

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:)	
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)	DOCKET NO. NOI-2014-0001
DISTRIBUTED GENERATION)	
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**ADDITIONAL COMMENTS OF THE
IOWA ASSOCIATION OF ELECTRIC COOPERATIVES**

COMES NOW, the Iowa Association of Electric Cooperatives ("IAEC"), by and through the undersigned counsel, and submits the following additional responses/comments to the questions as set forth in the Order Soliciting Additional Comments And Scheduling Workshop ("Order") issued by the Iowa Utilities Board ("Board") on September 19, 2014. As noted in the IAEC's initial comments, it is a trade association representing a number of distribution cooperatives that provide electric service at retail to member consumers in their assigned service areas in the state of Iowa and several generation and transmission cooperatives that provide wholesale electric service to their distribution cooperative members and certain municipal cooperative associations in the state of Iowa. The IAEC is submitting this response on behalf of its members; however, such response is not intended to preclude any individual electric cooperative from participating on its own as well.

I. INTRODUCTORY COMMENTS

The Order poses 41 specific questions, with some directed to non-utility participants and others directed either to all participants, all utility participants, or specific utilities or utility groups. In addition to soliciting responses to the questions posed in the Order, the Board also indicates that the participants may respond to each other's comments filed herein. Further, the

Order schedules a workshop to allow participants an opportunity to develop a DG checklist that will assist customers in understanding the process and responsibilities associated with installing DG. A draft checklist was attached to the Order. The IAEC had representatives attend said workshop and understands that the same will be revised based on the discussions held during the workshop. The IAEC will provide further comments on the checklist once the revised draft is circulated.

The IAEC notes that there have been a multitude of different opinions expressed in this Docket from individuals and groups with different interests. The IAEC appreciates the Board's willingness to carefully consider the important issues addressed herein, while also recognizing the limitations on the Board's jurisdiction in certain areas. For purposes of this filing, the IAEC has elected to group the Board's questions by subject matter, with questions 1-15 and 19-21 dealing with net metering issues; questions 16-18 and 35-36 dealing with rate design issues; questions 22-25, 28-34, and 37 dealing with interconnection issues; questions 26-27 dealing with consumer protection issues; and questions 38-41 dealing with other issues.

II. NET METERING QUESTIONS (1-15; 19-21):

The IAEC notes that the Board has indicated that it will not seek to assert jurisdiction over the net metering policies of non-rate-regulated utilities¹ at this time but strongly encourages those utilities that have not done so to adopt net metering policies on a voluntary basis. (Order at p. 6). The IAEC appreciates the Board's recognition of its limited jurisdiction in this area. The IAEC's initial comments included a discussion of regulatory and judicial decisions dealing with jurisdiction. Without repeating the entirety of said discussion, the IAEC notes that the Iowa Supreme Court has held on at least two separate occasions that PURPA pre-empts a State from

¹ The term non-rate-regulated is used herein to mean the utility's rates are not regulated by the Board; but the rates are regulated locally.

attempting to regulate non-rate regulated utilities in their relationships with QFs. See, Iowa Power & Light Co. v. Iowa State Commerce Comm'n, 410 N.W.2d 236 (Iowa 1987) (specifically dealing with municipal utilities) and Office of Consumer Advocate v. Board, 656 N.W.2d 101 (Iowa 2003) (holding that non-rate regulated electric cooperatives are not subject to Iowa Code 476.41 to .44 (the State AEP laws) because federal law preempts the field). While other stakeholders in this Docket apparently have encouraged the Board to assert jurisdiction notwithstanding the foregoing precedent, the IAEC does not believe the Board has the authority to assert jurisdiction where it does not presently exist. The ELPC cites to the State AEP laws, a FERC Decision, and an Iowa Supreme Court Decision for support for its position that the Board does have authority to extend net metering requirements to the Rural Electric Cooperatives (“RECs”). (See EPLC's Additional Comments filed June 24, 2014 at pp.18-21). However, ELPC neglects to point out that the Iowa Supreme Court has held the State AEP laws do not apply to RECs; the Cited FERC Decision² was essentially overturned when FERC clarified that the Energy Policy Act of 2005 made it clear that utilities that are not subject to rate regulation are only required to consider offering net metering; and the portion of the Iowa Supreme Court Decision relied upon by ELPC for the proposition that the Board has authority to require net metering for non-rate regulated utilities was based on the erroneous FERC Decision that was later overturned. Contrary to the position taken by the ELPC, the Board does not have authority to require non-rate regulated utilities to net meter as said entities are to implement PURPA on their own and said entities are to be afforded great latitude in determining the manner of implementation of FERC’s regulations concerning AEPs.³

² Swecker v. Midland Power Cooperative, 105 F.E.R.C. P61,238 at 62,270 (Nov 19, 2003)

³ Co-generation Coalition of America, Inc., 61 F.E.R.C. P61,252, at 61,925 (1992)

The IAEC would also suggest that the Board examine and provide additional rationale for its recommendation that those utilities that have not adopted net metering policies should do so. Is the recommendation being made merely to provide more uniformity among the utilities in Iowa or is the recommendation based on a belief that the utilization of net metering provides appropriate incentives for the promotion of renewable generation? If the latter, the IAEC suggests that it would be inappropriate to make such a recommendation without a more thorough analysis of the other incentives available and the rate structure of the utility. As noted in the IAEC's comments submitted herein on June 24, 2014, the impact of net metering can vary from utility to utility depending upon the utility's rate design and rate structure. The non-rate-regulated utility's Board of Directors is best suited to make such an analysis. A one-size fits all approach would be inappropriate. As part of EPAct 2005, state commissions and non-rate regulated utilities that were covered by the Act were required to consider whether to offer net metering. They were not mandated to adopt net metering. Said consideration was to take into account the purposes of PURPA, which include: (1) conservation of energy supplied by electric utilities, (2) optimal efficiency of electric utility facilities and resources, and (3) equitable rate for electric consumers (PURPA Section 101).

The IAEC notes that the Order perhaps understates the number of RECs that offer net metering. The Order indicates on page 6 that over 50% of electric cooperatives offer net metering. This appears to be based on the staff memo that indicates 23 out of 44⁴ of the RECs offer net metering. The IAEC filed prior comments in this Docket identifying 23 of its member cooperatives that offer net metering. The staff memo apparently assumed the list was inclusive of all cooperatives instead of just the 34 that are members of the IAEC. It is likely that

⁴ The total of 44 RECs referenced in the staff memo likely includes a utility that is not organized as a cooperative; but is regulated similar to the cooperative utilities due to its size.

additional RECs that serve customers in Iowa (and who are included in the staff total of 44) offer net metering. These additional RECs would include those who primarily serve customers in Minnesota or Missouri; but also have some customers in Iowa. The percentage of RECs that offer net metering is more likely greater than 75% rather than the noted 50%.

Questions 1-5 were directed to Non-utility participants. While the IAEC is not a utility, its comments are being filed on behalf of its member utilities. Accordingly, the IAEC will not provide direct responses to questions 1-5; but reserves the right to respond to the answers provided by others if the opportunity arises. The text of questions 1-5 is included below for reference.

1. Many of the utilities state there are legal issues associated with virtual net metering if retail energy from an off-site DG is wheeled over the utilities' systems.

a. Do you agree? Explain.

b. If yes, provide examples of how other states that offer virtual net metering have addressed these legal concerns.

2. Is virtual net metering necessary if the utilities offer mechanisms for their customers to participate in renewable energy programs as discussed by Interstate Power and Light Company (IPL) and the Iowa Association of Electric Cooperatives (IAEC)?

3. MidAmerican Energy Company (MidAmerican) suggests that if combined heat and power (CHP) or waste heat to power (WHP) facilities were considered eligible for net metering, the Board should retain the 500 kW size cap and the requirements that they be at one site and used primarily to serve the facility owner, as it is in its Rate NM. Do you have any additional comments on this proposal?

4. As with virtual net metering, there are legal issues discussed by both IPL and MidAmerican such as whether the delivery of excess power from a CHP facility would be considered a wholesale transaction subject to Federal Energy Regulatory Commission (FERC) jurisdiction and the claim that CHP and WHP facilities are not included in Iowa's alternate energy production (AEP) definition. Provide any comments you have on this topic.

5. MidAmerican and IPL believe that it is more appropriate for larger CHP and WHP facilities to be served under the standby tariff. Do you agree? Explain why or why not.

Question 6 was directed at utility participants and questions 7-15 and 19 were directed to all participants. The IAEC's responses to those questions are as follows:

6. Several commenters assert that including CHP and WHP projects as eligible facilities in the net metering rules would encourage the development of small CHP and WHP projects. Assuming it is legally possible, would you object to including these types of projects as facilities eligible for net metering if they fall under the 500 kW size cap? Explain why or why not.

The IAEC directs the Board to its general responses regarding net metering and the jurisdictional limitations related to the same. Further, the IAEC would note that the obligations of its members to interconnect with and purchase the excess output from small power producers arises under PURPA. The non-rate regulated utility's obligation only exists as it relates to PURPA Qualifying Facilities (QF's). To the extent a CHP or WHP facility is a QF and the REC's PURPA implementation plan includes a net metering option, the REC likely already extends net metering to said facilities, subject to the same limitations that apply to all generators under the REC's policies.

To the extent the rate-regulated utility's net metering obligation arises from the Board's implementation of PURPA, the IAEC understands that the Board has limited the required net metering to AEPs, which would exclude some CHP or WHP facilities even though they might qualify as a QF. Before extending the net metering requirement to these facilities, the IAEC would encourage the Board to explore the rationale or goal behind the net metering rule. Would an expansion of the rule to CHP and WHP facilities further the goal or merely place additional financial burdens on utilities?

7. MidAmerican states that a cash-out option may require Federal Energy Regulatory Commission (FERC) approval because it may be considered a wholesale transaction instead of a net metering arrangement. Do you agree? Explain.

Some RECs do currently provide a cash-out option; but it is often at an avoided cost rate. The IAEC understands that the current Board net metering rule resulted from a settlement with MidAmerican Energy following legal challenges to the rule as being a violation of PURPA's prohibition of requiring a utility to pay more than avoided cost for the excess output generated by a Qualifying Facility. The settlement was prompted, in part, by a declaration that the net metering arrangement would not constitute a purchase or sale; but rather was merely a metering arrangement that nets kWh against kWh. Requiring a cash payment for any excess would make it much more difficult to support the conclusion that a net metering arrangement did not constitute a purchase transaction. Further, to the extent the purchase is at the retail rate, then the arrangement would violate PURPA and remove the consumer protections that were put in place by PURPA's use of an avoided cost rate for purchases.

8. Provide comments on MidAmerican's assertion that a cash-out option encourages overbuild of a DG system.

The IAEC agrees with MidAmerican that a cash-out option would reward consumers who over-size their DG system in comparison to the consumer's own need. The net metering already rewards customers for self-generating at times when the generation exceeds their electric needs. Net metering would be unnecessary if the generation matched the customer's load at the time of production. The Board should be cautious not to encourage such excess production.

9. Some commenters recommend setting a cap on the amount of cash-out the customer could receive.

- a. Do you agree that a cap is needed?**
- b. If yes, at what level and why that level?**

As noted elsewhere, the IAEC does not support a mandated cash-out option; therefore, it

is not going to comment on the propriety of various features of such a program. The IAEC further notes that these types of decisions clearly have a significant impact on rates and would be outside the jurisdiction of the Board with regard to the Cooperatives that are not subject to the Board's rate regulation authority.

- 10. If the customer is allowed to cash-out a net balance, should it be:**
a. On a monthly basis or an annual basis? Explain why.
b. Required or optional? Explain why.

See response to Question 9.

- 11. Comment on the potential impact of IPL's suggested rule change that would consider net metered kWh as a cost of purchased power recoverable through the energy adjustment clause.**

The IAEC has not thoroughly studied any proposal to consider net metered kWh as a cost of purchased power; but would anticipate that doing so would increase total purchased power costs for IPL and cause its rates to increase. With an entity like a not for profit rural electric cooperative, any increased costs incurred through net metering are going to be recovered from the Cooperative's members, who are also their consumers. The collection or recovery may not occur immediately through an energy adjustment clause; but it nonetheless must ultimately be recovered from the member-consumers because the Cooperative does not have any other source from which to recover said expenses.

- 12. Although there was no consensus, the commenters discussed whether a cash-out rate should be based on the utility's avoided cost rate or the utility's retail rate. Explain which one you believe is the appropriate rate and why.**

If the Board pursues a cash out option, utilization of an avoided cost rate rather than a retail rate would cause the rule to have a better chance of being upheld against potential challenges that the arrangement unlawfully requires the utility to pay more than avoided cost for the energy. The information available to the IAEC indicates that rural areas are more likely to

have DG installed so this approach will put more upward pressure on electric rates for those who serve in the rural areas.

13. IPL and MidAmerican discuss connecting the meters on a DG customer's premises in order to aggregate meters, while the Iowa Nebraska Equipment Dealers Association (INEDA) believes no physical connection is necessary. Comment on this.

Allowing aggregation of meters on a customer's premise without requiring the member to physically connect said facilities is akin to virtual net metering. The customer will be utilizing the utility's system to deliver the excess energy produced to various locations on the premise; but not compensating the utility for such delivery. This is not fair to other consumers and arguably creates a situation where the utility is providing a wholesale wheeling function for the generator. This creates additional jurisdictional issues.

14. MidAmerican suggests that meter aggregation needs to occur behind the meter and the utility's distribution system cannot be used to aggregate the meters; otherwise, FERC would consider it retail wheeling. Do you agree? Explain why or why not.

IAEC would agree. See response to Question 13.

15. For more accurate reporting to the Board, the U.S. Energy Information Administration, and FERC, IPL suggested changing 199 IAC 20.9(2) to reflect that all energy produced in excess of that used by the net metering customer would be considered an energy purchase. Do you agree with this suggested change? Explain your response.

The IAEC has not evaluated the various reporting requirements for IPL; however, it would note that considering the energy produced in excess of that used by a net metering customer in a billing month as an energy purchase could be detrimental to the legality of net metering with a carry-over of net metering credits in future months. If it is a purchase, PURPA provides that the purchase is to be at no greater than the avoided cost rate. However, to the extent the customer is permitted to utilize the credit in a future month, the use is at the retail rate.

The Board would perhaps be better to continue assuming that the excess is not purchased by the utility in order to support the policy's legality.

19. INEDA points to Minnesota, Illinois, Arizona, and Colorado meter aggregation rules for Board consideration. Could any of these approaches be appropriate for Iowa?

IAEC notes that a number of states have ventured into meter aggregation and that no standard exists for its treatment. Common to many meter aggregation eligibility requirements are the requirement that such meters are all in the name of one customer, are each on a rate with the same utility, and that the customer prioritize the meters with regard to application of excess production credits. The concept of community solar has been discussed in which a utility will credit disparate customers for their ownership share of the production of the facility based on a contract with either the utility or a third party. In some states, meter aggregation is limited to public entities and agricultural customers to encourage construction of solar facilities on the barn but allowing the home to benefit from production as the barn may be a better structure for the application. Both meter aggregation and virtual net metering are complexities that are likely to impose costs on utilities, may become difficult to track as consumers move between service territories, create issues with different sales tax treatment of the accounts, and add to the financial concerns associated with net metering. The Board should move carefully through the net metering discussion and monitor the success of such complexities in other states before adopting a policy with regard to such activity.

Question 20 was directed to the IAMU; accordingly, the IAEC will not respond to the same. The text of the question is set forth below for reference.

20. The IAMU notes that at least one municipal utility offers virtual net metering. How is this being done, given the legal concerns expressed by some commenters?

Question 21 is directed to the electric cooperatives and municipal utilities and the IAEC has attempted to include information below that may be helpful in developing a complete record in this Docket; however, the IAEC's members may also provide a direct response.

21. For those electric cooperatives and municipal utilities that do not currently offer net metering, explain why you do not offer net metering, whether you intend to offer net metering in the future, and if so, when.

The IAEC is not in a position to be able to answer this question on behalf of each electric cooperative operating in the State that does not offer net metering. However, the IAEC has held discussions with several of its members who do not currently offer net metering and the reasons for not doing so include the following:

- Offering of net metering needs to be considered with all of the other incentives available from federal tax credits, state tax credits, low interest loans, accelerated depreciation, REAP grants, sales tax exemptions, replacement tax exemptions and others.
- REC is compensating the excess at average power supply cost.
- Other Cooperative programs exist to promote renewable energy without net metering.
- Viewed by local board as cross subsidization.
- Local REC Board balances needs of those with DG and those without.
- Net metering is a mechanism that transfers wealth within the assigned electric service area using electric rates.
- Net metering is not a long-term sustainable proposition going forward with significant penetration of DG.
- Local board is seeing other states retracting the offering of net metering and not expanding it.
- Net metering can cause the over sizing of the DG installation.
- REC loan program for renewable energy and energy efficiency offered through Iowa Area Development Group.
- Net metering harms low income members.
- Confusion over definition of Net Metering—IUB rules define it one way and 2 of the three IOUs define it another way.
- Net metering sends an inappropriate price signal in compensating the DG owner at a retail rate for a wholesale product.

- All members have an obligation to help pay for the grid.
- Not many members asking for net metering. Vendors usually are asking.
- Lack of member interest in program.
- Not a good business case paying retail price for a wholesale product.
- Iowa Supreme Court decision on Eagle Point could cause the subsidy for net metering to flow to third party owners that are outside of Iowa.
- REC not offering net metering does not appear to be a detriment to the development of DG in the assigned service area of the REC.
- Promoting of renewable energy through electric rates discriminates against the RECs.

III. RATE DESIGN QUESTIONS (16-18 and 35-36)

16. IPL, MidAmerican, and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) suggested a rate design change for DG customers such as a time-of-use (TOU) or demand rate. According to MidAmerican, this would remove any possible cross-subsidization between DG customers and non-DG customers. Is this a reasonable solution to this issue? Explain.

The IAEC agrees that modification of rates is necessary if the inherent cross-subsidization between DG customers and non-DG customers is to be addressed. The IAEC notes that demand rates and time-of-use rates are a couple of the options that should be explored. It is generally understood that utilities have historically collected some portion of its fixed costs through the variable kWh component for a variety of reasons including keeping rates reasonable for low use customers. This approach was considered reasonable when the utility operated with the expectation that it was the only entity that served with an assigned electric service area and all customers were full-requirements customers. With the introduction of more partial requirements customers, the business model has been changed such that utilities should be utilizing rate designs that are driven by the nature of the costs – fixed costs should be recovered in fixed fees, for example and not variable. Designing rates so that a utility is able to recover its fixed costs regardless of the kWh consumption of the consumer will help lessen the likelihood of cross-subsidization and ease the tensions that might exist between utilities and consumers who

wish to generate their own energy.

17. Comment on IPL's suggestion that DG customers should have their own specific customer class for rate design purposes since their load profiles and service needs differ from non-DG customers.

DG customers are likely to have different load characteristics than a customer without a generation source to meet a portion of the customer's energy needs. Placing these customers in their own class for rate design purposes is one option to address cross-subsidization issues. Another option would include unbundling of rates to allow for recovery of fixed costs regardless of kWh consumption levels. If the appropriate rate designs are established and implemented, then some of the issues surrounding the expansion of DG would be resolved; however, care needs to be taken to ensure there are no unintended consequences of such a rate design change.

18. Some parties suggest that a study be done showing the benefits of DG compared to the costs of DG to determine if there is cross-subsidization.

a. Is this an appropriate approach to resolve this issue?

b. Is this the appropriate time to expend the resources to conduct such a study or should the study be done when DG penetration reaches a level where it becomes a bigger issue for utilities?

c. If your response to part (b) is that a study should be delayed until DG penetration increases, what level of penetration do you believe would justify the study?

d. Who should perform the study?

e. Who should pay for the study?

With the increased interest in DG, each utility should be studying the impact on its system and any need to adjust its rate structure in order to properly recover the costs of providing a changing service. To the extent such an analysis includes an examination of not only the costs; but also the benefits, the IAEC suggests that each utility is most appropriately situated to complete said study. The potential impact of an increased penetration of DG may impact each utility differently depending on the utility's cost structure, its power supply rate structure, and its system demands.

The IAEC notes that the Board has previously found a Cooperative to have violated Iowa Code §476.21 for establishing a separate rate for co-generators. The ALJ decision affirmed by the Board held that "if the electric utility is able to prove cost-based justification for serving any particular class of customers pursuant to different terms and conditions, then the utility is treating differently-situated customers in a different manner, an appropriate situation. It is only when the utility is not able to establish a neutral, cost-based rationale for its differing treatment that it may be said to discriminate among consumers in an unlawful manner." All utilities would benefit from a further explanation from the Board as to what type of evidence would be sufficient to treat DG consumers differently.

35. For MidAmerican and IPL: What number of DG customers would be required before you would be able to conduct cost of service studies to determine DG class rates? Does either utility have a cost study today to show that the true interconnection costs exceed the current fees?

Although the foregoing question is directed to MidAmerican and IPL, the IAEC notes that the question is confusing to the extent it talks about DG class rates in one place and interconnection costs in another. Further, there is reference to current fees, which presumably relates to the DG application fees, which are different than interconnection costs associated with required system upgrades or improvements.

36. MidAmerican has indicated that a DG owner is a different type of customer and should be treated as a separate class. Provide comments on how this should be done, if it should be done, or if there is a different way to account for differences between customers.

As noted in response to question 18, different types of customers can be subjected to different rates without violating the applicable unreasonable discrimination rules; however, appropriate data must be available to support the different treatment.

IV. INTERCONNECTION QUESTIONS (22-25, 28-35, and 37)

22. Is there a need to adopt FERC SGIP standards as recommended by the Environmental Law and Policy Center (ELPC) and others? Specify sections of the standards that should be adopted and explain the value these sections would bring to the Board's existing rules.

IAEC has not reviewed the FERC SGIP rules in depth to determine if the Board should update chapter 45 of the rules. The IAEC is not aware of any of its members having difficulty with the current interconnection process, so there does not appear to be a demand for the suggested change.

23. Some parties suggest that adoption of these standards would be counterproductive. Explain why adoption of these sections is not counterproductive.

See response to Question 22.

24. Is there a need to adopt the Interstate Renewable Energy Council's Model Interconnection Procedures, as recommended by ELPC and others? Explain the additional value these standards would bring to the Board's existing rules.

The IAEC does not see a need for the adoption of the IREC Model Interconnection Procedures.

25. Comment on the need to develop a supplemental periodic installation review process after the installation of DG.

- a. What elements (frequency of installation inspection, duration etc.) should be included in the review process?**
- b. Who should develop, implement, and conduct the review process?**
- c. Do you have any suggestions on which Board rules need revision to incorporate your recommendations?**

The IAEC notes that circumstances change over time and it would be only prudent for an existing interconnection to be periodically inspected to ensure continued compliance with applicable interconnection and safety requirements. The current interconnection rules require a DG customer to notify the utility upon making modifications to the system and at a minimum a new inspection should be completed upon receipt of such notice. Further, an inspection may be

appropriate whenever the utility is experiencing power quality issues in the vicinity of the DG facility.

28. Comment on IPL's proposal to give preference to existing customers. Explain your response. What problems would this create or solve?

The IAEC is not aware of any of its members giving preference to interconnection requests made by current members over those being made by prospective new members. The IAEC does not know the basis for IPL's apparent policy and will not comment on the same.

In its comments, MidAmerican asked that the 30-day interconnection notice period be extended. The Board will require MidAmerican to provide the following information, and other participants are invited comment on the 30-day notice:

29. Provide MidAmerican's reasons to extend the notice period, a reference to the notification requirement that it seeks the Board to amend, and proposed language changes needed to extend the 30-day advance notice discussed in the May 12, 2014, order.

The IAEC suspects the 30-day notice being referenced is the notice required by Iowa Code §476.6A. This Code section requires the owner of an AEP facility to notify the utility of its intent to construct or install the facility no later than 30 days prior to the commencement of construction or installation. The notice is to include a description of the type of facility to be constructed or installed and the date that the facility is anticipated to commence operations. MidAmerican may be concerned that this statute implies that the utility will have sufficient time to review and complete any required interconnection studies and make any required facility modifications within said 30 days. The IAEC does not believe the Board has the ability to change the statutory provision; but any educational materials developed through this Docket, such as the DG checklist, could be utilized to make sure consumers are aware that for larger facilities an earlier notice would be beneficial.

The Board has additional questions regarding the interconnection process, fees, standards, and other interconnection issues:

30. What, if any, specific Board rule changes are necessary to allow for the study of DG installations in new developments or neighborhood service areas?

The IAEC is not certain what the Board means by "the study of DG installations in new developments or neighborhood service areas." If the question is designed to address the potential for installation of larger DG facilities that would be utilized to serve an entire neighborhood or development, the IAEC would suggest that only utility owned DG facilities would be permitted to fulfill this service under the current electric service territory laws. Consumer owned DG may only be utilized to serve 5 or fewer customers, and then only if the electricity produced by the facility is generated primarily to serve the facility owner's own use as contemplated by Iowa Code §476.1(5). No Board rule change can amend the statute.

31. Is there a need to revisit the 15 percent screen standard discussed in rules 199 IAC 45.8(1)"a" and 45.9(1)"a"? Explain your response.

The IAEC is not aware of a need to revisit the 15 percent screen standard. Although the RECs are not required to comply with the Chapter 45 interconnection rules, many have adopted tariffs that are modeled after these rules, including the use of the 15 percent screen. Although there are some instances when the 15 percent screen has required additional study, the screen has not precluded interconnection. It serves its intended purpose of assisting the utility in preventing power quality issues that may arise from having too much DG interconnected on a single distribution circuit without proper planning.

32. What are the potential impacts of revising the 15 percent limit of the maximum load normally supplied by the distribution circuit to a higher limit?

The revision to the screening criteria would potentially lead to power quality issues arising following expedited interconnections. If these power quality issues then lead to additional requirements being imposed on the DG customer after the DG facility has already been installed, the DG customer is not going to be pleased and the economic justification for the installation may no longer be viable. It is much better to retain the screen and allow proper investigation to be done at the outset, so the customer can then make an informed decision.

33. What, if any, higher limit should be adopted? Explain the reasoning and data that support why such a higher limit is reasonable.

As noted above, the IAEC does not believe higher limits should be adopted.

34. Comment on IPL's proposal to increase the Level 1 and Level 2 application fees to \$250, including any justification for keeping fees the same or raising them to IPL's recommended level.

The IAEC deems the rates charged for consideration of a DG application to be a local rate issue within the jurisdiction of the local Board of Directors. The IAEC does not know the specific basis for IPL's request; but it is not unreasonable to assume that at least \$250 in administrative costs could be incurred processing even the simplest of DG interconnection applications. To the extent the application fees are set artificially low (below cost), then the utility's other ratepayers bear the burden of these added expenses.

37. Should utilities require DG operators to install a lockable external disconnect switch? Explain your response and provide the pros and cons of such a requirement from cost and technology perspectives separately.

The IUB rules, including portion of the interconnection rules in Chapter 15 that are applicable to the RECs, refer to IEEE 1547. Said technical standard provides as follows:

4.1.7 Isolation device

When required by the Area EPS operating practices, a readily accessible, lockable, visible-break isolation device shall be located between the Area EPS and the DR unit.

In addition, existing IUB rules provide as follows:

199 IAC 15.10(3) Interconnection facilities:

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

45.3(2) Interconnection facilities:

a. The utility may require the distributed generation facility to have the capability to be isolated from the utility, either by means of a lockable, visible-break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

In addition to the foregoing, many of the RECs must comply with 7 CFR 1730, Subpart C, and RUS rule regarding Interconnection of Distributed Resources (IDR). It also references IEEE 1547 and specifically provides that the RUS Borrower's IDR Policies "must provide for the appropriate electric power system disconnect facilities, as determined by the borrower, which shall include a lockable disconnect and a visible open, that are readily accessible to and operable by authorized personnel at all times."

The IAEC would not support changing the requirements of these rules and removing the safety protections included in these requirements.

V. CUSTOMER PROTECTION QUESTIONS (26-27)

26. Who has the authority to inspect a DG installation for improper installation, maintenance, or operation? Provide legal standards that apply.

The IAEC notes that a DG installation may be inspected by the state or local electrical inspector in some cases and either by the utility or a private inspector. The DG Interconnection policies are fairly clear that such an inspection is appropriate. Further, the IAEC understands that many of the RECs have adopted tariff provisions that permit periodic inspections by the utility. Such inspections would be for the purpose of ensuring compliance with the interconnection standards and continued compliance following initial interconnection.

27. Who has the authority to penalize a DG installation for improper installation, maintenance, or operation? Provide legal standards that apply.

The IAEC is not aware of any of the RECs imposing economic penalties or fines for improper installation; however, the utility should have the ability to disconnect the facility for non-compliance.

VI. OTHER ISSUES (38-41)

38. For each reported DG facility, indicate whether capacity and generation data is reported to the Energy Information Administration (EIA). In other words, do any DG facilities file either EIA 860 or EIA 923 reports? If so, identify those facilities.

The IAEC would refer the Board to the EIA website where the reporting information is posted.

See: <http://www.eia.gov/electricity/data/eia860/> and
<http://www.eia.gov/electricity/data/eia923/>

The DG facilities reported by the IAEC that are greater than 1 MW in size are also on the filed list as posted on the above eia website.

39. Did you include all CHP installations in the data you provided? If not, provide comparable data for all CHP installations in your service territories.

The IAEC did not include any CHP facilities in its data submitted in this Docket, as it does not believe any CHP facilities are currently exporting energy to the IAEC members. However, the IAEC is aware of one 9 MW CHP facility in an REC territory that is located at an ethanol plant, with all output being used internally at the plant.⁵

40. Based on the data provided, it appears that hourly load data is available for the DG capacity associated with all residential customers for both IPL and MidAmerican; for 10 percent of the non-residential DG capacity for MidAmerican; and for 59 percent of IPL's non-residential DG capacity. Is this statement accurate? If no, what are the correct percentages? If yes, discuss what would be required in order to get hourly data for the remaining DG capacity.

The IAEC is not in a position to comment on the accuracy of the estimated capabilities for the MidAmerican and IPL facilities.

41. On July 11, 2014, the Iowa Supreme Court issued its opinion in No. 13-0642, *SZ Enterprises, LLC d/b/a Eagle Point Solar v. Iowa Utilities Board, a Division of the Department of Commerce, State of Iowa, et al.* What are the legal impacts, if any, of this decision on DG policies or practices in general and particular policies or practices such as net metering (both traditional and virtual)? Does the decision impact any of your prior comments or responses in this docket? If so, explain.

As the Board is aware, the IAEC participated in the referenced case as an interested intervenor. The Supreme Court found that in the circumstances before it, SZ Enterprises, LLC d/b/a Eagle Point Solar (Eagle Point) was not a public utility. Since it was not a public utility, its sale of energy on a per kWh basis from a distributed generation facility located behind the meter

⁵ The IAEC has reviewed table 1 on page 58 of the Staff Memo dated September 14, 2014. It would appear as though the IAEC members may have reported fewer types of facilities than other entities, so a comparison of the data from utility to utility may not be useful. The IAEC is willing to work with staff to address any inconsistencies. For example, IAEC did not include any of the larger wind farms with which it is members are interconnected and perhaps these should have been included.

but within the assigned electric service territory of Interstate Power & Light Company (IPL) did not violate the assigned service territory laws. Based on this decision, third-party ownership of behind the meter generation may be permitted. A number of practical questions arise as a result of this decision and the IAEC believes all parties would benefit from some direction from the Board with regard to those questions. In general, the IAEC does not deem it appropriate to ignore the fact that the DG facility will be owned by an entity that is different than the utility's electric customer. Some of the questions/policy impacts are as follows:

- a. Who should submit and execute the interconnection application and be responsible for compliance with the interconnection requirements? The IAEC believes that the "Qualifying Facility" should be the entity applying for interconnection with the utility and shall be responsible for compliance with applicable rules and tariff provisions. However, some acknowledgment or consent must also be obtained from the customer upon whose premises the facility is to be located. The customer and the third-party owner must be obligated to disclose the ownership arrangement to the utility.
- b. If the third-party owned facility generates more energy than can be utilized by the customer, does the third party owner bill the customer for the entire output or just that which is utilized? If the entire output, then is the excess that is purchased by the customer considered excess generation under PURPA that must be acquired by the interconnected utility or is it simply excess energy acquired from a third-party?
- c. If the utility has an obligation to purchase any excess generation, from whom is the energy purchased - the third-party owner or the utility's customer?

- d. If the customer fails to pay its retail bill, does the utility have the ability to disconnect the retail customer if such disconnection also impacts the operation of the third-party owned generator?
- e. Can the utility require a separate interconnection with the third-party owned generator?
- f. If the applicable interconnection policies require insurance to be obtained by the generator, who must obtain and carry said insurance? If the generator owner must carry the insurance, then presumably the customer's homeowner's insurance would be inapplicable.

VII. RESPONSES TO COMMENTS OF OTHERS

As the Board is aware, the comments filed in this Docket have been extensive. The comments submitted by the IAEC herein describe the position of the IAEC on the issues presented. Some commenters have clearly taken positions on issues that are contrary to the position of the IAEC; however, except as may be set forth above, the IAEC will rely upon its own comments and will not reiterate those positions in reply to the comments of others. The IAEC notes that this Docket is already burdened by much duplicative information and the IAEC elects not to burden it further. Nevertheless, the IAEC reserves the right to submit additional comments in the future should the Board deem it appropriate to solicit the same.

WHEREFORE, the IAEC respectfully requests the Board give these comments and responses due consideration as it proceeds to evaluate this important energy subject.

Dated this 24th day of October 2014.

Sullivan & Ward, P.C.

/s/

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CERTIFICATE OF SERVICE

I hereby certify that I have filed this pleading with the Board's Executive Secretary through the Electronic Filing System (EFS) this 24th day of October, 2014.

/s/ Dennis L. Puckett