois customers. MidAmerican will accrue allowance for

funds used in construction (AFUDC) in Iowa that would have been allocated in Illinois.

Any additional increases to the MidAmerican rate base due to the increased allocation to Iowa shall be calculated matching the investment reflected in rate base to the date at which MidAmerican commences providing service to IPSCO. Normally, the revenue sharing calculations are done using a beginning and ending balance average. By using the proposed methodology, timing issues will be eliminated. The settlement provides that Consumer Advocate not only supports the settlement agreement but also the reorganization before the Board.

### **THE ELECTRIC SERVICE CONTRACT**

MidAmerican and IPSCO have entered into a long-term electric service contract pursuant to the Board's flexible rate rules, 199 IAC 20.14. Because of the long term investments and planning both MidAmerican and IPSCO have made, MidAmerican's filing states that there is a need for a "contract that sets up the long-term structure of the interactions between, as well as the responsibilities and duties of, each." (Application, p. 6.) MidAmerican further states that price stability for the long term for current and potential future IPSCO load is vital for both parties' planning efforts, and that if IPSCO is to expand its facility, some certainty as to energy costs "can only improve the result of IPSCO's business case planning." Finally, MidAmerican states the pricing structure of the contract and the minimum payment requirement are expected to maximize MidAmerican's ability to benefit both itself and all of its customers during the contract term.

The contract term is for 10 years, 5 months. The pricing to IPSCO is less than the pricing contained in the MidAmerican rate tariff IPSCO would otherwise take service under, but the pricing is at least equal to the energy costs and customer costs of serving IPSCO. Thus, this contract is covered by the Board's flexible rate rule, 199 IAC 20.14. Paragraph 199 20.14(3)"d" normally limits the term of a flexible rate discount to a period of five years, unless the Board determines upon good cause that a longer period is warranted.

#### **DOCKET NO. SPU-05-12**

On June 23, 2005, MidAmerican and Eastern Iowa filed with the Board a "Joint Petition for Modification of Service Area Boundary, Discontinuance of Service, and Transfer of Service." Currently IPSCO operates on property that consists of approximately 444.85 acres in Muscatine County. This territory will be transferred to MidAmerican as part of the agreement. The legal description of the property to be transferred to MidAmerican is as follows:

Beginning at the Northeast corner of Section 15, Township 77N, Range 2E, of the 5<sup>th</sup> P.M., along the 10/15 section line, west 1,320 feet; continuing in Section 15 south 660 feet, thence west 1,320 feet, thence north 660 feet; continuing in Section 10, north 1,980 feet, thence east 1,000 feet, thence north 660 feet, thence east 1,640 feet; continuing along Section 10/11 line south 660 feet; Continuing in section 11 east 2,640 feet, thence north 660 feet, thence east 1,320 feet, thence south 1,320 feet, thence west 660 feet thence south 1,320 feet; continuing along Section 11/14 line west 660 feet; continuing in Section 14 south 660 feet, thence west 660 feet, thence south 1,320 feet, thence west 1,980 feet; continuing along Section 14/5 line north 1,980 feet to the point of beginning.

In return, MidAmerican is to transfer the following territory to Eastern Iowa:

Township 78N, Range 2E of the 5<sup>th</sup> P.M., Scott County, Iowa, the east ¼ of Section 30, containing 160 acres;

Section 31: the North Half of the southwest Quarter, and the northeast quarter that lies north of U.S. Highway 61 bypass except the northwest quarter of the southeast quarter of the northeast quarter of the northeast quarter and except the Southwest quarter of the northwest quarter of the southwest quarter of the northeast quarter, containing 204 acres.

### **STATUTORY FACTORS FOR REVIEWING A REORGANIZATION PROPOSAL**

Iowa Code § 476.77(3) lists the following factors that the Board may consider in its review of a proposal for reorganization:

- a. Whether the board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.
- b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.
- c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.
- d. Whether ratepayers are detrimentally affected.
- e. Whether the public interest is detrimentally affected.

In this reorganization, the important questions are the impacts of the proposed reorganization on the utility's ability to provide reasonable and adequate service on the utility's ratepayers, and on the public interest generally.

The Board will discuss each of the five statutory factors. In reviewing this reorganization, the Board finds that it will continue to have reasonable access to

books and records. The location of the books and records will not change, and the Board will have the same access it does now to MidAmerican's books and records.

The Applicants' ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, will not be impaired. MidAmerican's New Generation allows MidAmerican to accommodate this load growth. IPSCO only adds 40 MW of load to MidAmerican's current system peak of 4,075 MW. The settlement agreement with Consumer Advocate provides important financial assurances to MidAmerican and necessary protections of customers because of the appropriate cost recovery and revenue benefits associated with service to IPSCO, which are consistent with ratemaking principles previously approved by the Board for the New Generation.

MidAmerican's ability to provide safe, reasonable, and adequate utility service to its customers will not be adversely affected. MidAmerican has adequate generation to serve the load and it is purchasing assets from CIPCO to allow electricity to be delivered to IPSCO.

There is no evidence to support a finding that ratepayers or the public interest will be detrimentally affected by this reorganization. MidAmerican's electric revenue requirement is fixed through January 1, 2012, pursuant to prior settlement agreements approved by the Board, absent a significant change in MidAmerican's return on equity. The settlement agreement that is part of the filing provides that revenue sharing will continue and not be impacted by service to IPSCO. There is no detrimental effect on the public interest and, in fact, the evidence shows a positive impact on the public interest. The reorganization allows IPSCO to continue its



present business in Iowa and this continued presence may foster additional development.

### **POSSIBLE CHANGES TO THE PROPOSAL**

The Board understands that to date no material conditions or changes to MidAmerican's proposal have been imposed by the Federal Energy Regulatory Commission (FERC), which is the federal agency reviewing certain aspects of this reorganization. The Board will reach its conclusions based upon the reorganization proposal submitted to it. Any material changes in the proposed reorganization may change the basis for the conclusions the Board has reached and may require submission of a revised proposal. Therefore, if there are any material changes to the proposed reorganization prior to final closing, MidAmerican will be required to file those changes with the Board, along with an analysis of the impact of the changes.

### **FINDINGS AND CONCLUSIONS**

Based upon the testimony and evidence filed pursuant to Iowa Code § 476.77 and 199 IAC 32, the Board finds that MidAmerican has established the proposed reorganization is not contrary to the interests of ratepayers and the public interest. The Board also finds the other statutory factors are satisfied. Therefore, the reorganization proposed by MidAmerican will be permitted to take place by operation of law, effective on October 1, 2005, and this docket will be terminated.

Pursuant to 199 IAC 7.2(11), a settlement will not be approved unless it is "reasonable in light of the whole record, consistent with law, and in the public interest." The settlement agreement filed by MidAmerican and Consumer Advocate

satisfies this standard and will be approved. The settlement facilitates the reorganization and ensures consistency with prior ratemaking principles dockets. Under the settlement agreement, the revenue sharing mechanism that has been previously approved will be continued. The revenue sharing mechanism previously approved provides that a portion of earnings above certain thresholds is used to reduce the amount of future plant investments included in rates.

The Board will approve the 10 year, 5 month term for the electric service contract. MidAmerican has complied with the Board's flexible pricing rules, including providing the cost-benefit analysis and having the proper contract price floor, which is the energy costs and customer costs of serving the customer. Pursuant to 199 IAC 20.14(3)"d," the Board finds good cause exists for a discount period longer than five years. The size of the investments and commitments being made and the mutual desire for stability to promote long-term planning justify a contract longer than five years. Both MidAmerican and IPSCO should benefit from this relationship.

The price floor contained in the flexible rate rules ensures that other customers will not be harmed by the discount. In addition, the discounted rates "must be offered to all directly competing customers in the same service territory." 199 IAC 20.14(2).

Iowa Code § 476.20 and 199 IAC 7.12 provide that Board approval is required prior to a public utility discontinuing service. The Board will authorize the discontinuance of service by Eastern Iowa and the transfer of service to MidAmerican as of October 1, 2005. MidAmerican has represented that it is ready, willing, and able to provide service to IPSCO.

The Board will also approve the requested modification of the exclusive service area boundaries. Effective October 1, 2005, the boundaries will be modified as requested in the petition, with MidAmerican receiving the right to serve the IPSCO property and Eastern Iowa receiving the right to serve the identified territory currently in MidAmerican's exclusive service territory. The legal descriptions of the service territory to be transferred were set forth earlier in this order. This modification does not impact the electric service area boundary of any other public utility. MidAmerican and Eastern Iowa have alleged facts that establish the proposed modification will prevent unnecessary duplication of facilities, will promote the efficient and economical use and development of electric systems, and is in the public interest. Iowa Code § 476.25(2).

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Docket No. SPU-05-9 is terminated. The application for reorganization filed by MidAmerican Energy Company on June 13, 2005, is not disapproved. The reorganization is effective October 1, 2005.
2. The settlement agreement filed by the Consumer Advocate Division of the Department of Justice and MidAmerican Energy Company on June 13, 2005, is approved.
3. The term of the electric service contract entered into between MidAmerican Energy Company and IPSCO Steel, Inc., pursuant to 199 IAC 20.14, is approved.

4. Effective October 1, 2005, Eastern Iowa Light and Power Cooperative is authorized to discontinue providing electric service to IPSCO Steel, Inc., and MidAmerican Energy Company is authorized to commence electric service to IPSCO.

5. The petition for modification of electric service area boundaries filed by Eastern Iowa Light and Power Cooperative and MidAmerican Energy Company on June 23, 2005, is granted, subject to complaint or investigation, effective October 1, 2005.

6. MidAmerican shall promptly file with the Board any material changes to the proposed reorganization that occur prior to final closing of the reorganization. Any filing shall include an analysis of the effect of the changes on each of the factors considered by the Board in this order

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Margaret Munson  
Executive Secretary, Deputy

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 29<sup>th</sup> day of July, 2005.