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**STAFF MEMORANDUM**

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**TO:** COMMISSIONERS AND ADVISORS

**FROM:** KRISTEN EDWARDS, AMANDA REISS, BRITTANY MEHLHAFF, MARY ZANTER, AND PATRICK STEFFENSEN

**RE:** Docket NG17-011 – In the Matter of the Filing by MidAmerican Energy Company for Approval of Tariff Revisions regarding Farm Tap Service  
Disconnection Rules Application to Farm Tap Customers

**DATE:** December 13, 2017

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On July 24, 2017, MidAmerican Energy Company (MidAmerican) filed a letter requesting a docket be opened to consider a proposal that would allow MidAmerican to provide services to a number of farm tap customers connected to an interstate pipeline owned and operated by Northern Natural Gas Company (Northern), as a result of discussions between MidAmerican and Commission Staff (Staff). On August 23, 2017, the Commission issued an Order Approving Tariff Revisions on Less than 30 Days' Notice. On October 30, 2017, the Commission issued an Order Approving Tariff Revisions.

The tariff revisions approved by the Commission include a requirement for initial safety inspections of the customer-owned farm tap facilities prior to commencing service with MidAmerican. In the event the customer-owned service line does not comply with the safety requirements outlined in the tariff, the service line must be repaired or replaced before the customer may begin taking service. MidAmerican has remained in contact with Staff during this transition period. A number of customers have not responded to MidAmerican's communications and as such MidAmerican does not know the customers' intentions for transitioning to MidAmerican service and safety inspections have not been completed. In addition, some

customers that have failed the safety inspection process have not responded to MidAmerican on how they would like to proceed and therefore the service lines have not been repaired.

Customers whose facilities have not been inspected or have not repaired necessary service lines will not meet the requirements of MidAmerican's tariff to begin service January 1, 2018. NorthWestern Corporation dba NorthWestern Energy will cease to provide services after December 31, 2017, upon the expiration of its contract with Northern. As the owner and operator of the transmission pipeline, Northern has indicated it will shut off customer valves soon after January 1, 2018. At this time, the parties have not reached a solution to avoid customer gas service being turned off in January 2018.

At its December 5, 2017 meeting, the Commission received an update from MidAmerican regarding the transition process, and the status of the customers who have not completed the transition process was discussed. One important question raised by the Commission is whether the winter disconnection rules apply in this situation. This memorandum discusses Staff's view on the applicability of these rules.

The Commission regulates public utilities pursuant to SDCL Title 49. Those public utilities are subject to the administrative rules promulgated by the Commission and found in ARSD Chapter 20:10. ARSD 20:10:20:10 provides the rules for disconnection of natural gas service to a residential customer during winter.

The farm tap customers are receiving natural gas pursuant to NorthWestern's tariff until January 1, 2018. If any customer were to be shut off, it would happen prior to becoming a MidAmerican customer, therefore, it is not relevant to the discussion regarding whether the

disconnection rules apply to these customers with respect to service received under MidAmerican's tariff.

The residential winter disconnection rule mandates that additional notice be given during winter months when disconnecting a customer pursuant to ARSD 20:10:20:03(2), which provides the time period of disconnection for nonpayment. To Staff's knowledge, none of the farm tap customers are threatened with disconnection for nonpayment at this time. Therefore, regardless of what company is or is not a public utility, the winter disconnection rule does not apply to this service, assuming no individual customer has not made timely payment.

Other reasons for disconnection are listed in ARSD 20:10:20:04, which provides

A utility may disconnect a customer after reasonable notice for any one of the following:

- (1) Violation of subdivision 20:10:20:01(3) or 20:10:20:01(5);
- (2) Failure to comply with an agreement to liquidate a continuing debt as described in subdivision 20:10:20:03(4);
- (3) Failure to pay an increased deposit or a deposit as described in § 20:10:19:02;
- (4) Failure to grant the utility access to read meters, inspect the utility's facilities and conduct investigations for hazardous conditions.

Although one or more of these reasons might apply to a single customer, for the purposes of this discussion, this rule does not apply.

In addition to every customer receiving various letters over the last year regarding the impending possibility of shut off, on November 27, 2017, Northern Natural Gas sent shut off notices to the active non-responsive customers and those customers who failed the safety inspection and had not yet repaired their systems. Therefore, the customers should have received

more notice than would be required under ARSD 20:10:20 for a customer being disconnected pursuant to the administrative rules.

While in light of the Commission order in NG16-014 being vacated there is no determination of what company, if any, is a public utility, the Commission need not reach that determination at this time. Because the disconnection rules in ARSD 20:10:20 do not apply, as discussed above, it is not necessary for the Commission to engage in further discussion of to whom they would apply.