

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

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<b>IN RE:</b>	)	<b>DOCKET NO. DRU-2017-0001</b>
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<b>MIDAMERICAN ENERGY</b>	)	
<b>COMPANY</b>	)	<b>COMMENTS</b>
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The Environmental Law & Policy Center (ELPC) and the Iowa Environmental Council (IEC) (collectively “Environmental Intervenors”) provide the following comments on MidAmerican Energy Company’s (MidAmerican) Revised Petition for Declaratory Order in DRU-2017-0001:

**I. Introduction**

On March 31, 2017, MidAmerican filed a petition for declaratory order proposing an Iowa Renewable Energy Verification (I-REV) program and requesting that the Board verify that MidAmerican customers can claim that 47 percent of the energy supplied by MidAmerican was renewable energy. The Board held a scheduling conference on April 13, 2017. As a result of feedback at the scheduling conference, MidAmerican filed a revised request for a declaratory order on April 18, 2017. The revised request only asks the Board to verify MidAmerican’s 2016 renewable energy generation.

Environmental Intervenors have consistently advocated for the use and development of clean energy and holding down the cost of electricity for consumers. We strongly support the development of renewable energy generation and want such projects to be developed in a cost effective and replicable manner. We have intervened in multiple wind energy development

dockets including the most recent dockets filed by MidAmerican and Interstate Power and Light Company (IPL). The development of renewable energy generation, such as wind power, protects our environment, provides a low-cost generating resource, helps attract companies that have renewable energy, carbon reduction, and sustainability goals, creates economic development throughout the Iowa economy, and helps cities and communities throughout the state by strengthening the economy and allowing them to meet sustainability goals.

Environmental Intervenors also have an interest in ensuring all customers can benefit from renewable generation and that individuals, companies, and other entities with sustainability and clean energy goals are able to meet those goals. For example, the City of Des Moines has ambitious carbon reduction goals with a commitment to reduce emissions by 25 percent from 2012 levels by 2020, to reduce emissions by 50 percent by 2030, and to be carbon neutral by 2050. RPU-2016-0001, Direct Testimony of T.M. Franklin Cownie, at 4 (filed June 21, 2016). In the Wind XI docket, Des Moines Mayor Frank Cownie provided testimony illustrating the importance of projects such as Wind XI for meeting the Des Moines' sustainability goals: "The City of Des Moines will not be able to meet its ambitious emission reduction goals without getting significantly more of our electric generation from renewable energy sources." *Id.* at 6. In order for the City of Des Moines to be able to claim credit for the renewable energy generation that MidAmerican provides to its residents and businesses, MidAmerican will need to be retiring Renewable energy certificates/credits (RECs) on behalf of those customers. MidAmerican's retirement of these RECs on behalf of its customers allows communities like Des Moines to make significant progress towards its sustainability and carbon reduction goals without incurring additional costs.

ELPC and IEC support the efforts of MidAmerican to ensure that customers get credit

and the full benefit of the renewable energy MidAmerican provides them. We do not have any objection to the Board verifying MidAmerican's 2016 renewable energy generation. While we recognize that MidAmerican modified its request to simply verify its 2016 renewable energy generation, we also think that this type of program should be in the administrative rules, and there is benefit to establishing a statewide program to verify the renewable energy generation of other utilities that choose to participate and to provide guidance about how the utility and customers market the verified claims.

## **II. The Board Has Authority to Establish a Renewable Energy Verification Program.**

Iowa Code § 476.44A explicitly gives the Board authority to create a program to verify the trading of credits or attributes relating to electricity from renewable generation:

The board may establish or participate in a program to track, record, and verify the trading of credits or attributes relating to electricity generated from alternate energy production facilities or renewable energy sources among electric generators, utilities, and other interested entities, within this state and with similar entities in other states.

It also gives the Board the authority to participate in a verification program. The Iowa Renewable Energy Verification (I-REV) program that MidAmerican proposed in its original filing is within the Board's authority to create.

MidAmerican has separately requested that the Board verify that MidAmerican generated 47 percent of its 2016 energy from renewable sources. MidAmerican provided supporting documentation of this in its initial filing. We do not object to the Board's verification of MidAmerican's 2016 renewable generation based on the information provided by MidAmerican.

We think that the best approach to this issue on a prospective basis would be for the Board to engage in rulemaking to develop the parameters of the verification program and to

provide additional guidance to customers about how they can make claims based on their utility's generation without creating double counting concerns.

**III. The Board Should Provide Guidance on How Customers Can Market Renewable Generation without Raising Double Counting Concerns.**

In order to meet the goals of allowing all customers to claim credit for a utility's renewable generation, there are some reasonable steps that should be included in order to avoid customers being at risk for double counting. The issue of "double-counting" occurs when two entities both make a claim about renewable energy use when only one of them are legally allowed to make a claim about such renewable energy use. In order to avoid any double-counting issues between MidAmerican and its customers, the information MidAmerican provides its customers must adequately inform the customer of how it may market renewable energy provided by the utility in marketing and advertising materials without making claims that could later lead to double counting concerns. This issue should be addressed when the Board certifies MidAmerican's 2016 renewable generation percentage, and this would be an important issue to address in a rulemaking to create the I-REV program.

Federal Trade Commission (FTC) regulations provide guidance on properly marketing renewable energy claims that are not misrepresentations or deceptive. *See generally* 16 CFR § 260.15. RECs play a role in an individual's ability to make a claim about renewable energy use. RECs represent the property rights to the environmental, social and other non-power attributes of renewable electricity generation. MidAmerican recommended using a tracking program like the Midwest Renewable Energy Tracking System ("M-RETS") to track the RECs. *See* MidAmerican Petition for Declaratory Order at 7 (Mar 31, 2017). M-RETS defines a REC as one megawatt-hour of electricity generated by an eligible renewable energy resource. *See* M-RETS Operating

System, Terms of Use, ¶ 2(b) (Effective Jan. 1, 2014).<sup>1</sup> Eligible renewable energy resource facilities generate electricity using solar, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops, or wood. *See* Iowa Code § 476.42(1)(a)(1).

Ownership of RECs are important for determining who can make claims about associated renewable energy. Generally, ownership options of RECs include:

- Either the utility owns and utilizes the RECs for current or anticipated state or federal renewable energy requirements or the customer owns the RECs and sells them to the utility for regulatory compliance.
- Either the utility owns and sells the RECs into local or regional REC markets to subsidize the program's cost or the customer owns and sells the RECs in a similar fashion for their benefit.
- The utility 'retires' the RECs on behalf of the customer.

*See In RE: Distributed Generation*, Docket No. NOI-2014-0001, Board Order Soliciting Additional Comments and Including Reports, Attachment Solar Electric Power Association, Utility Community Solar Handbook at 10, (May 12, 2014).

FTC regulations explain scenarios involving RECs, too. The issue of double-counting often arises when RECs are involved. Even if a facility is powered solely by renewable energy, an advertisement for the facility “powered by renewable energy” is deceptive when the RECs associated with the renewable energy are sold to another. *See* 16 CFR § 260.15 (Example 5).

FTC guidance is unclear on how RECs operate when they are retired by the utility on behalf of the utility’s customers. It is clear that the utility that generated the REC can make claims about the renewable quality of the energy since they owned the REC. Customers of the utility should be able to make some claims about the renewable energy, too, since the RECs were retired on their behalf. To help avoid confusion and minimize the risk to customers, the I-REV program should specify in detail what sort of marketing claims its customers may make about the

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<sup>1</sup> Available at <http://www.mrets.org/wp-content/uploads/2014/03/MRETS-Terms-of-Use-V4-1-JAN-2014-Final.pdf>

RECs retired on their behalf, and the utility should communicate that to its customers as part of the communication related to the utility's renewable generation.

For instance, ELPC and IEC generally support MidAmerican's ability to publically claim that 47 percent of its electricity in 2016 was generated by renewable energy. Since the RECs generated by MidAmerican facilities total 47 percent of its total 2016 load, then this claim is not deceptive and stays true to FTC regulation.

In addition, the customers of MidAmerican should be able to publically claim that 47 percent of their electricity purchases from MidAmerican came from renewable energy, because the RECs were retired on their behalf. In order to protect utility customers from double counting claims, we recommend the I-REV program provide guidance to customers about how to make public claims regarding renewable generation. For example, MidAmerican and eventually the I-REV program could recommend that customers' public statements or advertisement materials come with a fine-print qualification that specifies that its claim of renewable energy is supported by the fact that 47 percent of their utility's electrical generation came from renewable energy, as verified by the Iowa Utilities Board on an annual basis as a part of the I-REV program.

Another example is a customer that wants to make a claim for 100% renewable energy generation. To meet that claim with RECs, a customer who received 47 percent renewable energy from MidAmerican in 2016 would need to purchase RECs on the market accounting for 53 percent of the customer's retail purchases of electricity. This customer should be able to publically claim that they are powered "entirely by renewable energy" because the RECs would cover the 53 percent of their electrical usage that came from nonrenewable sources. Similar to the recommendation in the prior paragraph, in order to avoid a deceptive advertisement, it is recommended that the marketer include support for this statement referencing both the utility

renewable generation and the RECs purchased on the market.

#### **IV. Conclusion.**

Iowa is a leader in renewable energy generation. ELPC and IEC support efforts to ensure that all Iowa customers can benefit from renewable generation and that individuals, companies, and other entities with sustainability and clean energy goals are able to meet those goals. ELPC and IEC are generally supportive of MidAmerican's efforts to verify its renewable energy generation, and we do not object to the Board's verification of MidAmerican's 2016 renewable generation based on the information provided by MidAmerican. Additionally, the Board should ensure that the information MidAmerican provides its customers will adequately inform the customer of how it may market renewable energy provided by the utility in marketing and advertising materials without making claims that could later lead to double counting concerns.

ELPC and IEC think that the best approach to this issue on a prospective basis would be for the Board to engage in rulemaking to develop the parameters of the verification program and to provide additional guidance to customers about how they can make claims based on their utility's generation without creating double counting concerns. Developing an Iowa Renewable Energy Verification program would continue Iowa's renewable energy leadership, provide another opportunity to attract businesses and individuals with sustainability goals to the state, and help ensure that all Iowa customers share in the benefit of renewable generation.

Respectfully submitted this April 21, 2017.

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