

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF INADEQUATE  
REASON FOR DISCONNECTION,  
FAILURE TO PROVIDE SERVICE AND  
TARIFF VIOLATIONS MADE BY  
MIDAMERICAN ENERGY

MOTION FOR ORDER TO SHOW  
CAUSE

NG07-020

Comes now the staff of the South Dakota Public Utilities Commission (Commission), pursuant to SDCL 49-34A-2, 9, 26 and 49-34A-66 through 68 and ARSD 20:10:20, and moves the Commission to issue an Order to Show Cause, pursuant to 20:10:01:45, in the above-entitled manner. By this Motion, Commission Staff (here in "Staff") requests that the Commission assess up to the maximum civil monetary fine against MidAmerican Energy (here in "MidAmerican"), and Order it cease collection of any sums of money not authorized by its tariff, along with any other action the Commission sees appropriate. In support of this Motion, staff asserts as follows:

**BACKGROUND**

On or about October 3, 2007, Mr. Thomas McDonald contacted the Consumer Affairs Division ("Consumer Affairs") of the Commission regarding MidAmerican Energy. He returned from an annual summer trip (June through early October) to the Black Hills on or about October 3, 2007 to discover his natural gas services had been shut off. Mr. McDonald, a seventy-three year old retired veteran, living completely off Social Security, has made the summer trip to serve as a volunteer EMT in the western part of our state since 1978. He has every year, since 1978 prepaid his utilities for the duration of his absence to prevent disconnection or late payment.

Mr. McDonald's neighbors look after his home, and collect his mail while he is away. Mr. McDonald's neighbors have a phone number at which to contact him in his absence. Mr. McDonald contacted MidAmerican, just as he always did, before he left town to confirm the amount to prepay during the summer months of 2007. The MidAmerican employee did not mention the apparent impending disconnection during this telephone conversation prior to his departure early this summer.

MidAmerican must complete meter set surveys at least once every three years. The last meter set survey it performed at Mr. McDonalds's home was in 1998. It did, however, begin an annual 'door tag' campaign in June of 2001. Each year, from June 2001 after, MidAmerican placed one tag on Mr. McDonald's door supposedly advising him of the required meter set survey. Mr. McDonald lives in a very old home at which the meter is located in the basement. MidAmerican must achieve entrance to do the necessary survey.

Mr. McDonald does not recall the door tags. Staff inquired as to the language on the door tag, MidAmerican representatives were unsure of the language. In any event, MidAmerican records do not show any follow up other than subsequent annual door tags. The first letter, and first attempt at personal contact, arrived at Mr. McDonald's home in June of 2007. Mr. McDonald was, at that time, in the Black Hills and did not receive the letter. As Staff understands it MidAmerican sent a certified letter sometime thereafter before the disconnection date of September 25, 2007. Mr. McDonald did not sign to accept the certified letter, as he was out of town. Further, MidAmerican claims it made phone calls to advise Mr. McDonald of their need to access his home. The number they

called however, was not Mr. McDonald's phone. Mr. McDonald did not receive any of the alleged phone calls.

On September 25, 2007, MidAmerican disconnected Mr. McDonald's natural gas service. The meter's location prevented the company from turning the utility off before the street. MidAmerican, therefore, was required to disconnect in the street.

MidAmerican alleges this disconnect cost them \$2294.09 and is chargeable to the consumer. MidAmerican justifies its disconnect with ARSD 20:10:20.04 (4) that the consumer "failed to grant the utility access" to the home. MidAmerican makes this argument even though the disconnect occurred only three months after the first unsuccessful attempt to contact the consumer in nine years. MidAmerican further refused to provide utilities to Mr. McDonald for two and half days arguing he was liable for the \$2294.09 before reconnection was possible. MidAmerican relies completely on section 11.04(4)(b) of its tariff (attached hereto as Exhibit A) when it both refused service and now as it continues to assert the amount due. The portion of the tariff being relied upon requires "customer refusal." Mr. McDonald did not refuse access, he simply did not know access was desired.

#### ARGUMENT IN SUPPORT OF MOTION

1. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-34A, specifically 49-34A-2, 9, 26 and 40-34A-66 through 49-34A-68 and ARSD Chapter 20:10:20.
2. Pursuant to 20:10:01:45, this Motion has been served by certified mail upon MidAmerican Energy at PO Box 778, Sioux City, Iowa 51102. The purpose of this service is to give notice of the facts and conduct which warrant staff's request that the

Commission assess up to the maximum civil monetary fine against MidAmerican Energy, and Order it cease collection of any sums of money not authorized by its tariff, along with any other action the Commission sees appropriate.

It is staff's position that MidAmerican is guilty of the following:

- a) Insufficient reason for disconnection according to ARSD 20:10:20:04;
- b) Insufficient reason for refusal according to ARSD 20:10:20:01;
- c) Failure to provide "adequate, efficient and reasonable service" according to SDCL 49-34A-2; and,
- d) Deviation from its schedule of rates and charges according to SDCL 49-34A-9.

Pursuant to 20:10:01:45, an Affidavit from Deb Gregg, Consumer Affairs Manager of the Commission is attached and will be served, as previously described, on MidAmerican. Consistent with the allegations in this Affidavit, staff requests the Commission serve notice that the following issues will be heard by the Commission:

- 1. Whether MidAmerican violated the above statutes and rules; and,
- 2. What penalties, if any shall be imposed if MidAmerican is found guilty of such violations.

Signed and dated this 5<sup>th</sup> day of October, 2007

  
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