

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-2015-0002 (WRU-2015-0021-0156)
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**ORDER APPROVING SETTLEMENT WITH MODIFICATION  
AND REQUIRING REPORTS**

(Issued August 21, 2015)

**I. INTRODUCTION AND PROCEDURAL HISTORY**

On April 30, 2015, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) a request for advance ratemaking principles that would apply to up to 552 MW of new wind generation. MidAmerican calls the project Wind X and asked for expedited review. MidAmerican said that with expedited review, MidAmerican will be able to take full advantage of the federal production tax credit, which MidAmerican said is a prerequisite for the economics of Wind X. (MidAmerican "Request for Approval of Ratemaking Principles," pp. 1-2).

Ratemaking principles proceedings are conducted pursuant to Iowa Code § 476.53 (2015). Section 476.53 was enacted during the 2001 Legislative Session as part of House File 577. This section provides that when eligible new electric generation is constructed by a rate-regulated public utility, the Board, upon request, shall specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the new facility are included in electric rates. Wind X as proposed by MidAmerican falls within the purview of

§ 476.53. Alternate energy production facilities, such as these wind facilities, were added to the list of eligible facilities for ratemaking principles by House File 391, enacted during the 2003 Legislative Session. Section 476.53(1) states that the General Assembly's intent in enacting ratemaking principles legislation is to "attract the development of electric power generating and transmission facilities within the state ... ."

On May 8, 2015, the Board issued an order docketing the filing, setting a procedural schedule, and setting an intervention deadline. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed prepared direct testimony on June 8, 2015. The Environmental Law and Policy Center (ELPC) and Iowa Environmental Council (IEC) were granted intervenor status and also filed prepared direct testimony on June 8, 2015. There were no other intervenors. MidAmerican filed reply testimony on June 8, 2015.

On June 26, 2015, MidAmerican and OCA filed a proposed settlement which, if adopted, would resolve all outstanding issues. The proposed settlement adopted MidAmerican's requested ratemaking principles, except for modifications to return on equity (ROE) and depreciation. A hearing on the proposed settlement was held on July 7, 2015.

The Board issued orders on May 21, June 19, and June 25, 2015, requiring MidAmerican to provide additional information. MidAmerican filed the information requested. Also, the Board issued an order on July 1, 2015 which, among other

things, took administrative notice of certain information, identified at the hearing as Exhibit 301.

On August 11, 2015, the Board held an open meeting to discuss the proposed settlement. After the meeting, the Board issued an order soliciting comments from the parties regarding two possible modifications to the proposed settlement. The first modification recommended by the Board's staff would reduce the cost cap from \$1.638 million per MW (including allowance for funds used during construction, or AFUDC) to \$1.610 million per MW (including AFUDC). The second modification recommended by Board staff would flow customer fuel cost benefits associated with Wind X through MidAmerican's energy adjustment clause (EAC), rather than via the customer revenue credit approach contained in the proposed settlement.

MidAmerican, OCA, and ELPC/IEC each responded to the Board's order on August 17, 2015. MidAmerican and OCA asked the Board to approve the proposed settlement and opposed the two proposed modifications. ELPC/IEC noted that they had not and would not take a position on any of the ratemaking principles contained in the proposed settlement, but ELPC/IEC reiterated their support for Wind X.

Although Iowa Code § 476.53(3)(d) allows the ratemaking principles proceeding to be combined with a proceeding for issuance of a certificate under Iowa Code chapter 476A, the two proceedings were not combined. MidAmerican noted in its request for ratemaking principles that it obtained a declaratory order in Docket No. DRU-03-3 (issued June 6, 2003) indicating that a 476A certificate was not necessary

for another wind project when it was configured such that less than 25 MW of capacity was connected to each gathering line. Iowa Code §§ 476A.1 and 476A.2. MidAmerican believed all the relevant facts and law with respect to Wind IX are indistinguishable from those on which the declaratory order in Docket No. DRU-03-3 was based. MidAmerican concluded that it is reasonable to rely upon the declaratory ruling and that no 476A certificate is necessary for Wind X.

## **II. SUMMARY OF SETTLEMENT AGREEMENT**

On June 26, 2015, MidAmerican and OCA filed a proposed Settlement Agreement. The Settlement Agreement, if approved, would resolve all issues in the proceeding. ELPC and IEC did not join in the Settlement Agreement but did not file an objection.

Among other things, the Settlement Agreement stated that the signatories agree that MidAmerican had satisfied the two conditions precedent for a ratemaking principles proceeding. MidAmerican and OCA also agree to the ratemaking principles as proposed by MidAmerican, except for modifications to the ROE principle and depreciation principle.

The proposed Settlement Agreement contains one modification to MidAmerican's ROE principle. MidAmerican initially proposed an ROE of 11.5 percent, while OCA proposed 11.2 percent. The Settlement Agreement provides for an ROE of 11.35 percent.

The Settlement Agreement also contains one modification to the depreciation principle. The ratemaking principle as initially filed by MidAmerican provided that MidAmerican may propose a revision to depreciable life in the event an independent depreciation expert provides support for a different useful life. The Settlement Agreement provides that OCA may also propose a revision to depreciable life under the same conditions as MidAmerican.

### **III. CONDITIONS PRECEDENT**

Before determining applicable ratemaking principles for Wind X, the Board must make two findings pursuant to Iowa Code § 476.53(3)(c). These are conditions precedent to a determination of ratemaking principles, because if the Board cannot make these findings, the utility cannot receive ratemaking principles. First, the Board must determine that the public utility has in effect a Board-approved energy efficiency plan. Second, the utility must demonstrate that it has considered other sources for long-term supply and that the facility is reasonable when compared to other feasible alternative sources of supply.

#### **1. Energy Efficiency Plan**

With respect to the first condition precedent, MidAmerican has in effect a Board-approved energy efficiency plan. MidAmerican witness Fehrman provided testimony regarding MidAmerican's current energy efficiency plan, identified as Docket No. EEP-2012-0002. The Board approved the plan on December 31, 2013, and the plan will remain in effect through December 31, 2018, subject to any

modifications. Witness Fehrman detailed the success of MidAmerican's energy efficiency efforts in 2014, with MidAmerican achieving 92 percent of its peak KW savings goal (319,284kW) and 118 percent of its kWh savings goal (286,504,513). No party contested this issue.

MidAmerican has a Board-approved energy efficiency plan and the Board has issued no orders finding that MidAmerican is not in compliance with any Board orders in its EEP docket. The first condition precedent is satisfied.

## **2. Reasonableness of the Facility**

The second condition precedent is whether a utility has considered other long-term sources of supply and shown that the facility is reasonable when compared to other feasible supply sources. Iowa Code § 476.53(4)(c)(2). In making this determination, the Board must look at the need for the facility, that is, whether the facility is a reasonable alternative to meet one of the statute's goals, "to attract the development of electric power generating ... facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers ... ."

If a facility does not meet the needs of Iowa consumers, it is not eligible for ratemaking principles treatment. The Board addressed the meaning of this statement in a previous ratemaking principles proceeding for a wind facility with a nameplate capacity of up to 554 MW. The Board said:

While MidAmerican has not demonstrated an immediate need for the wind facility (or any other generation facility) in the sense that it will be unable to meet customers' demand in 2007-2009 without the facility, the Board does not believe

a determination of need requires a showing that the lights will go out if the facility is not built. That would not be a prudent planning criterion. (MidAmerican Energy Company, "Order Approving Stipulation and Agreement," Docket No. RPU-05-4 (April 18, 2006), p. 6).

The issue of whether a proposed facility is reasonable was first addressed in Docket No. RPU-01-9. In its final order, the Board said:

The ratemaking principles statute does not refer to "least-cost" alternatives. Instead, Iowa Code § 476.53(3)"c"(2) only requires that the "rate-regulated public utility has demonstrated to the board that it has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply." (Emphasis added). In a ratemaking principles proceeding, the Board does not have to conduct the least-cost analysis formerly required in a siting proceeding involving a public utility. The proposed facility need only be reasonable when compared to other alternative sources of supply.

While cost remains a factor, elimination of the least-cost requirement is consistent with the intent of the ratemaking principles statute, which is to attract electric power generating facilities to this state. Elimination of the least-cost requirement now allows non-cost factors to play a role in the Board's decision that a public utility has satisfied this requirement as a condition precedent to receiving ratemaking principles. These non-cost factors, such as security and reliability, could in some cases be determinative. Docket No. RPU-01-9, "Order," May 29, 2002, p. 6.

MidAmerican demonstrated that Wind X was part of its continuing strategy to reduce its carbon footprint. MidAmerican said that Wind X would allow it to take advantage of federal production tax credits (PTCs). MidAmerican said Wind X

compared favorably to conventional generation resources because of the zero emissions, no fuel price volatility, economic benefits, and improved fuel diversity. (MidAmerican Application, pp. 5-6). Also, MidAmerican said Wind X compared favorably with other renewable generation sources.

Wind brings environmental compliance benefits at a price that cannot yet be obtained from other renewable sources at a utility scale. Wind X might be necessary for MidAmerican to meet the carbon dioxide requirements of § 111(d) of the Clean Air Act. Also, because wind is an emissions free resource Wind X should mean that MidAmerican will have fewer long term compliance issues.

The addition of Wind X will not degrade the transmission network and MidAmerican will perform all required transmission upgrades. MidAmerican's analysis shows that it has satisfied the second condition precedent and is therefore eligible to receive ratemaking principles.

The Board will address the economic benefits of Wind X in a subsequent section. While the two statutory conditions have been satisfied to justify awarding ratemaking principles, in some cases the principles requested by the utility may need to be modified to provide an appropriate balancing of ratepayer and utility shareholder interests.

#### **IV. RATEMAKING PRINCIPLES**

MidAmerican asked for approval of nine advance ratemaking principles that would govern the recovery of project costs and treatment of project benefits. The Board will address each ratemaking principle requested by MidAmerican.

##### **1. Iowa Jurisdictional Allocation**

A portion of Wind X will be allocated to Iowa in the same manner as prior MidAmerican wind projects that received advance ratemaking principles. This principle is consistent with prior cases and allocates to Iowa customers most of Wind X's costs and benefits because Wind X is being proposed in response to Iowa legislation that promoted the expansion of rate-regulated utility-owned generation in Iowa.

##### **2. Cost Cap**

The proposed cost cap for Wind X is \$1.638 million per MW (including AFUDC) for the completed project as a whole. If actual capital costs of Wind X are lower, the amount included in rate base in the future will be equal to actual capital costs. If actual costs exceed the cap, MidAmerican will be required to establish the prudence and reasonableness of such excess costs before they can be included in rates. MidAmerican said the cap was set at a price that provides customer benefits over the life of the facilities with no net costs to customers, while providing incremental renewable energy at no net cost to customers.

There is evidence that the actual cost of Wind X will be lower than the cost cap contained in the Settlement Agreement. In Wind IX, the Board determined that it was appropriate to set the cost cap based on the expected actual costs plus an appropriate contingency.

The cost cap requested by MidAmerican is higher than the amount that was used in its economic analysis, which included a significant contingency fund that provides a cushion for any unexpected increased costs. Because MidAmerican has significant experience in developing wind projects, the Board believes that MidAmerican will be able to complete the project at a cost that is at or below the cost used in its economic analysis. The Board will set the cost cap at \$1.61 million per MW (including AFUDC).

This lower cap reduces the risk to customers and provides an incentive to MidAmerican to keep costs low while still providing a contingency for unanticipated changes that could increase costs above that shown by MidAmerican's economic analysis. Also, if costs exceed the cap, MidAmerican can seek to recover any costs above the cap that are reasonably and prudently incurred in a subsequent rate proceeding.

### **3. Size Cap**

The size cap principle states that the ratemaking principles would be applicable to all new MidAmerican wind capacity, up to 552 MW, for both wind sites which are to be built as part of Wind X. If MidAmerican later decides to install

additional wind, it would have to make another ratemaking principles filing to receive advance ratemaking treatment for any wind installed above 552 MW. Previous wind applications have included a size cap and OCA agreed that the size cap is reasonable.

#### **4. Depreciation**

The depreciable life of Wind X for ratemaking purposes will be 30 years, which is the same as approved in Wind VIII and Wind IX. MidAmerican provided letters from turbine manufacturers GE Energy and Siemens Energy supporting a 30-year depreciation life and OCA also supported the 30-year life for ratemaking purposes.

The ratemaking principle as initially filed by MidAmerican provided that MidAmerican may propose a revision to depreciable life in the event an independent depreciation expert provides support for a different useful life. The Settlement Agreement provides that OCA may also propose a revision to depreciable life under the same conditions.

#### **5. Return on Equity**

MidAmerican and OCA modified the original ratemaking principle proposed by MidAmerican with respect to ROE. The Settlement Agreement provides that the allowed return on the common equity portion of Wind X that will be included in Iowa electric rate base will be 11.35 percent. This is between MidAmerican's initial request (11.5 percent) and OCA's initial recommendation (11.2 percent). The 11.35

percent agreed to in the Settlement Agreement is lower than the 11.5 percent approved for Wind IX.

There is also a separate allowance for an AFUDC rate provision that establishes an ROE of 10 percent to be applied to AFUDC for Wind X. There was no dispute as to this portion of the ROE. This is identical to the AFUDC rate approved in Wind VIII and Wind IX.

MidAmerican's initial ROE proposal and OCA's initial recommendation were fairly close and the agreed-upon ROE is between the two proposals and within the range of reasonableness supported by expert testimony. Both parties agreed that the cost of equity should be higher than current capital costs because the ratemaking principle fixes Wind X's ROE for the 30-year life of the facilities. Also, both agreed that the legislative intent embodied in Iowa Code § 476.53 and prior Board decisions justify a return above current market conditions. Finally, the Board notes that the agreed-upon ROE is lower than that awarded in any prior MidAmerican advance ratemaking proceeding, including Wind IX, the most recent docket.

## **6. Cancellation Cost Recovery**

MidAmerican's cost recovery principle states that in the event MidAmerican cancels any Wind X site for good cause, MidAmerican's prudently-incurred costs shall be amortized over a period of ten years beginning no later than six months after cancellation. The principle further provides that the annual amortization is to be recorded above-the-line and included in MidAmerican's revenue sharing or revenue

requirement calculations, but the unamortized balance is not to be included in those calculations.

The cancellation cost recovery for Wind X is similar to a principle previously approved in Wind IX and other MidAmerican advance ratemaking principle proceedings and requires that the prudence of any cancellation costs be established in a future proceeding before there can be any recovery. The principle for Wind X contains a clarification that OCA and MidAmerican agreed to at the hearing on Wind IX that only unreimbursed cancellation costs are to be recovered. OCA said the approach to cancellation cost recovery proposed by MidAmerican was reasonable.

#### **7. Renewable Energy Credits, CO2 Credits, and Other Similar Credits**

In this principle, MidAmerican proposed that the Iowa portion of any revenues or benefits from the sale of environmental attributes from Wind X (RECs, CO2 credits, and perhaps others) be recorded in MidAmerican's Iowa electric operating income and reflected in a future rate proceeding. By recognizing all costs and benefits of Wind X in a future rate proceeding, there will be a proper matching of customer benefits and customer costs.

The principle provides that revenues from the sale of environmental attributes be flowed through MidAmerican's energy adjustment clause (EAC) after a future rate case that allows MidAmerican to recover its costs and receive a return on Wind X. However, the revenue and credits will be immediately included in MidAmerican's

revenue sharing calculation. This principle is consistent with those approved in prior MidAmerican wind ratemaking principle dockets.

**8. Federal Production Tax Credit**

The federal PTC principle provides that the Iowa portion of the federal PTC benefits associated with Wind X will be recorded in MidAmerican's Iowa electric operating income and reflected in a future rate proceeding. In those subsequent proceedings, the principle provides that the Iowa portion of federal PTCs will flow through MidAmerican's EAC. This principle is also consistent with similar principles approved in prior MidAmerican wind ratemaking dockets.

**9. Economic Analysis and Customer Revenue Credit**

The proposed Settlement Agreement adopts the customer revenue principle originally proposed by MidAmerican. Under the customer revenue principle, the dollars from the fuel cost savings in Wind X would be used to reduce rate base, which would mitigate potential future rate increases. (Tr. 18-20). In both Wind VIII (Docket No. RPU-2013-0003) and Wind IX (Docket No. RPU-2014-0002), the dollars from the fuel cost savings flow through MidAmerican's EAC.

OCA agreed with using the fuel cost savings from Wind X to reduce rate base. OCA argued that under this approach there will be more earnings available for revenue sharing because rate base will be decreasing, a reduced rate base will mitigate the amount of future rate increases, and reducing rate base produces more intergenerational equity. (Tr. 320-23).

MidAmerican said it proposed the customer revenue credit approach due to Board concerns about future rate-base additions and their potential impact on MidAmerican's electric rates. (Tr. 19, 74). The Board appreciates MidAmerican's responsiveness to its concerns and believes, at least for Wind X, that the customer revenue credit has advantages over the EAC approach.

The Board will adopt the customer revenue approach contained in the Settlement Agreement. The updated information MidAmerican provided on August 17, 2015, indicated that the present value gap between the two methods had closed significantly to about \$67 million (from \$100 million) if an alternative discount rate were used. The nominal dollar value of the customer revenue approach as compared to the nominal value of the EAC approach over the 30-year life of Wind X is about \$250 million greater. Also, the record indicates that the revenue credit approach provides a better matching of customer benefits and costs over the life of the project and mitigates the rate impact of Wind X when its capital costs are included in MidAmerican's rates and the PTCs are exhausted.

#### **10. Request for Waiver**

In the event the Board adopted the customer revenue credit ratemaking principle contained in the Settlement Agreement, MidAmerican said that a waiver of the EAC rules was required to implement the principle. A waiver request was filed on July 7, 2015, identified as Docket No. WRU-2015-0021-0156. On July 14, 2015, OCA filed a response stating that it did not object to the waiver request.

The customer revenue credit mechanism is not a perfect fit for the EAC rules and a waiver of 199 IAC 20.9(1) and (2) is appropriate. Undue hardship for MidAmerican and its customers will result if the terms of the Settlement Agreement cannot be fully implemented because then the risks of Wind X will not be appropriately balanced between MidAmerican and its ratepayers and ratepayers will not receive all the benefits from Wind X contained in the Settlement Agreement. No person's legal rights will be prejudiced because customers will in fact benefit from the customer revenue credit. The provisions of the EAC rules are not specifically mandated by another statute or provision of law and granting the waiver will not adversely impact public health, safety, or welfare. The standards for a waiver found in 199 IAC 1.3 have been satisfied.

#### **V. REASONABLENESS OF SETTLEMENT**

Subrule 199 IAC 7.2(11) provides that the Board will not approve a settlement unless it "is reasonable in light of the whole record, consistent with law, and in the public interest." While the Settlement Agreement may not decide each issue the way the Board would after a contested hearing, the Board, viewing the Settlement Agreement as a whole, as modified by the Board, finds it to be reasonable, in the public interest, and not contrary to any law.

As discussed previously in Section III, MidAmerican has satisfied the two conditions precedent in Iowa Code § 476.53(3)(c) and is therefore eligible for advance ratemaking principles. The ratemaking principles associated with Wind X,

as modified by the Board, are reasonable. The Settlement Agreement as a whole will reduce MidAmerican's reliance on fossil-fueled generation and position MidAmerican to meet ongoing and future environmental mandates and potential renewable mandates in a manner that is more likely to benefit its ratepayers. The Settlement Agreement's benefits to retail customers will help ensure that MidAmerican's current and future customers continue to enjoy adequate service and facilities at just and reasonable rates. Iowa Code §§ 476.6 and 476.8.

The Board will require MidAmerican to file semi-annual reports regarding the construction and operation of Wind X, with the reporting requirement ending when Wind X's assets are included in MidAmerican's rate base. The reports are to include information regarding the actual operating and capital costs of Wind X, the retail fuel cost reduction (i.e. customer revenue credit and accelerated depreciation on Walter Scott Unit 4) attributable to Wind X, and income from PTCs, REC sales, capacity sales, and net system benefits attributed to Wind X. Reports shall be due on March 1 and September 1 of each year, with the first report due on or before March 1, 2016.

## **VI. FINDINGS OF FACT**

Based on a thorough review of the entire record in these proceedings, the Board makes the following findings of fact:

1. It is reasonable to find that MidAmerican has in effect a Board-approved energy efficiency plan as required under Iowa Code § 476.6(19).

2. It is reasonable to find that MidAmerican has a need for Wind X and that Wind X benefits ratepayers by, among other things, enabling MidAmerican to meet current and future environmental regulations, providing low-cost energy to retail customers, and reducing MidAmerican's reliance on carbon-based generation.

3. It is reasonable to find that MidAmerican considered other long-term sources of electric supply and that Wind X is reasonable, both for cost and non-cost reasons, when compared to other feasible alternative sources of supply.

4. It is reasonable to modify the cost cap contained in the Settlement Agreement and set the cost cap at no more than \$1.61 million per MW (including AFUDC).

5. It is reasonable to approve the ROE principle agreed to by MidAmerican and OCA, which includes an 11.35 percent ROE and a 10 percent ROE for use in calculating the AFUDC rate.

6. The customer revenue principle contained in the Settlement Agreement is reasonable.

7. The remaining ratemaking principles not specifically addressed in these findings are reasonable.

8. The Settlement Agreement between MidAmerican and OCA, subject to the conditions and modifications contained in this order, is reasonable, consistent with law, and in the public interest.

## **VII. CONCLUSIONS OF LAW**

The Board has jurisdiction of the parties and the subject matter in this proceeding, pursuant to Iowa Code chapter 476 (2015).

## **VIII. ORDERING CLAUSES**

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

1. The Settlement Agreement filed by MidAmerican Energy Company and the Office of Consumer Advocate, a division of the Iowa Department of Justice, on June 26, 2015, is approved, subject to the modification contained in this order.
2. The request for waiver filed by MidAmerican Energy Company on July 7, 2015, is granted.
3. MidAmerican shall file semi-annual reports containing the information identified in the body of this order on March 1 and September 1 of each year, with the first report due on or before March 1, 2016. This reporting requirement shall end when Wind X's assets are included in MidAmerican's rate base.
4. Motions and objections not previously granted or sustained are denied or overruled. Any argument not specifically addressed in this order is rejected either

as not supported by the evidence or as not being of sufficient persuasiveness to warrant comments.

**UTILITIES BOARD**

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/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano  
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of August 2015.

**DISSENT**

Because I would approve the Settlement Agreement in its entirety, I respectfully dissent. I believe the regulatory role of the Board is to determine whether the rate is fair to the customer and to the industry. Here, MidAmerican and OCA reached a Settlement Agreement that balances the interests of MidAmerican and its ratepayers. While the Settlement Agreement might not decide each issue the way I would in a contested hearing, I recognize that Settlement Agreements are the result of negotiation and give and take and I find the Settlement Agreement, viewing it as a whole, to be reasonable, in the public interest, and not contrary to any law.

Specifically with respect to the cost cap modification endorsed by my colleagues, I note that the cost cap in the Settlement Agreement is a ceiling on costs that can be incurred without returning for Board approval, and the Settlement Agreement provides that if the capital costs of Wind X are lower than the cost cap, rate base shall consist of actual costs. MidAmerican has a history of bringing in wind projects under the approved cost cap and in this case, as part of the Settlement Agreement, I do not find a cap set at no net cost to customers to be unreasonable.

/s/ Geri D. Huser

ATTEST:

/s/ Trisha M. Quijano  
Executive Secretary, Designee

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of August 2015.