

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

IN RE:)
) **DOCKET NO. NOI-2014-0001**
DISTRIBUTED GENERATION)
)
) **RESPONSE TO MIDAMERICAN AND**
) **INTERSTATE POWER AND LIGHT**
) **PILOT PROPOSALS**
)

The Environmental Law & Policy Center (ELPC), Iowa Environmental Council (IEC), Sierra Club, Iowa Solar Energy Trade Association (ISETA), Natural Resources Defense Council (NRDC), Solar Energy Industries Association (SEIA), and Vote Solar, collectively the “Joint Commenters¹,” file these comments in response to the pilot proposal plans filed by MidAmerican Energy Company (MidAmerican) and Interstate Power and Light Company (IPL) on March 28, 2016.

I. The Board Laid Out a Thoughtful Data Driven Approach for Pilot Projects that Should be Followed by the Utilities.

The Iowa Utilities Board initiated this docket on January 7, 2014 to explore questions related to the benefits and challenges of distributed generation (DG), policies that impact DG including net metering, and other technical, financial, regulatory and safety aspects of DG. Since

¹ The Joint Commenters have previously filed multiple comments with the Board in this docket. Natural Resources Defense Council has not previously been a party to the docket. NRDC is a national nonprofit environmental organization with over three decades of experience working on state energy policy, including utility regulation and rate design as well as renewable energy resources. NRDC has over 3,400 members in Iowa many of whom are served by MidAmerican and IPL.

initiating the docket, there have been multiple rounds of comments submitted by a diverse array of stakeholders covering a wide range of distributed generation topics. More than 170 participants have filed comments in this docket, including utilities, utility associations, environmental groups, renewable energy advocates, and other organizations, businesses, and individuals. Net metering has been a particular focus of the docket, and the Board addressed the path forward on net metering in its October 30, 2015 Order.

The Board's October 2015 Order emphasizes a data-driven approach, concluding, in the case of net metering, that "additional information is required before any permanent policy or rule changes are made."² Considering the low levels of DG penetration in Iowa at this time, and the lack of any policy changes that would dramatically accelerate the growth of this resource, we strongly support the Board's measured data-driven approach to this issue. Any changes to net metering policy are best made after data regarding the impacts of net metering on other utility customers and overall system costs can be gathered and thoroughly evaluated by stakeholders and the Board.

The Board's approach is also consistent with the strong legislative policy supporting renewable energy generation in Iowa Code §§ 476.41 and 476.53A. As the Board noted in its October 2015 Order, these code provisions "articulate the Legislature's intent to encourage renewable generation."³ Utility proposals that would hinder the development of distributed renewable generation are not consistent with this legislative policy or the Board's Order, particularly given the lack of data supporting the need for dramatic policy changes in the utilities' proposals.

² NOI-2014-0001, Order Regarding Policy Statement, Rate Design Presentations, and Net-Metering Generation Pilots, at 7 (Oct. 30, 2015)

³ *Id.* at 6.

The Board has further noted that while a value of solar study with the quantification of costs and benefits is one approach to capturing additional information, “it appears such a study would be premature because of the relatively low DG penetration levels in Iowa.”⁴ In order to begin the process of collecting additional information to inform future policy discussions while waiting for the market to grow large enough for a full value of solar study, the Board provided a pilot project framework. The “Board encourage[d] all utilities (municipal, rural electric cooperatives, and investor-owned), but particularly the investor-owned utilities (IPL and MidAmerican), to consider implementing pilot projects that will expand renewable DG in Iowa.”⁵

The Board’s vision of pilot projects “creates an opportunity for innovation and exploration of best practices.”⁶ Importantly, a pilot project “provides an opportunity to make changes on a limited basis in order to determine the impacts that those changes might have on the utility and its customers prior to making these changes permanent.”⁷ The Board stated its interest in several types of pilot projects, while also noting that the utilities should have flexibility in designing these pilot programs. The Board highlighted several topics that pilot projects could collect useful information about:

- The treatment of excess net-metering credits including information about the amount of such credits and “whether there are sufficient credits to justify a change in the rules”⁸
- Whether the net metering cap should be increased including collecting data on “the financial impacts of raising the cap”⁹

⁴ *Id.*

⁵ *Id.* at 9 (emphasis added).

⁶ *Id.* at 8.

⁷ *Id.* (emphasis added).

⁸ *Id.*

⁹ *Id.* The Board specifically noted that “a pilot project increasing the current 500 kW size to 1 MW could provide valuable information and it is consistent with the policy statement encouraging DG growth.”

- Reliability
- Community solar programs

Although the Board declined to mandate any specific pilot programs, it was specific about the objective of such programs—to “expand renewable DG in Iowa” and to gather additional information about some aspects of net metering.¹⁰

The Board required the Preliminary Implementation Plans “to gauge the investor-owned utilities’ progress.”¹¹ The current filings by MidAmerican and IPL fail to follow the Board’s order and will not accomplish the Board’s goals to expand DG and collect additional data. As discussed further below, the Board should reject the rate design proposals in the utility filings as non-responsive to its October 2015 Order. Sweeping rate design changes are not pilot proposals. Instead, the Board should direct the utilities to move forward with community solar projects with meaningful collaboration and work collaboratively with stakeholders to develop a plan to collect the data necessary for future DG policy discussions.

II. The Utility Rate Design Proposals Are Inconsistent with the October 30, 2015 Board Order.

Rate design proposals are central to both IPL and MidAmerican’s preliminary pilot proposal implementation plans. These proposals are inconsistent with and directly contradict the Board’s October 30, 2015 order. Both of these proposals take as a premise that net metering results in subsidies for DG customers, a conclusion that this Board has correctly deemed premature. Rather than collect data to address whether this premise is true, the utility filings simply assert the existence of “cross-subsidies” as a fact and then propose sweeping rate design

¹⁰ *Id.* at 9.

¹¹ *Id.* at 10.

changes that would negatively affect every future distributed generation customer.¹² Furthermore, in direct opposition to the Board's October 30, 2015 order the rate design proposals as outlined will stifle distributed generation development rather than expand it.

A. MidAmerican and IPL Rate Design Proposals Will Not Expand DG.

Although the utilities repeatedly asserted that net-metering should be changed because of the utilities' belief that it results in a cross-subsidy for solar customers, the Board's October 30th order did not accept this unsupported assertion and instead requested that the utilities develop pilot projects that would expand DG while collecting information to inform future policy discussions. The utilities' pilot implementation plans ignore this direction and instead make rate design proposals that will diminish the market for DG and will lead to less data for future policy making discussions.

MidAmerican's rate design change places all new private DG and community solar customers on a three-part rate design that includes a demand charge.¹³ The purpose of MidAmerican's proposal is "to address the fairness issue," by which MidAmerican means a subsidy that it, incorrectly and without factual support, asserts arises from net metering.¹⁴

MidAmerican's proposal to force new DG customers onto a three-part rate will not expand DG and is not responsive to the Board's order. Although critical details of MidAmerican's rate proposal, such as the level of the customer charge and demand charge, are unknown, the basic outlines presented in MidAmerican's recent filing suggest a rate design

¹² For example, MidAmerican's filing states that "today's pricing structures shift the costs of operating and maintaining the power grid to those that cannot afford private generation or choose not to install it, resulting in these customers paying more and subsidizing those that can afford private generation systems." MidAmerican Pilot Filing at 2. There is no data to support this claim in MidAmerican's filing or in previous filings in the Board's NOI docket.

¹³ NOI-2014-0001, MidAmerican Preliminary Implementation Plan (Mar. 28, 2016).

¹⁴ *Id.* at 7.

extremely unfavorable to DG. For example, MidAmerican intends to include a basic service charge that includes “the distribution system that is closest to the customer,” but the filing does not indicate where the Company intends to draw this line nor has it quantified how much current DG customers already contribute to their costs of service.¹⁵ Fixed monthly charges diminish customer control over bills, diminish price signals for energy conservation, and disproportionately harm low usage customers, which tend to be low-income customers.¹⁶ For these reasons, the majority of public utility commissions that have recently addressed this issue have rejected or limited utility proposals to increase mandatory fees.¹⁷

Second, MidAmerican intends to impose a mandatory demand-based charge for DG customers. While demand charges are common for sophisticated commercial and industrial customers, they are extremely unusual for residential customers and they remain virtually untested across the country. National experts have urged “great caution” in the design of residential demand charges, concluding that “severe cost shifts may occur,” particularly for low-use and low-income customers.¹⁸ For the reasons discussed in the Board’s October 2015 Order, Iowa customers should not be forced to represent the national testing ground for this kind of major policy departure, particularly in light of the lack of data justifying the need for this change and the underlying state policy favoring renewable energy.

¹⁵ The Joint Commenters have previously discussed at length the lack of utility data regarding costs of service. *See* NOI-2014-0001, Joint Commenters at 6-9 (July 15, 2015).

¹⁶ *See Caught in a Fix: The Problem with Fixed Charges for Electricity*, prepared for Consumers Union by Synapse Energy Economics, Inc. (February 2016) (available at <http://www.synapse-energy.com/sites/default/files/Caught-in-a-Fix.pdf>).

¹⁷ *Id.*

¹⁸ Jim Lazar, *Use Great Caution in Design of Residential Demand Charges*, Regulatory Assistance Project, (Nov. 2015) available at <http://www.raponline.org/document/download/id/7844>.

Like MidAmerican, IPL has responded to the Board's request for pilots that will expand DG and help gather information about net metering with two rate design pilots that will in fact eliminate net metering for new DG customers and gather little data of use in answering the Board's questions about net metering.¹⁹ IPL's proposed residential buy-all/sell-all arrangement will not expand DG. To the contrary, IPL's proposed rate design will be very complicated for prospective DG customers to understand, since it offers two different compensation levels for exports. IPL's proposed rate design offers a DG customer lower compensation than the status quo. Up to the customer's monthly kWh consumption, exports are compensated at the average annual retail energy rate, minus "transmission and energy efficiency costs."²⁰ Above that level, exports are compensated at the average locational marginal price. Thus, both compensation levels are lower than current net metering. Like MidAmerican, IPL simply bypasses the Board's conclusion that it would be premature to change net metering at this time.²¹ Instead, just like MidAmerican, IPL asserts that cross subsidies are inherent in the existing net metering rate design without providing any factual support. The much lower rate of compensation offered under this pilot will be mandatory for new DG customers²² and will discourage customers from installing DG, contrary to the order of the Board that the pilots achieve the objective of expanding DG in Iowa. IPL states that it will encourage existing DG customers to enroll in this less favorable rate design so that their "performance on the two different rate designs" can be compared. However, considering how much more confusing the proposed rate design is, and how much lower the compensation for exports, it seems unlikely that any existing DG customers

¹⁹ IPL Preliminary Implementation Plans, Mar. 28, 2016.

²⁰ *Id.* at 6.

²¹ October 30, 2015 Order at 7.

²² *Id.* at 7.

will switch, thereby undermining the function of this pilot to gathered information in a controlled way.

B. The Rate Design Proposals Will Not Collect Useful Data.

The Board’s encouragement of pilot programs was premised on its “belief that additional information is needed” before making changes to net metering.²³ Thus, the Board explicitly required utilities to “include an explanation of what additional informational needs would be addressed by each individual pilot proposal.”²⁴ MidAmerican and IPL did not comply with this directive. It is unclear what, if any, useful information these rate design pilot programs would provide the Board. The only useful data that might come from this proposal is to demonstrate that these rate designs are a significant disincentive to the growth of distributed generation. In fact, the rate design proposals will likely lead to less robust data on how net metering and distributed generation work in Iowa. If the rate design proposals have the impact on the solar industry in the state that Joint Commenters anticipate, the pilot projects will limit data on solar projects because there will be few new solar projects to provide data. Without additional data it will be difficult to make well-informed policy decisions in the future. This is the exact opposite of the approach the Board has pursued to date in docket NOI-2014-0001.

C. The Rate Design Proposals Are Not Limited in Scope and Could Have Far-Reaching and Potentially Significant Impacts for Utility Customers and the Solar Industry in Iowa.

The rate design proposals are also not limited in scope. Both MidAmerican and IPL would apply the new rate designs to all new DG customers. This is contrary to the purpose of pilot projects to “provide[] an opportunity to make changes on a limited basis in order to determine the impacts that those changes might have on the utility and its customers prior to

²³ *Id.* at 9.

²⁴ *Id.* at 9-10.

making these changes permanent.”²⁵ The Board’s Order provides guidance as to the types of pilot programs that it expected to receive. While the Board acknowledged the importance of flexibility, the examples used by the Board in its Order clearly indicate the intent to explore limited topics that have been discussed in this inquiry, “such as alternatives to the indefinite rollover of excess net-metering credits and the impacts of changes in the eligible facility size cap.”²⁶ MidAmerican and IPL’s attempts to shoehorn unprecedented changes to net metering into this limited pilot framework are not consistent with the Board’s intent and should be rejected.

D. The Rate Design Proposals as Outlined Likely Violate Iowa Law.

Iowa code has strong policy in support of renewable energy resources, and Iowa's policy places limits on the type of rate design that can be considered to address distributed generation.

Iowa Code 476.21 states:

A municipality, corporation or cooperative association providing electrical or gas service shall not consider the use of renewable energy sources by a customer as a basis for establishing discriminatory rates or charges for any service or commodity sold to the customer or discontinue services or subject the customer to any other prejudice or disadvantage based on the customer’s use or intended use of renewable energy sources.

As the Joint Commenters have previously noted, creating a new rate class for distributed generation customers that would disadvantage those customers may not comply with the Iowa Code § 476.21 prohibition against discrimination based on the use of renewable energy sources.

The Joint Commenters have previously highlighted some of the information that would be necessary to assess the veracity of the utilities’ sweeping generalizations about the impact of

²⁵ Order Regarding Policy Statement, Rate Design Presentations, and Net-Metering Generation Pilots, at 8.

²⁶ *Id.* at 9.

distributed generation.²⁷ The utilities proposing rate design changes have not provided evidence that would justify differential treatment for DG customers or a significant change in Iowa’s existing net metering policy. To pick distributed generation from among all the technologies and customer behaviors and impose a different rate solely because the customer uses distributed generation or consumes less energy than the “typical” residential customer violates Iowa law.²⁸ Furthermore, the appropriate venue for addressing rate design changes of the nature proposed by the utilities is a general rate proceeding and not pilot proposals. The Board has consistently rejected utility proposals to change rates outside of a general rate case and these sweeping rate changes are no different.²⁹

* * *

Given the detrimental implications of the proposed major rate design changes, the low penetration levels of DG in Iowa, the significant gaps in data that already exist, and the Board’s prudent and data-driven approach in this Docket, it is not a good use of stakeholder time or future Board proceedings to address the utilities’ rate design proposals at this time. The effort would be better spent determining how to collect and analyze the data that will be necessary for any informed policy discussion in the future. Joint Commenters have attempted to provide

²⁷ NOI-2014-0001, Joint Commenters Response to June 15, 2015 Comments, at 22-26 (July 15, 2015).

²⁸ Joint Commenters have previously noted that there may be ways to test new rate design models and void the prohibition in § 476.21. For example, it would not be discriminatory if a customer chooses to opt into a new pilot rate class. This has the added benefit of encouraging that rate design in a way that entices customer participation and therefore guarantees the possibility of future distributed energy resource growth.

²⁹ *See In re: Black Hills/Iowa Gas Utility Co., LLC*, Docket No. RPU-08-3, 19-29 (May 7, 2009) (finding that a separate rate proposal “rather than in a rate case proceeding is a significant departure from traditional ratemaking” and “[p]resentation ... as a pilot does not make it more acceptable and only raises additional questions”).

guidance on what data is necessary for future rate design conversations throughout the NOI. Most recently, Karl Rábago presented at the Board's March 16, 2016 meeting and provided more detailed written testimony on March 18, 2016. The Joint Commenters' July 15, 2015 Reply Comments also provide a list of suggested follow-up questions to assess the veracity of the utilities' assertions regarding the impact of distributed generation. The Board should reject the utilities rate design pilot projects and should direct the utilities to begin working collaboratively with stakeholders to generate the type of information that will be necessary to inform future policy decisions. The collaborative process can help identify this data and how to collect it.

III. The Utility Community Solar Pilot Proposals Hold Promise if Meaningful Collaboration Takes Place to Improve Them.

Both IPL and MidAmerican propose community solar pilots as part of their Preliminary Implementation Plans for pilot projects. The Joint Commenters have consistently supported shared renewables or community solar programs as part of this NOI docket. We believe that MidAmerican and IPL's community solar pilot projects are generally responsive to the Board's order to propose pilots that will expand distributed generation. However, the details of these programs will be the difference between community solar programs that meet customer needs and expand DG and programs that are unsuccessful.

The Joint Commenters have previously recommended that any community solar pilot programs that result from this NOI use the Interstate Renewable Energy Council (IREC) and Vote Solar "guiding principles" for the design of shared renewable energy programs:

- First, shared renewable energy programs should expand renewable energy access to a broader group of energy consumers, including those who cannot install renewable energy on their own properties.
- Second, participants in a shared renewable energy program should receive tangible economic benefits on their utility bills.

- Third, shared renewable energy programs should be flexible enough to account for energy consumers’ preferences.
- Fourth, and finally, shared renewable energy programs should be additive to and supportive of existing renewable energy programs, and not undermine them.³⁰

Each of these principles is discussed in more detail in IREC’s Model Rules for Shared Renewable Energy Programs. In addition, the *Model Rules* address five foundational, practical issues associated with shared renewables program development—(1) program administration; (2) the method of allocating the benefits of participation; (3) valuation of the energy produced by the system; (4) shared renewable energy facility size and location; and (5) shared renewable energy facility ownership and its implications for financing—as well as a range of additional program considerations. The *Model Rules* also offer model provisions, which could be integrated into program rules or tariffs. Using the guiding principles laid out in these model rules will help ensure that the community solar pilot proposals meet the Board’s goal to expand DG while helping collect information used for future policy discussions. Joint Commenters will continue to emphasize these principles in any collaborative process with the utilities.

IV. The Board Should Provide the Utilities Additional Guidance on What a Collaborative Process Should Include.

Joint Commenters also note that the structure of the collaborative process going forward will have a significant bearing on whether the community solar pilot programs are successful, and whether the conversation on rate design can be redirected towards an effort that will help collect that data needed to inform future policy discussions. With that in mind, we highlight a

³⁰ Interstate Renewable Energy Council, Inc. and Vote Solar, *Model Rules for Shared Renewable Energy Programs* (2013) (available at <http://votesolar.org/policy-guides/shared-renewables-policy-guide/>).

few points for the Board and utilities.

Collaboration should start with the basics. Here, the Board has identified a need for significant data to inform future policy decisions. The collaborative process has the most opportunity for progress if it focuses on what data is needed and how to structure pilot programs that actually collect that necessary data.

A collaborative process that simply convenes a couple of meetings with stakeholders to satisfy a Board request for collaboration is not meaningful collaboration. Nor is it a fair way to treat stakeholders.

A truly collaborative process should be guided by the input of all stakeholders and should strive to put forward consensus based solutions. In other words, a process that is completely controlled or dictated by one party is not collaborative. Furthermore, if one party unilaterally decides the outcome of the collaborative process, the result should not be implied to be a collaborative result or reflecting the agreement of stakeholders.

Conditioning collaboration on the acceptance of a disputed premise is not collaborative. For example, requiring community solar collaboration to be built around using disputed rate designs would undermine collaboration and opportunities for agreement on community solar. Requiring discussions about rate design to meet utilities' unsupported assertion about cross-subsidization will not help us collect the information necessary to understand how solar is impacting customers or the utilities.

Successful collaboration requires providing stakeholders the opportunity to find areas of agreement rather than forcing or implying agreement on all issues. Joint Commenters stand ready and willing to engage in true collaboration. We will continue to highlight our concerns, look for opportunities for agreement, and offer ideas for improvement.

We hope that IPL and MidAmerican treat these collaborative processes as more than just a paper exercise and that they are open to stakeholder concerns and input. To that end, Joint Commenters encourage the Board to leave the NOI docket open during the collaborative processes in order to provide the broader public an opportunity to continue to engage in the docket as the pilot proposals are developed and to provide the utilities a place to share information and update stakeholders in a public and transparent manner.

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Respectfully submitted,

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