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**Jennifer S. Moore**  
Senior Attorney

February 24, 2010

Filed by E-Filing

Ms. Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

Re: Docket CN10-001  
In the Matter of the Complaint filed by Jeff Danz, Zandbroz Inc., Sioux Falls, South Dakota, against MidAmerican Energy Company Regarding a Billing Dispute

Dear Ms. Van Gerpen:

Enclosed for filing please find the Supplemental Answer and Motion to Dismiss of MidAmerican Energy Company in the above-captioned proceeding.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer S. Moore". The signature is written in a cursive style and is positioned above a light gray rectangular box.

Encl.

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

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|                             |   |                     |
|-----------------------------|---|---------------------|
| Jeff Danz,                  | ) |                     |
|                             | ) |                     |
| Complainant                 | ) |                     |
|                             | ) |                     |
| vs.                         | ) | Docket No. CN10-001 |
|                             | ) |                     |
| MidAmerican Energy Company, | ) |                     |
|                             | ) |                     |
| Respondent.                 | ) |                     |

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SUPPLEMENTAL ANSWER AND MOTION TO DISMISS

MidAmerican Energy Company (MidAmerican) hereby provides its Supplemental Answer to the above-captioned Complaint:

1. On January 21, 2010, MidAmerican submitted its Answer to the South Dakota Public Utilities Commission (Commission) requesting that the Commission suspend the proceeding to conduct an investigation of approximately 12 percent of the meters for MidAmerican’s American 425 series in South Dakota. MidAmerican stated that if it found that five percent of more of the meters are programmed incorrectly, then it would investigate more meters and also report back to the Commission. MidAmerican based the five percent acceptance standard on the Military Standard 105D, which is the most widely used acceptance-sampling system and a generally accepted standard for meter sampling in the industry.

2. In an effort to resolve the Instant Complaint, MidAmerican completed an investigation of approximately 12 percent of the meters in the American 425 series in South Dakota and found that less than five percent of the meters were programmed

incorrectly. Out of the 282 meters investigated, MidAmerican found six that were programmed incorrectly, which constitutes approximately 2.1 percent of the sample.

3. MidAmerican admits it has a written program for the inspection and testing of its new meters and meters removed from service to determine the necessity for adjustment, replacement or repair. MidAmerican further admits it complies with the manufacturer's recommendations and accepted good practice for new meters and meters removed from service. Accepted good practice is representative of the guidelines set forth in the American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000; American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000; American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000; Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2008); and Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

4. MidAmerican has reviewed its meter installation process, and based upon the findings, has concluded that in addition to its good practices, additional validation measures can be put in place to minimize the likelihood that a programming error would occur. Until these additional validation measures are implemented, MidAmerican will limit the charges for the drive rate programming errors to one year. If the charges are less than \$500, MidAmerican will not back-bill customers because it is not cost effective to process the bill.

5. MidAmerican discussed the testing results with the Complainant and also indicated that the Company would only back-bill for one year. The Complainant

indicated that he would like the South Dakota Public Utilities Commission to make a determination on the issue.

6. As MidAmerican indicated in its previous Answer and in this Supplemental Answer, MidAmerican has not violated any law, statute, order or rule in connection with the matters set forth in the instant Complaint. MidAmerican's meter survey results are within the acceptable standard of error as determined by Military Standard 105D. In addition, ARSD § 20:10:17:09, allows MidAmerican to back-bill for undercharges as a result of a similar reason to the application of an incorrect multiplier. MidAmerican's proposed resolution to limit the back-billing to one year is consistent with the Commission rules and reasonable solution to the Complainant's issue.

7. MidAmerican notes the Complainant was not satisfied with the standard letter and spreadsheet mailed to him. MidAmerican admits that the letter did not indicate that payment arrangements were available. MidAmerican agrees with the Complainant that customers should be made aware of the option of a payment plan. As of January 22, 2010, the standard letter has been revised to inform customers of the availability of a payment arrangement option.

8. Based on the Commission rules and MidAmerican's proposed resolution, the Complaint fails to state a claim for which relief can be granted. The Complaint does not state any genuine issue of material fact. Stated otherwise, all facts material to the relief sought, even if proved, do not entitle Mr. Danz to the relief sought, as a matter of law.

9. SDCL § 1-26-18(1) provides that an agency such as the Commission may dispose of any claim, upon the motion of a party, if the pleadings show there is no genuine issue as to any material fact. In such cases a party is entitled to a judgment as a matter of law. In the alternative, the Commission has the discretion to determine that the proposed

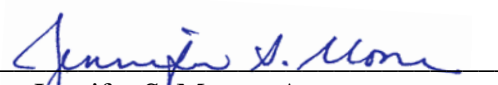
resolution is reasonable in this case. Therefore, MidAmerican respectfully requests, pursuant to the Commission's discretion and authority granted, that the Commission find that there are no genuine issues of material fact contained in the Complaint; find that the Complaint fails to state a claim for which relief can be granted and grant the Motion to Dismiss the Complaint.

**WHEREFORE**, as MidAmerican has not violated any law, statute, order or rule in connection with the matters set forth in the instant Complaint and there are no issues of material fact in the Complaint, and based upon the facts and Commission rules, the Complaint fails to state a claim for which relief can be granted, therefore, MidAmerican Energy Company requests the Commission dismiss the Complaint.

Dated this 24<sup>th</sup> day of February, 2010.

Respectfully submitted,

MIDAMERICAN ENERGY COMPANY

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## CERTIFICATE OF SERVICE

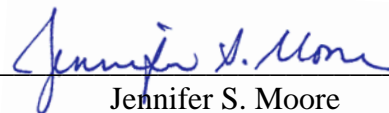
I certify that on this 24<sup>th</sup> day of February, 2010, a true and correct copy of the attached Supplemental Answer and Motion to Dismiss in Commission Docket No. CN10-001 was sent in accordance with the Administrative Rules of the South Dakota Public Utilities Commission.

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