

**STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION
BEFORE THE UTILITIES BOARD**

**FILED WITH
Executive Secretary
October 26, 2015
IOWA UTILITIES BOARD**

ARTI, LLC,

Complainant,

v.

**MIDAMERICAN ENERGY
COMPANY,**

Respondent.

DOCKET NO. FCU-2014-0016

**INITIAL BRIEF
OF
ARTI, LLC**

(PUBLIC VERSION)

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I. STATEMENT OF THE CASE

A. BILLING DISPUTE

This complaint proceeding involves a billing dispute between Arti, LLC (“Arti”) and MidAmerican Energy Company (“MidAmerican”). Arti has disputed, and continues to dispute, the reasonableness and fairness of all bills dated on or after September 3, 2014, issued by MidAmerican for electric service rendered to its data center (the “Arti Facility”) located in Council Bluffs, Iowa. In accordance with an Iowa Utilities Board (“Board”) rule¹ and MidAmerican’s Iowa electric tariff,² Arti has withheld and continues to withhold only the contested amount of the disputed bills.³

Arti has paid the undisputed portion of the disputed bills and, for the pendency of this complaint proceeding, will continue to do so for all future MidAmerican bills rendered for electric service provided to the Arti Facility. It is Arti’s understanding that MidAmerican’s Iowa electric tariff⁴ expressly provides that utility service for the Arti Facility will not be discontinued during the pendency of this complaint because Arti has paid the undisputed portion of the disputed bills and has engaged in good-faith negotiations to settle the dispute in a timely fashion.⁵

Arti made a determined effort to resolve its dispute by engaging in good-faith negotiations with MidAmerican before bringing an informal complaint to the Board for resolution. In compliance with the customer complaint procedures set forth in MidAmerican’s

¹ 199 IAC 20.4(15) “d”(6).

² Exhibit SMA-2.

³ Exhibit SMA Direct, at 7-8 (for entire paragraph).

⁴ Exhibit SMA-3.

⁵ Exhibit SMA Direct, at 8 (for entire paragraph).

Iowa electric tariff,⁶ Arti provided MidAmerican with a customer complaint inquiry in the form of a letter⁷ dated September 26, 2014, sent to MidAmerican by electronic mail, challenging the accuracy of the disputed bills and proposing a resolution of the billing dispute. Subsequently, in a letter⁸ to Arti dated October 7, 2014, MidAmerican rejected Arti's proposed resolution of the billing dispute.⁹

B. PROCEDURAL SUMMARY

On October 20, 2014, Arti brought the billing dispute to the Board by submitting an informal complaint against MidAmerican. In an order issued November 21, 2014, the Board docketed the informal complaint as a formal complaint proceeding identified as Docket No. FCU-2014-0016. The docketing order deferred the establishment of a procedural schedule in order to afford Arti and MidAmerican an opportunity to engage in settlement negotiations. Following several months of negotiations between the parties that ultimately reached an impasse, the Board set a procedural schedule in an order issued April 13, 2015. The procedural order also granted a motion for leave to amend the complaint, accompanied by the proposed amendment, submitted by Arti on March 18, 2015.

Pursuant to the procedural schedule established by the Board, on May 18, 2015, Arti filed the written direct testimony and exhibits of two witnesses: Samuel Arons, an Energy Manager specializing in energy and infrastructure for Arti's operations,¹⁰ and Maurice Brubaker, a

⁶ Exhibit SMA-3.

⁷ Exhibit SMA-4.

⁸ Exhibit SMA-5.

⁹ Exhibit SMA Direct, at 8-9 (for entire paragraph).

¹⁰ Exhibit SMA Direct, at 1.

consultant in the field of public utility regulation and President of Brubaker & Associates, Inc.¹¹ On June 19, 2015, MidAmerican filed written rebuttal testimony and exhibits of two witnesses – Charles Rea and Naomi Czachura – and followed up with a filing on July 21, 2015, of a revised version of one of the exhibits to Mr. Rea’s rebuttal testimony. On July 24, 2015, Mr. Arons and Mr. Brubaker submitted written reply testimony and exhibits on behalf of Arti. An evidentiary hearing was held on August 18, 2015 and was continued to September 15, 2015, for the taking of additional evidence. The hearing then resumed and concluded on September 15, 2015.

An order issued on September 17, 2015 established October 26, 2015 as the deadline for Arti and MidAmerican to submit their initial post-hearing briefs. The order also directed each party to include a list of all of the party’s exhibits admitted into the record as well as all exhibits that were offered but not admitted. This is Arti’s initial post-hearing brief; the required exhibit list is set forth in the appendix to this brief.

C. ISSUES PRESENTED

Two major issues are raised by the complaint and the subsequent amendment to the complaint. The first major issue (the “Factors Issue”) is whether MidAmerican’s application of the generic Rate ■ phase-in factor and the generic Rate ■ equalization factor to Arti is unfair, discriminatory, unreasonable, or inconsistent with MidAmerican’s Iowa electric tariffs or in violation of applicable legal standards. It is Arti’s position that the application to Arti of generic

¹¹ Exhibit MEB Direct, at 1.

factors based on Rate [REDACTED] is, in fact, unfair, discriminatory, unreasonable, and inconsistent with MidAmerican's Iowa electric tariffs and in violation of applicable legal standards.¹²

The other major issue (the "Separate Billing Issue") is whether MidAmerican's proposal to bill Arti for electric service provided to the Arti Facility through the Southland Substation separately from electric service provided to the same facility through the Pony Creek Substation would be unfair, discriminatory, unreasonable, or unsupported by MidAmerican's Iowa electric tariff or in violation of applicable legal standards.¹³ It is Arti's position that MidAmerican's proposal is, in fact, unfair, discriminatory, unreasonable, and unsupported by MidAmerican's Iowa electric tariff and in violation of applicable legal standards, that Arti is a single customer of MidAmerican, that the Arti Facility is a single Premises, and that electricity delivered to the Arti Facility through the Pony Creek Substation and the Southland Substation should be consolidated into a single bill for billing purposes.

D. CONTEXTUAL FACTS

Arti Established Electric Service from MidAmerican in [REDACTED].

The Arti Facility came on line in [REDACTED]. For that month and the following month, MidAmerican billed the Arti Facility under Rate [REDACTED]. In [REDACTED], MidAmerican then began billing Arti under Rate [REDACTED], which continued for 14 months until [REDACTED]. On [REDACTED], MidAmerican ceased billing Arti under Rate [REDACTED] and began providing electric service to the Arti Facility under a newly created rate – Rate [REDACTED].¹⁴

¹² Exhibit SMA Direct, at 9-10 (for entire paragraph).

¹³ Exhibit SMA Direct, at 10.

¹⁴ Exhibit SMA Direct, at 4 (for entire paragraph).

Rate [REDACTED], a new MidAmerican rate applicable to MidAmerican's [REDACTED] [REDACTED], was approved by the Iowa Utilities Board in MidAmerican's recent rate case, Docket No. RPU-2013-0004 (the "Rate Case"), became effective on July 31, 2014, and is included in MidAmerican's current Iowa electric tariff.¹⁵ The load at the Arti Facility surpassed the qualifying threshold for Rate [REDACTED] in [REDACTED].¹⁶

Arti and Pinnacle Have Very Similar Facilities and Usages and are Subject to the Same Base Rate, Including the Same Energy Charge and Custom Demand Charge.

The Arti Facility is the second of two [REDACTED] operated by its parent company. An affiliate of Arti, called Pinnacle, LLC ("Pinnacle"), has a sister [REDACTED] (the "Pinnacle Facility"), which is also owned and operated by the same parent company, is also located in [REDACTED], Iowa, and came on line in [REDACTED]. The two facilities are located in the same former MidAmerican [REDACTED]. The Arti Facility and the Pinnacle Facility were (and presently remain) virtually identical in terms of design, both having been designed by the parent company to perform similar functions. Additionally, both have high load factors of [REDACTED] and demand of the same magnitude ([REDACTED] for Pinnacle and [REDACTED] for Arti). Both facilities easily qualified for [REDACTED] [REDACTED], and since July 31, 2014, both have received electric service under Rate [REDACTED].¹⁷

¹⁵ Exhibit MEB-1 is a copy of the Rate [REDACTED] tariff.

¹⁶ Exhibit SMA Direct, at 5 (for entire paragraph).

¹⁷ Exhibit SMA Direct, at 3 (for entire paragraph); Exhibit SMA-1.

MidAmerican charges the same Rate [REDACTED] base demand and energy rates to both Arti and Pinnacle.¹⁸ Importantly, the base demand rate is a custom rate that MidAmerican determined for Pinnacle based on the cost of service for Pinnacle, and MidAmerican charges Arti exactly the same base demand rate.¹⁹

Background on the Rate [REDACTED] Tariff, the Phase-In Adjustment Factor, and the Equalization Adjustment Factor.

The Rate [REDACTED] tariff allows MidAmerican to apply two specific adjustment factors – identified as the phase-in adjustment factor and the equalization adjustment factor – to Rate [REDACTED] customers. Arti’s rates for service under Rate [REDACTED] will be determined by its base demand and energy charges and other factors, including billed phase-in and equalization adjustment factors. Per the Rate [REDACTED] tariff, MidAmerican applies these two adjustment factors to both Arti’s and Pinnacle’s billings under Rate [REDACTED].²⁰

The phase-in adjustment factor is established and described by Clause PI – Phase-In Adjustment in MidAmerican’s Iowa electric tariff.²¹ According to Clause PI, the phase-in factor is applied to the rate for electric service for the purpose of phasing in MidAmerican’s revenue increase approved in the Rate Case. Phase-in adjustment factors are billed on a dollar-per-kWh basis and are a function of a customer’s former price schedule.²²

¹⁸ Exhibit MEB Direct, at 4; Exhibit MEB Reply, at 4-5.

¹⁹ Exhibit MEB Reply, at 2, 4-5; Exhibit MEB-7.

²⁰ Exhibit SMA Direct, at 4 (for entire paragraph).

²¹ Exhibit MEB-2.

²² Exhibit SMA Direct, at 4-5 (for entire paragraph).

The equalization factor is established and described by Clause E – Equalization Adjustment in MidAmerican’s Iowa electric tariff.²³ According to Clause E, equalization factors are applied to the rate for electric service for the purpose of moving all rates to the cost of service over a ten-year period. Equalization factors are billed on a dollar-per-kWh basis and are also a function of a customer’s former price schedule.²⁴ As Arti witness Brubaker explained at the hearing:

[I]n coming up with the equalization factors, the starting point is the rate the customer was on before the consolidation, and the end point is the cost of service under the final rates adopted by the Board. * * * The total cost of service is the ending point, the rates and costs under the current rates is the beginning point . . . * * * [Customers] start out at their own base point, whatever the costs are under the rates that they’re on pre-consolidation, and then they end up at some number based on the cost-of-service study.²⁵

MidAmerican ceased billing Arti under Rate [REDACTED] on [REDACTED], and began billing Arti under Rate [REDACTED], but has been applying a generic Rate [REDACTED] phase-in factor and a generic Rate [REDACTED] equalization factor. The generic Rate [REDACTED] phase-in factor and the generic Rate [REDACTED] equalization factor are calculated by MidAmerican on the basis of the total load characteristics of the Rate [REDACTED] rate class. Arti was never a member of the Rate [REDACTED] rate class, has never taken service under Rate [REDACTED], and never will.²⁶

These generic factors are not the same factors MidAmerican applied to Pinnacle since the date MidAmerican ceased billing Pinnacle under Rate [REDACTED] and began billing Pinnacle under Rate [REDACTED]. Since that date (July 31, 2014), MidAmerican has been applying a custom phase-in

²³ Exhibit SMA Direct, at 5; Exhibit MEB-3.

²⁴ Exhibit SMA Direct, at 5.

²⁵ Tr. 18-19.

²⁶ Exhibit SMA Direct, at 5, 10, 11 (for entire paragraph); Exhibit MEB Direct, at 3, 7 (for entire paragraph).

factor and a custom equalization factor that are specific to Pinnacle. Arti's understanding is that the Pinnacle Facility's usage and revenues were modeled in the 2012 test year for the Rate Case.²⁷

On April 24, 2014, Arti asked MidAmerican why Pinnacle and Arti would have different phase-in and equalization factors even though both are paying the same Rate [REDACTED] base demand and energy rates and previously were served under the same Rate [REDACTED] schedule.²⁸ On August 26, 2014, MidAmerican provided a written response stating that the phase-in factor and equalization factor for Arti would not be the same as those for Pinnacle because the custom phase-in factor and equalization factor are applicable only to customers that would have qualified for Rate [REDACTED] for the entirety of 2012.²⁹ MidAmerican went on to explain in its response that "Customers that become Rate [REDACTED] customers after 2012 are assigned the factors for the new rate they would take service under if they were not [REDACTED]" customers.³⁰ In his rebuttal testimony MidAmerican witness Rea similarly testified that "[f]or all customers that become [REDACTED] customers after the test year [of 2012], MidAmerican applies generic phase-in and rate equalization factors associated with the most appropriate rate for that customer in the pricing zone they are located if the customer were not [REDACTED]."³¹ According to MidAmerican, this new surrogate rate assigned to Arti is [REDACTED].³² Notably, MidAmerican has been unable to

²⁷ Exhibit SMA Direct, at 5-6 (for entire paragraph).

²⁸ Exhibit SMA Direct, at 12; Exhibit SMA-6.

²⁹ Exhibit SMA Direct, at 12; Exhibit SMA-7.

³⁰ Exhibit SMA Direct, at 12; see last paragraph of Exhibit SMA-7.

³¹ Exhibit CBR Reply, at 16; Exhibit MEB Reply, at 10-13.

³² Exhibit CBR Reply, at 16; Exhibit SMA Direct, at 12; see last paragraph of Exhibit SMA-7.

identify any tariff provision that authorizes this treatment for a customer like Arti that came on the system before the effective date (July 31, 2014) of the new rates.³³

Arti's Second Substation is Installed to Facilitate Expansion at its Site.

MidAmerican presently provides electric service to Arti's facility through a single substation identified as the Pony Creek Substation. However, MidAmerican will also provide electric service to the same facility through a second substation identified as the Southland Substation when that substation is completed. The two substations are both located on the Arti site [REDACTED].³⁴ They will be connected to each other [REDACTED] that will also be completed when the Southland Substation comes on line. This interconnection will allow power to flow between them so that they can function as a single unit supplying power to the Arti Facility.³⁵

The Arti site is served by two substations for two reasons. First, having multiple substations can improve reliability: with two substations, if one goes down then the other one can continue to function; whereas with a single substation, if it goes down there is no substation serving Arti's load. Second, the two substations have different architectures because they were designed at different stages of development of the Arti Facility. When Arti was ready to increase its power needs beyond the capability of the first substation, Pony Creek could not be further expanded and a new design was needed. This necessitated the design of a new substation, which is why the Southland Substation is a second, separate substation on the same Premises.

³³ Tr. 120.

³⁴ The two substations are shown in the aerial photo in Exhibit SMA-2.

³⁵ Exhibit SMA Direct, at 6 (for entire paragraph).

However, as noted above, the two substations will be interconnected by [REDACTED], and thus can function together as a single unit to power Arti's single operation at the Arti Facility.³⁶

MidAmerican Intends to Bill Arti Separately for Electric Service Provided by Interconnected Substations.

Despite these facts, MidAmerican intends to bill Arti for electric service provided to Arti's facility through the Southland Substation separately from electric service provided to the same facility through the Pony Creek Substation. When Arti first learned that MidAmerican intended to impose separate billing treatment on the Arti Facility, Arti informed MidAmerican that it had never agreed to such treatment, and Arti has vigorously protested such treatment since it became aware of MidAmerican's intentions.³⁷

E. APPLICABLE LEGAL STANDARDS

This docket was opened as a formal complaint proceeding by the Board pursuant to Iowa Code § 476.3.³⁸ Iowa Code § 476.3(1) provides that, if the Board finds that MidAmerican's "rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provisions of law, the board shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced." (Emphasis added.) The very first sentence of Section 476.3(1) further states: "A public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed

³⁶ Exhibit SMA Direct, at 7 (for entire paragraph).

³⁷ Exhibit SMA Direct, at 13 (for entire paragraph).

³⁸ *Arti, LLC v. MidAmerican Energy Company*, Docket No. FCU-2014-0016, at 7-8 (IUB Nov. 21, 2014).

with the board.” This imposes on MidAmerican a statutory obligation to provide utility service “in accordance with” its tariffs. The Board’s rules impose a similar obligation. 199 IAC 20.2(2).

MidAmerican’s provision of utility service in accordance with its tariffs is also subject to important statutory prohibitions. Iowa Code § 476.5 prohibits MidAmerican from “directly or indirectly charg[ing] a greater or less[er] compensation for its services than that prescribed in its tariff.” Section 476.5 further prohibits MidAmerican from “mak[ing] or grant[ing] any unreasonable preferences or advantages as to rates or services to any person or subject[ing] any person to any unreasonable prejudice or disadvantage.” (Emphasis added.) In addition, Iowa Code § 476.8 provides that the “charge made by any public utility for any . . . power produced, transmitted, delivered or furnished . . . or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful.” (Emphasis added.)

II. ARGUMENT

A. SUMMARY OF ARGUMENT

Factors Issue: MidAmerican Has Applied Unreasonable, Unjust, and Discriminatory Phase-In Adjustment and Equalization Adjustment Factors to Arti in Violation of Applicable Legal Standards.

MidAmerican has unfairly imposed on Arti phase-in and equalization factors that were developed for customers taking service under wholly different rates and with significantly different load and revenue characteristics than Arti or other customers in Arti’s rate class (that is, the Rate ■■■ rate class). Allowing MidAmerican to continue to apply the Rate ■■■ phase-in factor and equalization factor results in Arti being charged rates that are unreasonable and

unfairly high. Because there is no principled reason for the use of the Rate [REDACTED] phase-in factor and equalization factor, the Board should resolve this complaint by requiring MidAmerican to utilize the factors that it applies to the Pinnacle Facility.³⁹

Arti is a [REDACTED] customer of MidAmerican and is similar to Pinnacle in terms of load size, load factor, and average revenue per kWh.⁴⁰ MidAmerican agrees.⁴¹ MidAmerican is billing Arti using the same Rate [REDACTED] tariff prices (customer, demand and energy) that it is using for Pinnacle. Importantly, the demand rate is a custom rate that MidAmerican determined for Pinnacle based on the cost of service for Pinnacle, and MidAmerican charges Arti exactly the same demand rate. It is hard to see how any interpretation of these facts would be warranted other than that the cost to serve Arti must be essentially the same as the cost to serve Pinnacle. Hence it would be unjust and unreasonable to apply any phase-in factor or equalization factor to Arti other than those that MidAmerican is applying to Pinnacle, as the factors are likewise based on the cost to serve a customer.⁴²

Despite these facts, and the other similarities between Arti and Pinnacle, MidAmerican has not applied Pinnacle's equalization and phase-in factors to Arti. Instead, MidAmerican used equalization and phase-in factors that were developed for customers taking service under Rate [REDACTED] (under which Arti never has taken service and never will take service) or under a number of other rate schedules.⁴³ Those other rate schedules do not include the Rate [REDACTED] schedule, which

³⁹ Exhibit MEB Direct, at 3-4 (for entire paragraph); Exhibit MEB Reply, at 2-3 (for entire paragraph).

⁴⁰ Exhibit MEB Reply, at 7-8.

⁴¹ Tr. 102-104.

⁴² Exhibit MEB Direct, at 3-4 (for entire paragraph); Exhibit MEB Reply, at 2-3 (for entire paragraph).

⁴³ The [REDACTED] Adjustment Factors are based on former price schedules [REDACTED]

[REDACTED]. Exhibit MEB Direct, at 6.

is the schedule under which Arti was served until the effective date of Rate [REDACTED] (July 31, 2014).⁴⁴

When developing equalization and phase-in factors, it is important to recognize that there essentially are three categories of Rate [REDACTED] customers to be considered. The first category consists of those who were customers during the test year (2012) and met the qualifications for Rate [REDACTED] during the test year. The second category consists of those new customers who came on the system after final rates were approved in the Rate Case and as a result had no consumption history under the now-superseded rate schedules. The third category consists of customers, like Arti, who were customers of MidAmerican and took service – and qualified for service under Rate [REDACTED] – *after* the conclusion of the 2012 rate case test year but *before* the effective date of new rates (July 31, 2014). MidAmerican’s procedures address the first and second categories of customers but fail to address properly the third category of customers, including Arti. MidAmerican inappropriately lumps the third category of customers in with the second category and applies equalization and phase-in factors to customers in the third category based on customer characteristics (revenue per kWh, load factor and size) that are quite different from those of Arti and other [REDACTED] customers.⁴⁵

Separate Billing Issue: MidAmerican Has Unfairly Imposed Separate Bills on Arti’s Single Premises.

MidAmerican has unjustly singled out Arti as the sole [REDACTED] customer to receive two bills even though Arti’s operation is located on a single “Premises” as that term is defined in

⁴⁴ Exhibit MEB Direct, at 3-4 (for entire paragraph); Exhibit MEB Reply, at 2-3 (for entire paragraph).

⁴⁵ Exhibit MEB Reply, at 11-12 (for entire paragraph).

MidAmerican's Iowa electric tariff.⁴⁶ As a single "Premises," Arti is qualified under MidAmerican's Iowa electric tariff to receive a single billing for electricity delivered to its Premises through both substations.⁴⁷ MidAmerican's arguments to the contrary are based on concepts and definitions that are conspicuously absent in MidAmerican's Iowa electric tariff and are, in fact, inconsistent with the tariff.⁴⁸ Billing Arti on a consolidated single bill basis is consistent with the practice that MidAmerican has followed for ■ of its Rate ■ customers that have multiple points of attachment to the MidAmerican system, like Arti, but are billed as a single account.⁴⁹

B. MIDAMERICAN'S APPLICATION OF THE GENERIC ■ PHASE-IN AND EQUALIZATION FACTORS TO ARTI IS UNREASONABLE, UNJUST, DISCRIMINATORY, INCONSISTENT WITH MIDAMERICAN'S IOWA ELECTRIC TARIFF, AND IN VIOLATION OF APPLICABLE LEGAL STANDARDS.

Applying Generic Rate ■ Factors to Arti Defies Logic and MidAmerican's Own Tariff.

MidAmerican made no attempt to develop equalization and phase-in factors that have a logical application to Arti. Instead, MidAmerican chose to apply a generic set of factors based on Rate ■, which is based on a set of rate schedules that do not include the Rate ■ rate under which Arti had been taking service prior to the conclusion of the Rate Case. MidAmerican is applying to Arti the phase-in and equalization factors applicable to customers formerly served under Rates ■ and who are now served under the

⁴⁶ Exhibit SMA Direct, at 14-15; Exhibit MEB Reply, at 2-3; Exhibit SMA-8; Exhibit MEB-1.

⁴⁷ *Id.*

⁴⁸ Exhibit MEB Reply, at 3.

⁴⁹ Exhibit MEB Reply, at 3; Exhibit MEB-11; MidAmerican Cross Exhibit 8.

Rate [REDACTED] rate schedule. Mr. Rea concedes that nothing in the tariff supports the application of generic phase-in and rate equalization factors to customers that became [REDACTED] customers after the test year.⁵⁰

Applying generic factors based on Rate [REDACTED] is even more unjustified when considering how materially different Rate [REDACTED] customers are from Rate [REDACTED] customers. In terms of load factor, the Rate [REDACTED] customer group monthly average load factor is [REDACTED], whereas it is [REDACTED] for Rate [REDACTED] customers. In terms of customer size, the average monthly demand per [REDACTED] customer is about [REDACTED] but the average monthly demand per [REDACTED] customer is about [REDACTED]. In terms of average revenue per kWh, [REDACTED] customers averaged about [REDACTED] while Rate [REDACTED] customers averaged about [REDACTED]. Another key difference is that the [REDACTED] group's overall rate increase from the rate case is about [REDACTED], while the increase faced by the [REDACTED] group is about [REDACTED]. Given these material differences in characteristics, it is obvious that equalization and phase-in factors developed for [REDACTED] customers would be materially different than the equalization and phase-in factors developed for [REDACTED] customers. Indeed, MidAmerican witness Rea agreed that the development of the generic set of factors based on Rate LS applied to Arti does not include any of the characteristics of any former Rate LXS customers, and admitted that the generic factors MidAmerican has applied to Arti are not Arti-specific and that Arti's loads are "significantly higher" than the average load for the other customers to which those same generic factors are applied.⁵¹

⁵⁰ Tr. 120; Exhibit MEB Direct, at 6-7 (for entire paragraph); Exhibit MEB Reply, at 10 (for entire paragraph).

⁵¹ Tr. 119, 121-122; Exhibit MEB Reply, at 12 (for entire paragraph).

Another fundamental flaw in MidAmerican's approach in using equalization and phase-in factors designed for [REDACTED] customers is that Arti never took service and never will take service under Rate [REDACTED]. Because the underlying rates that led to the development of the [REDACTED] factors were higher than the Rate [REDACTED] rate, the equalization and phase-in factors developed from these other tariffs start from a higher rate level than was actually experienced by Arti under Rate [REDACTED], and therefore understate the increase that Arti faces in moving from Rate [REDACTED] to Rate [REDACTED]. The result of MidAmerican's inappropriate approach is that Arti is charged rates that are unreasonably and unfairly high.⁵²

Neither Clause E nor Clause PI identifies the factors applicable to customers previously subject to the Rate [REDACTED] rate. This may be because all Rate [REDACTED] customers who took service during 2012 had met the eligibility criteria for Rate [REDACTED] at the time of the Rate Case. What has occurred, however, is that Arti, a former Rate [REDACTED] customer, met the eligibility criteria for Rate [REDACTED] at a later date that was after the test year but before the effective date of Rate [REDACTED]. Rather than develop factors based on Arti's rates and characteristics, however, MidAmerican simply decided to use a set of equalization and phase-in factors that are based on rates and load characteristics that are materially different from those of Arti.⁵³

⁵² Exhibit MEB Direct, at 8-9 (for entire paragraph). MidAmerican's approach is also inconsistent with the following statement made in the transmittal letter [Exhibit MEB-4] that accompanied MidAmerican's filing of additional information on [REDACTED]

⁵³ Exhibit MEB Direct, at 7 (for entire paragraph).

Application of the Pinnacle Factors to Arti is the Most Appropriate Alternative to MidAmerican's Inappropriate Application of the Generic Rate [REDACTED] Factors.

As a result of MidAmerican's unjust and unreasonable application of the generic Rate [REDACTED] factors to Arti, the Board should order MidAmerican to apply to Arti the same equalization and phase-in factors it applies to Pinnacle. This approach is the most appropriate approach because, as shown above, both Arti and Pinnacle previously were served under Rate [REDACTED], their facilities are virtually identical in terms of load characteristics, design, and function, and, most importantly, MidAmerican has already determined that Arti and Pinnacle should pay the same Rate [REDACTED] base energy and demand rates – which are based upon the cost to serve customers, just like the factors, which are also based upon the cost to serve customers.⁵⁴

At the hearing, MidAmerican witness Rea agreed with Arti's witnesses that the facilities of Arti and Pinnacle are virtually identical in terms of load characteristics, design, and function:

BOARD MEMBER JACOBS: Okay. Since that demand charge can vary among a variety of customers taking service under the rate, can you please explain to me the basis for charging Arti the same demand charge as Pinnacle under the rate?

THE WITNESS: Primarily for the reasons that Arti's witnesses have laid out in their testimony. We know the facilities do the same thing. They are expected in the long term to operate approximately the same way in terms of the loads that they put on the system.

If their full operations were – if the loads associated with their full operations for both sites were known and in the 2012 test year, it is quite likely that their revenue requirement and their resulting rate would have been exactly the same, and so we chose to charge the demand charge for Arti the same as Pinnacle based on those considerations.

We do believe that in the long run, their loads that they put on the system, their load shapes, will be identical.

⁵⁴ Exhibit MEB Direct, at 3-4 (for entire paragraph); Exhibit MEB Reply, at 2-3 (for entire paragraph).

* * *

BOARD MEMBER JACOBS: But it's fine to charge them the same demand charge?

THE WITNESS: We believe that their operations and the loads that they put on the system will be similar, if not nearly identical, so that the rate can be identical
⁵⁵

In the Alternative, MidAmerican Should Be Required to Use Customer-Specific Factors Based on Arti's Characteristics and Former Rate [REDACTED]

If the Board finds that the similarities between Arti and Pinnacle are insufficient to apply the Pinnacle equalization and phase-in factors to Arti, the Board should require MidAmerican to use customer-specific phase-in and equalization factors applicable to Arti, an approach MidAmerican used with other Rate [REDACTED] customers. Arti has calculated phase-in and equalization factors for Arti that recognize that Arti was previously taking service under Rate [REDACTED] and that appropriately incorporate the phase-in and equalization concepts.⁵⁶ In performing these calculations, Arti annualized Arti's July usage in July 2014 – the most recent complete month prior to the effective date of the new Rate [REDACTED] tariff – in order to utilize a representative load and load profile.⁵⁷ Arti's load has continued to grow since that time and continues to do so today, but Arti took a conservative approach by using the level of consumption (demand and energy) achieved by Arti in July 2014, the month just before the new rates went into effect.⁵⁸

⁵⁵ Tr. 102-104 (emphasis added).

⁵⁶ Exhibit MEB Reply, at 14-16. The calculations are explained in detail in Exhibit MEB-8. Exhibit MEB-9 is a side-by-side comparison of the equalization and phase-in factors for Pinnacle, the Arti-specific factors developed in Exhibit MEB-8, and the factors that MidAmerican is applying to Arti. At the hearing, MidAmerican witness Rea conceded that the factors developed in Exhibit MEB-8 are Arti-specific. Tr. 119.

⁵⁷ Exhibit MEB Direct, at 11; Tr. 50-54.

⁵⁸ Exhibit MEB Reply, at 8; Tr. 50-54.

The Board should reject any argument raised by MidAmerican that 2012 usage data is required for the development of customer-specific factors for Arti because there is nothing that requires or warrants the use of the 2012 test year as the starting point. MidAmerican has taken the position that it requires 2012 test year usage data in order to determine customer-specific equalization and phase-in factors, and that since Arti was not a customer during 2012, MidAmerican cannot determine specific phase-in and equalization factors for Arti. However, Arti is not aware of any such requirement applicable to Arti's situation in the Board's rules or the final decision issued by the Board on March 17, 2014 in the Rate Case. In addition, the imposition of such a requirement on Arti is not authorized by any of MidAmerican's Iowa electric tariffs that became effective on July 31, 2014, including Clause E and Clause PI. Specifically, there is no mention in either Clause E or Clause PI of any need for 2012 test year data as a criterion for determining which factors to apply. The only distinction made concerns whether a customer "establish[ed] service after the effective date of this tariff," which is not the case for Arti since it established service in [REDACTED], [REDACTED] before the July 31, 2014, effective date of the Rate [REDACTED] tariff. Moreover, the evidentiary record in the Rate Case provides additional support for the development of specific customized equalization and phase-in factors for Arti; *e.g.*, at page 35 of his direct testimony in that docket, MidAmerican witness Charles Rea states: "In addition, all customers would pay an equalization adjustment amount that is customized to the rate they are **currently** taking service under."⁵⁹

⁵⁹ Exhibit MEB-5 (emphasis added); Exhibit MEB Direct, at 9-10 (for entire paragraph).

In sum, the fact that Arti was not a customer in 2012 does not preclude the development of customized equalization and phase-in factors for Arti. The specific time period for defining the load to be used in developing the factors is not material provided only that the load was present prior to the time that Rate █████ went into effect on July 31, 2014. As noted above in this brief, Arti first took service under Rate █████ in █████, and remained on Rate █████ until July 31, 2014, at which time it was placed on Rate █████. Neither Clause PI nor Clause E specifies generic Rate █████ phase-in and equalization factors for customers moving from Rate █████ to Rate █████. Instead, MidAmerican developed specific equalization and phase-in factors only for application to each of those customers other than Arti. For Arti and Arti alone, MidAmerican applied generic equalization and phase-in factors that are not applicable to Arti's circumstances in any way.⁶⁰

Even if the 2012 test year were a reasonable point of reference for those customers who, based on their own test year usage, would receive custom factors, MidAmerican's choice not to develop specific factors for Arti, which did not have consumption during 2012 and became eligible for the Rate █████ rate at a later time that was between the end of the test year and the effective date of Rate █████, is neither rational nor fair. MidAmerican could and should have developed reasonable equalization and phase-in factors for Arti based on Rate █████ and Arti's actual loads immediately prior to July 31, 2014, and MidAmerican's refusal to do so merely because Arti did not have consumption during 2012 has no basis, either from a cost-of-service or equity perspective. As noted above, MidAmerican witness Rea testified in the Rate Case that "all

⁶⁰ MEB Direct, at 8, 11 (for entire paragraph).

customers would pay an equalization adjustment amount that is customized to the rate they are currently taking service under.” Since the purpose of rate equalization factors is to transition customers from their current rates to rates based on their cost of service, MidAmerican’s failure to develop reasonable equalization and phase-in factors for Arti does not allow Arti to transition properly from its former rate to its cost-of-service-based rate, as is the case for other customers of MidAmerican.⁶¹

C. MIDAMERICAN’S PROPOSAL TO SEPARATELY BILL ARTI’S SINGLE PREMISES IS UNJUST, DISCRIMINATORY, UNREASONABLE, UNSUPPORTED BY MIDAMERICAN’S TARIFF, IN VIOLATION OF APPLICABLE LEGAL STANDARDS, AND CAUSES SIGNIFICANT HARM TO ARTI.

Arti’s Facility is a Single Premises under MidAmerican’s Iowa Electric Tariff, which Entitles Arti to a Single Bill for Electric Service to the Arti Facility.

MidAmerican’s tariff expressly states that the Rate [REDACTED] tariff is “[REDACTED]

[REDACTED]”⁶² The term “Premises” used in the Rate [REDACTED] tariff is defined elsewhere in MidAmerican’s tariff as follows:

Premises means a contiguous tract of land that may be separated by nothing more than a highway, street, alley or railroad right-of-way, where all buildings and/or electricity-consuming devices located thereon are owned or occupied by a single Customer or applicant for electrical service, or where all electricity delivered thereto is utilized to supply one (1) or more buildings and/or electric loads which the Company considers as components of a unified operation.⁶³

There are two separate and independent ways to qualify as a “Premises.” First, a contiguous tract of land where all buildings and/or electricity-consuming devices are owned or occupied by

⁶¹ MEB Direct, at 8-10 (for entire paragraph).

⁶² Exhibit MEB-1 (emphasis added).

⁶³ Exhibit SMA-8 (emphasis added).

a single customer qualifies as a “Premises.” Second, a site at which all electricity is utilized to supply one or more buildings and/or electrical loads that MidAmerican considers to be components of a unified operation also qualifies as a “Premises.”⁶⁴

The Arti Facility clearly satisfies the first criterion. The Arti Facility is a contiguous tract of land that is not separated by more than a highway, street, alley, railroad right-of-way, or the like, and all of the buildings and electricity-consuming devices located on the site are owned or occupied by Arti.⁶⁵

The Arti Facility satisfies the second criterion as well. All electricity delivered to Arti is utilized to supply buildings that are components of a unified operation. The Arti Facility consists of several buildings housing the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. It would not be possible to subdivide them into separate “un-unified” operations because they must be inter-networked in order to function properly.

Additionally, as mentioned earlier, the two substations serving the facility are interconnected to function as a single unit to serve the Arti Facility. Thus, there is a unified supply of electricity provided to a unified operation.⁶⁶

⁶⁴ Exhibit SMA Direct, at 14 (for entire paragraph).

⁶⁵ Exhibit SMA Direct, at 14.

⁶⁶ Exhibit SMA Direct, at 14-15 (for entire paragraph).

MidAmerican’s Decision to Bill Arti Separately is Unsupported by Its Own Iowa Electric Tariff and Should Therefore Be Rejected.

MidAmerican admits that, for purposes of determining eligibility for Rate [REDACTED], all of Arti’s facilities can be considered because they are “part of a single premises.”⁶⁷ MidAmerican refuses to acknowledge, however, that all of Arti’s facilities, which MidAmerican concedes to be part of a single Premises for the paramount purpose of determining eligibility for Rate [REDACTED], should be billed under a single Rate [REDACTED] account. MidAmerican instead claims that “a reasoned consistent interpretation of MidAmerican’s tariffs would require that Arti’s load at each substation be billed as a separate account.”⁶⁸ MidAmerican’s justification for this inconsistent position is that “Rate [REDACTED] customers that have multiple points of attachment to MidAmerican’s facilities, all of which are connected to a customer operation that is electrically unified [,] are billed as a single account”⁶⁹ and that the “key in determining whether a customer with multiple points of attachment with the Company’s facilities will be billed as a single account or multiple accounts is if all the customer’s facilities are electrically unified.”⁷⁰

The first thing to note about this argument is that MidAmerican has abandoned the criterion set forth in its tariff – “unified operation”⁷¹ – and arbitrarily replaced it with a different criterion – “electrically unified.” Even if this mid-litigation substitution of language were permissible (which, of course, it most assuredly is not), the new criterion is fatally flawed. According to MidAmerican, “electrically unified means that the electric systems throughout the

⁶⁷ Exhibit NGC Reply, at 5 (emphasis added).

⁶⁸ Exhibit NGC Reply, at 5.

⁶⁹ Exhibit NGC Reply, at 3 (emphasis added).

⁷⁰ Exhibit NGC Reply, at 4 (emphasis added.)

⁷¹ Exhibit SMA-8.

entire customer operation are integrated.”⁷² Notably, the linchpin of this definition – the term “integrated” – is neither defined in MidAmerican’s testimony in this case nor, more importantly, in MidAmerican’s Iowa electric tariff.⁷³ Moreover, with respect to both its definition of the new “electrically unified” criterion and the “key” role MidAmerican assigns to the term in MidAmerican’s interpretation of the Rate [REDACTED] tariff, MidAmerican appears to be making it up as it goes along.

In response to an Arti discovery request about her reply testimony⁷⁴ using the term “electrically unified,” defining the term, and in discussing the “key” role MidAmerican has allegedly assigned to the term in MidAmerican’s interpretation of the Rate [REDACTED] tariff, MidAmerican witness Czachura: (1) “did not rely upon authoritative references for a definition of the term ‘electrically unified;’”⁷⁵ (2) could not identify a single internal MidAmerican document that establishes or references the term, its definition, or the role the term allegedly plays in MidAmerican’s interpretation of the tariff; (3) admitted that MidAmerican has no specific record of how the term, definition, or its tariff-interpretation role was developed; (4) stated that MidAmerican has no recollection that the term, definition, or its role in interpreting the tariff was ever discussed with Arti; (5) could not identify any document provided to Arti by MidAmerican informing Arti of the term, its definition, or its role in interpreting the tariff; and (6) could not identify any externally available document informing the public in general, or MidAmerican’s actual or potential customer in particular, of the term, its definition, or its tariff-

⁷² Exhibit NGC Reply, at 3 (boldface emphasis original, underlined emphasis added).

⁷³ Exhibit SMA Reply, at 2 (for entire paragraph).

⁷⁴ NGC Reply Exhibit, at 3-4.

⁷⁵ Exhibit SMA-10.

interpretation role other than the tariff itself (which, as discussed above, does not use or define the term or address in any way the role it plays in interpreting the tariff).⁷⁶

Further evidence that MidAmerican is making it up as it goes along appears in the additional information MidAmerican filed on September 8, 2015, in compliance with Board orders issued on August 12 and August 21, 2015.⁷⁷ In those orders, the Board specifically asked MidAmerican to describe the facilities for other customers taking service under the same rate code as Arti and explain how those facilities are either similar to or different from Arti's facilities and whether any of those facilities are considered "electrically unified."

MidAmerican's filed response to those particular questions included the following discussion:

On page 15 of Mr. Arons direct testimony, he describes the Arti Facility as having two substations connected to "each other by two transmission lines so the high-voltage power can flow between them and they can function as a single unit to serve the Arti Facility on the Arti site." The difference between the Arti Facility and the typical customer configurations is that the customer configurations described below are electrically unified through the customer owned distribution system, which connect each building into one local electrical system through low voltage. In contrast, Arti testified that its facilities are electrically unified through MidAmerican's transmission system.⁷⁸

Obviously, MidAmerican has now replaced its "electrically unified" criterion (which was itself a replacement for the "unified operation" criterion that appears in MidAmerican's tariff) with yet another new criterion that, like the "electrically unified" criterion, does not appear anywhere in MidAmerican's tariffs: "electrically unified through the customer-owned distribution system."

⁷⁶ Arti Cross Exhibit 3; Tr. 208-210, 246-248.

⁷⁷ MidAmerican's additional information filing of September 8, 2015, has been admitted into the record as MidAmerican Cross Exhibit 9.

⁷⁸ MidAmerican Cross Exhibit 9, Attachment A, at numbered page 2 (emphasis added).

Arti witness Arons summed up the situation nicely – and explained the quandary created for a customer like Arti by MidAmerican’s ever-changing, unwritten, subjective interpretations of its tariffs – when asked at the hearing to comment on MidAmerican’s additional information filing made on September 8, 2015:

In the sort of preamble section to Confidential Attachment A [of MidAmerican’s additional information filing], we have what appears to be a new definition of electrical integration. This time that definition seems to be that a site can be considered electrically unified for the purposes of whether you are one customer or two customers if it’s unification on the distribution level on the customer’s side of the transformers, whereas if you are electrically integrated on the high-voltage side, on MidAmerican’s side of the transformers, you would not be considered electrically integrated for the purposes of being one customer or two customers.

Kind of taking a step back and thinking sort of how we got to his point, I believe this is now maybe the third or fourth different definition of electrical integration that we have come across, the first being just simply the statement that electrical integration is necessary. Then we learned that electrical integration meant electrical interconnection. Then we learned after that that electrical integration meant that you had to have – you had to not have multiple buildings, even though the definition of premises allows for multiple buildings, and now we have yet another definition appearing here.

What’s difficult about this for a customer like Arti is that, you know, we’ve not heard of these – each time we receive a new definition, it’s the first time we’re hearing about it, and it’s very difficult for us to, you know, plan and handle this, because we may have done something differently on our site if we had known that this is what the definition was going to be.

I think it’s just – you know, it’s difficult, when it feels like the goalposts are being moved, for us to sort of handle that situation.⁷⁹

Mr. Arons’s reference to “multiple buildings” in his summary of the situation in which Arti find itself relates to testimony by MidAmerican witness Czachura that “MidAmerican does not believe [integration of the electric systems throughout the entire customer operation] is the

⁷⁹ Tr. 155-157.

case at the Arti site which has multiple buildings, and [MidAmerican] has therefore determined that it is appropriate to bill the electric service provided at each substation as a separate account.⁸⁰ Ms. Czachura appears to be saying here is that Arti is not “electrically unified” and cannot receive a single bill because it has multiple buildings. However, the definition of “Premises” in MidAmerican’s own Iowa electric tariff expressly allows for multiple buildings on a customer site if they are “owned or occupied by a single Customer or applicant for electrical service,” which is the case for the Arti Facility. Further, if Ms. Czachura’s reasoning is taken to its logical conclusion, then Arti could build a roof or some connecting structure combining its two separate buildings into one large building, and the buildings then would qualify as “electrically unified” under at least one of Ms. Czachura’s several different definitions, and thus Arti would qualify for a single bill. This makes no sense. The Board should reject MidAmerican’s illogical, unfounded, and unsupported suggestion that a facility must be “electrically unified” in order to qualify for a single bill.⁸¹

MidAmerican’s Decision to Issue Multiple Bills to Arti Is Inconsistent with How It Treats Other Similar Customers.

Fifteen of MidAmerican’s Rate █████ customers have multiple points of attachment to the MidAmerican system, like Arti, and each of the █████ is billed as a single account.⁸² It would be unreasonable, unjust, discriminatory, and a violation of applicable legal standards for MidAmerican to treat Arti differently than it does these other customers.

⁸⁰ Exhibit NGC Reply, at 3 (emphasis added).

⁸¹ Exhibit SMA Reply, at 3-4 (for entire paragraph).

⁸² Exhibit MEB-11; MidAmerican Cross Exhibit 8.

MidAmerican concedes that it bills other [REDACTED] customers whose Premises require multiple meters under a single account. According to MidAmerican: “For larger loads, however, it is sometimes necessary to set multiple meters at the same Premises because the load is too large for a single standard meter to accommodate. In such cases the multiple meters are combined and billed as a single account since it serves one Premises.”⁸³ Arti agrees that large loads often require multiple meters, and also agrees that in such cases it is appropriate to bill the multiple meters as a single account serving one Premises. There is no principled distinction to be drawn between multiple meters and multiple substations. Sometimes points of attachment and meters all stem from one substation, and sometimes, as in Arti’s situation, they stem from more than one substation. Where large loads require multiple points of attachment (whether from a single substation or, as in Arti’s situation, from multiple substations), it is likewise appropriate to bill the multiple points of attachment (whether from a single substation or from multiple substations) as a single account serving a single Premises.⁸⁴

MidAmerican’s Alleged Understanding that It Could Bill Each Substation Separately Is Not Supported by the Facts and Does Not Allow MidAmerican to Ignore the Language of Its Own Iowa Electric Tariff.

MidAmerican also claims that its separate billing treatment is justified because MidAmerican purportedly had reason to consider service from the two substations as separate even before the substations were constructed:

MidAmerican has considered the service from the two substations as being separate even before the facilities were constructed. The two facilities are the

⁸³ Exhibit NGC Reply, at 3.

⁸⁴ [REDACTED]
MidAmerican Cross Exhibit 9.

subject of two separate service agreements and the revenue used in the determination of need for a customer contribution to finance the construction of each facility has been, and continues to be, considered separately.⁸⁵

This fails as a justification for MidAmerican's separate billing treatment. MidAmerican's assertion that there are two separate service agreements is mistaken. First, there is only one Electric Service Agreement ("ESA"), with an effective date of [REDACTED], for all service provided by MidAmerican to the Arti Facility. The ESA requires MidAmerican to supply all electric service required by Arti for power and lighting purposes on the Premises occupied by Arti and makes no mention of more than one customer account. As a result, it is hard to see how anything other than a single customer account would be warranted by the terms of the ESA.⁸⁶

Second, MidAmerican appears to be confusing the ESA with the multiple Electric Facilities Construction and Reimbursement Agreements ("FCAs"). [REDACTED]
[REDACTED]
[REDACTED]. However, the FCAs do not determine how electric service is provided; that subject is solely governed by the single ESA, which contractually commits MidAmerican to provide all electric service to Arti's Premises.⁸⁷

The two substations were constructed at different times; consequently, it is hardly unusual or surprising that there would be separate construction agreements and revenue

⁸⁵ Exhibit NGC Reply, at 2 (emphasis added).

⁸⁶ Exhibit SMA Reply, at 6-7 (for entire paragraph).

⁸⁷ Exhibit SMA Reply, at 7-8 (for entire paragraph).

justifications used in determining the need for a customer contribution to the financing of the facility. With respect to Arti's specific need for two substations rather than a single larger one, as described above, the electrical and physical configurations of the Pony Creek substation were not able to accommodate expanding that substation to pick up the additional loads.⁸⁸ As a result, a second substation was constructed [REDACTED] to accommodate the added load at the site. The need to expand in this fashion is not a justification for MidAmerican to issue separate billings for service supplied through the two substations.⁸⁹

Arti Is Significantly Harmed by MidAmerican's Proposed Separate Billing Treatment.

MidAmerican's insistence on separate billings would unfairly and unreasonably result in overcharges to Arti in violation of applicable legal standards. MidAmerican's proposed separate billing treatment would require Arti to pay demand charges based on the disaggregated service peaks measured at each substation rather than a demand charge based on the aggregate peak for all electric service provided to Arti's facility. Furthermore, MidAmerican's separate billing treatment would require Arti to pay the basic service charge twice.⁹⁰

MidAmerican has admitted that the "financial impact between two bills and a single bill would be significant."⁹¹ According to MidAmerican, "a ruling that load at the Southland substation can be considered a separate customer would allow for [REDACTED] factors to be billed to that customer regardless of the determination of factors for load at the Pony Creek

⁸⁸ Exhibit SMA Direct, at 7.

⁸⁹ Exhibit SMA Direct, at 7 (for entire paragraph); Exhibit MEB Reply, at 18 (for entire paragraph).

⁹⁰ Arti has provided estimates of the annual financial impact associated with MidAmerican's separate billing treatment. Arti Cross Exhibit 4.

⁹¹ MidAmerican Cross Exhibit 9, at numbered page 2.

substation.”⁹² Obviously, the impact of MidAmerican’s separate billing treatment would be the extraction of additional revenue from Arti that was not included in the Rate Case, by unjustly splitting the Premises in two in order to allow MidAmerican to use equalization and phase-in factors more favorable to MidAmerican for the larger piece.

Impact of kW Demand Charge

The impact of the kW demand charge applied to two electric bills could have additional financial impact for Arti depending on the amount of load that is non-coincident or double-counted in the monthly peak demands of both electric bills. The kW demand charge for a single electric bill would be based upon the coincident maximum demand (in kW) of Arti’s load each month measured simultaneously across both the transformers in the Pony Creek Substation and the transformers in the Southland Substation. For two electric bills, the kW demand charge for the bill pertaining to the Pony Creek Substation would be based upon the coincident maximum demand (in kW) each month measured simultaneously across the transformers in only the Pony Creek Substation, and the kW demand charge for the bill pertaining to the Southland Substation would be based upon the coincident maximum demand (in kW) each month measured simultaneously across the transformers in only the Southland Substation. If the coincident maximum demand of the transformers in the Pony Creek Substation did not occur simultaneously with the coincident maximum demand of the transformers in the Southland

⁹² MidAmerican Cross Exhibit 9, at numbered pages 2-3.

Substation, then the sum of the two kW demand charges on the two bills would be greater than the single kW demand charge on the single bill.⁹³

Arti estimates that its minimum financial impact would be approximately [REDACTED]⁹⁴ per year for [REDACTED] of load as a result of MidAmerican applying the kW demand charge separately to the Pony Creek and Southland Substations' monthly maximum demands (assuming [REDACTED] of load on each substation). Arti's load has been growing and was approaching this level in [REDACTED], and if Arti's load continues to grow, as is expected to be the case, the financial impact would grow commensurately.⁹⁵

Since there is no historical load data for the Southland Substation, it is necessary to perform a proxy calculation for the kW demand charge impact resulting from two electric bills for Arti. The estimated cost difference in the kW demand charge resulting from separate electric bills for the Pony Creek and Southland Substations is based upon the difference between two demand charge modeling scenarios: (1) applying demand charges to the monthly maximum demand at the four Pony Creek transformers under two separate bills (two transformers per bill) for the historical 10-month period ending July 31, 2015; and (2) applying demand charges to the coincident maximum demand at the four Pony Creek transformers under one electric bill for the same time period. This analysis is then annualized and applied to a pro-forma load of [REDACTED] for Arti ([REDACTED] at each substation, as described above). The estimated cost difference is due to the non-coincident maximum demand from the two sets of transformers under the two separately

⁹³ Arti Cross Exhibit 4, at 2 (for entire paragraph).

⁹⁴ MidAmerican's estimate is very close to Arti's. MidAmerican Cross Exhibit 9, at numbered page 3.

⁹⁵ *Id.*

modeled bills, which is intended to approximate the similarly expected non-coincident maximum demand from the Pony Creek and Southland Substations that would occur under two separate bills.⁹⁶

To the extent that load is ever moved between the Pony Creek and Southland Substations, because of outages (forced or planned) of substation transformers, switchgear, or other substation equipment, the cost difference could be significantly greater than Arti's estimate of [REDACTED], depending on the magnitude of load moved between the substations. This is because in the case of moving load, the same load could appear under the monthly maximum demand for both substations and result in double counting. Similarly, to the extent that load is moved between the Pony Creek and Southland Substations as a result of normal data center [REDACTED] operations and [REDACTED] maintenance, load could also be double counted in the monthly maximum demands of both substations and result in significantly greater financial impacts to Arti than contained in the attached estimate. For each [REDACTED] of additional load that is moved between substations and then double counted in the monthly maximum demands of both substations, Arti would incur [REDACTED] of additional demand charges (in one month) if two electric bills were imposed on Arti. For illustrative purposes, if [REDACTED] of load was moved between the two substations at the Arti site in [REDACTED] separate months of a particular year, and double counted in the affected [REDACTED] monthly billings to Arti (two bills in each of the [REDACTED] months), the additional financial impact to Arti would be approximately [REDACTED].⁹⁷

⁹⁶ Arti Cross Exhibit 4, at 2 (for entire paragraph).

⁹⁷ Arti Cross Exhibit 4, at 3 (for entire paragraph).

Finally, because of the unified nature of the operations at the Arti Premises,⁹⁸ issuing a consolidated billing for the two substations would avoid the double counting problem with respect to billing demand, whereas issuing separate bills for the Pony Creek and Southland Substations would virtually guarantee that there would be such inappropriate double counting. This is because Arti's unified operation requires the computers in the different buildings to communicate with one another to perform their [REDACTED] tasks, and thus computer activity, and hence load, can and does shift between buildings during the course of normal operations, including between buildings served by different substations.⁹⁹

Impact of Basic Service Charge.

The basic service charge of [REDACTED] per month would be charged once if Arti only receives one electric bill and twice if Arti receives two electric bills.¹⁰⁰ Consequently, the annual financial impact to Arti from the basic service charge applied to two bills would be an additional [REDACTED] multiplied by 12, or [REDACTED] per year.¹⁰¹

III. CONCLUSION

For the reasons set forth above, the Board should reject the equalization and phase-in factors MidAmerican applied to Arti and should adopt the Pinnacle factors for application to Arti. If the Board for some reason is unwilling to accept use of the Pinnacle factors, it should adopt the alternate Arti-specific factors developed by Arti witness Brubaker as shown Exhibit MEB-8. These alternate Arti-specific factors were developed specifically for the Arti load,

⁹⁸ Exhibit SMA Direct, at 14-15.

⁹⁹ Arti Cross Exhibit 4, at 3 (for entire paragraph).

¹⁰⁰ Arti Cross Exhibit 4, at 1.

¹⁰¹ *Id.* MidAmerican is in agreement with this calculation. MidAmerican Cross Exhibit 9, at numbered page 2.

based on the same method MidAmerican used to develop the equalization and phase-in factors applied to Pinnacle and to the other customers who were eligible for Rate [REDACTED] rate at the time of the Rate Case.

The Arti Facility is a single Premises and a unified operation. Therefore, power delivered through the Pony Creek Substation and through the Southland Substation should be consolidated for purposes of developing a single billing to Arti.¹⁰² MidAmerican should be required to charge Arti for electric service based on the combined peak demand of the unified Arti Facility and also bill Arti a single customer charge, and apply the same rate equalization factor and phase-in factor to the consumption delivered through each substation.

Dated October 26, 2015.

Respectfully submitted,

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¹⁰² Arti is not requesting consolidation of Arti and Pinnacle billings. Tr. 178.