

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

<p>ARTI, LLC, Complainant, v. MIDAMERICAN ENERGY COMPANY, Respondent.</p>	<p>DOCKET NO. FCU-2014-0016</p>
<p>ARTI, LLC, and PINNACLE ENGINEERING, LLC, Complainants. v. MIDAMERICAN ENERGY COMPANY, Respondent.</p>	<p>DOCKET NO. FCU-2015-0003</p>

APPLICATION FOR REHEARING AND RECONSIDERATION

Pursuant to Iowa Code § 17A.16(2), Iowa Code § 476.12, and 199 IAC 7.27, Arti, LLC (“*Arti*”) hereby applies for rehearing and reconsideration of the written decision (“*Final Decision*”) issued by the Iowa Utilities Board (“*Board*”) on March 7, 2016, in two contested cases identified as Docket Nos. FCU-2014-0016 and FCU-2015-0003. In support of its application, Arti states:

1. Arti seeks rehearing and reconsideration for the purpose of modifying the Final Decision as described and discussed in the following paragraphs.

2. The following key finding appears on page 13 of the Final Decision:

The PI^[1] and E^[2] factors to be charged Arti are presented in Arti Cross Exhibit 1, filed September 11, 2015, which includes MidAmerican's response to Arti Data Request 27. Arti Cross Exhibit 1 contains MidAmerican's six-page response. Page 1 of the response provides the PI and E factors to be applied to Arti. The factors are listed for the years of the equalization period and the phase-in period.

For the following reasons, this key finding should be clarified by including the additional language highlighted (by underlining) in the following restatement of the finding:

The PI and E factors to be charged Arti for all electric service provided by MidAmerican from each substation used to serve Arti's facility are presented in Arti Cross Exhibit 1, filed September 11, 2015, which includes MidAmerican's response to Arti Data Request 27. Arti Cross Exhibit 1 contains MidAmerican's six-page response. Page 1 of the response provides the PI and E factors to be applied to Arti for all electric service provided by MidAmerican from each substation used to serve Arti's facility. The factors are listed for the years of the equalization period and the phase-in period.

a. This clarification is intended to remove any ambiguity in the Final Decision with respect to whether the PI and E factors presented in Arti Cross Exhibit 1, filed on September 11, 2015, are to be applied to electric service provided to Arti's facility through both of Arti's substations.³ Leaving it ambiguous exposes Arti to the potential that MidAmerican could attempt to apply different factors to each

¹ "PI" stands for "Phase-In."

² "E" stands for "Equalization."

³ Those substations have been identified as the "Pony Creek Substation" and the "Southland Substation." Exhibit SMA Direct, at p. 6.

substation.⁴ As discussed further in ¶ 3 below, the compliance filing MidAmerican made with the Board on March 15, 2016 (“*Compliance Report*”), does not make explicit whether the PI and E factors set forth therein apply to electric service provided to Arti’s facility through both substations or to only a single substation.⁵ Removal of any ambiguity on this matter is necessary to eliminate the potential for future misinterpretation or misuse of this key finding during the lengthy ten-year period over which full rate equalization will be implemented.

b. Furthermore, this clarification merely makes explicit a finding that is already implicit in the Final Decision. Section A of the Final Decision setting forth the Board’s analysis of the issue of “what PI and E factors should be charged to Arti”⁶ consistently treats “Arti” as the recipient of such factors for all of the electric service provided by MidAmerican to the “Arti facility.” Notably, this section excludes any instruction or reference to apply different PI and E factors based on Arti’s substations. Rather, this section affirms an indistinguishable application of PI and E factors to a singular entity: Arti, LLC. Indeed, the key finding set forth at the beginning of ¶ 2 above speaks in terms of the “PI and E factors to be charged Arti” and the “PI and E factors to be applied to Arti,” and Ordering Paragraph No. 3 requires MidAmerican to file a report “setting out the revised Phase-In and Equalization factors that will be applicable to Arti, LLC.” The section of the Final Decision setting forth the Board’s

⁴ See MidAmerican Cross Exhibit 9, at numbered pp. 2-3.

⁵ Arti notes that the three annual Phase-In factors listed on lines 9, 10, and 11 of the Compliance Report are incorrectly identified as Rate Equalization factors.

⁶ Final Decision, at p. 3.

analysis of the issue is replete with similar references.⁷ As a result, it seems clear that the Board's intention is that the PI and E factors presented in Arti Cross Exhibit 1, filed September 11, 2015, which includes MidAmerican's response to Arti Data Request 27, are to be charged Arti for all electric service provided by MidAmerican from each substation used to serve Arti's facility.

3. Similarly, Ordering Clause No. 3 on page 26 of the Final Decision should be clarified by including the additional language highlighted (by underlining) in the following:

MidAmerican Energy Company shall file a report on or before March 15, 2016, setting out the revised Phase-In and Equalization factors that will be applicable to Arti, LLC, for all electric service provided by MidAmerican from each substation used to serve Arti's facility, as approved by the Board in this order.

MidAmerican's Compliance Report includes a general reference to "Arti Phase-In/Equalization Factors," but fails to specify whether it would apply those factors to electric service provided through only one of Arti's substations or to both of the two substations serving Arti's facility. MidAmerican's Compliance Report is thus ambiguous as to whether it applies to each substation and hence whether it complies with the implicit intention of the Final Decision, as made explicit by the clarified statement of Ordering Clause No. 3 proposed above by Arti in this application.

⁷ See Final Decision, at p. 12 ("the Board considers the appropriate PI and E factors for Arti would be generic rates associated with that former rate class, which were not developed during the rate case."); Final Decision, at pp. 12-13 ("The Board considers these generic PI and E factors to be more appropriate for Arti than either the factors applicable to Pinnacle or the generic factors that MidAmerican has been applying to Arti."); Final Decision, at p.13 ("by applying the generic factors from the former rate class under which Arti was taking service immediately prior to the effective date of the current rates, MidAmerican will be treating Arti the same as it treats its other customers.").

4. On page 19 of the Final Decision, the Board finds that “the buildings on the Arti premises are not connected by an electric distribution system and therefore do not qualify for a single bill” and that “[t]o receive a single bill, Arti will need to connect its buildings with an electrical distribution system.” For the reasons discussed in Arti’s briefs,⁸ these findings are erroneous and, upon reconsideration by the Board, should be replaced by a finding that Arti is entitled to receive a single bill for all electric service provided by MidAmerican to the Arti facility.

5. In implementation of the findings and conclusions of the Final Decision, Ordering Clause No. 3 requires MidAmerican to file a report setting out the revised PI and E factors applicable to Arti as approved by the Final Decision. Arti requests that the Board clarify the implementation process by adding the following language to Ordering Clause No. 3 of the Final Decision:

MidAmerican Energy Company shall rebill Arti, LLC, based on recalculated bills from July 31, 2014, forward using the revised Phase-In and Equalization factors applicable to Arti as approved by the Board in this order, taking into account payments already made by Arti.^[9]

This requirement implements a Board staff recommendation set forth on page 14 of the decision memorandum dated January 13, 2016, relating to Docket No. FCU-2014-0016.¹⁰ In addition, the requirement fully complies with the Board’s finding that “[t]he PI and E factors

⁸ See Arti Initial Brief, at pp. 21-34; Arti Reply Brief, at pp. 19-27.

⁹ As noted on page 4 of the Final Decision, Arti has paid the undisputed portion of all of MidAmerican’s billing invoices received on and after September 3, 2014.

¹⁰ As shown on page 15 of the memorandum, all of the recommendations of this staff report were approved by the Board.

to be charged Arti are presented in Arti Cross Exhibit 1”¹¹ because Arti Cross Exhibit 1 presents factors for “Phase-In Factor Year 1” and “Rate Equalization Factor Year 1” and the Final Decision clearly finds¹² that Year 1 commenced on July 31, 2014.

WHEREFORE, Arti respectfully requests that the Board grant this application for rehearing and reconsideration of the Final Decision and, upon reconsideration, issue a rehearing order that modifies and clarifies the Final Decision in the manner and to the extent specifically requested in this application.

Dated March 28, 2016.

Respectfully submitted,

/s/ Philip E. Stoffregen

PHILIP E. STOFFREGEN
OF
BROWN, WINICK, GRAVES, GROSS,
BASKERVILLE & SCHOENEBAUM, P.L.C.
666 Grand Avenue, Suite 2000
Des Moines, IA 50309-2510
Telephone: (515) 242-2433
Fax: (515) 323-8533
stoffregen@brownwinick.com

ATTORNEY FOR ARTI, LLC

¹¹ Final Decision, at p. 13.

¹² Final Decision, at p. 24 (“The Board reviewed and approved the compliance tariff to be effective July 31, 2014, which implemented year one of the equalization period over five months. Clause E of the compliance filing clearly showed the first year’s equalization period would be from July 31, 2014”) Although the first step of phasing in the rate increase in Docket No. RPU-2013-0004 commenced upon the Board’s approval of temporary (interim) rates on August 15, 2013, Year 1 of the phase-in factors themselves commenced on July 31, 2014, upon the Board’s approval of the compliance tariff that included Clause PI establishing the phase-in factors.