

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

IN RE:)	
)	DOCKET NO. RMU-2016-0018
REVIEW OF ENERGY EFFICIENCY)	
PLANNING AND COST REVIEW)	
RULES [199 IAC CHAPTER 35])	REPLY COMMENTS
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The Environmental Law & Policy Center (ELPC) and Iowa Environmental Council (IEC) file these reply comments pursuant to the Iowa Utilities Board Order Requesting Stakeholder Comment on Potential Rule Changes issued on August 8, 2016.

On September 7, 2016, ELPC and IEC, the Office of Consumer Advocate (OCA), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), and Black Hills Energy submitted initial comments on the proposed rulemaking.

The initial comments identified a number of important issues that could improve Iowa's energy efficiency plans. Many of these issues would benefit from additional stakeholder review and comment. Based on our initial comments and review of the initial comments of other parties, we recommend a workshop to address the length of the plan cycle including Evaluation, Measurement and Verification and Prudence Review timing, contractor independence and conflict of interest, and quantification of non-energy benefits. In addition, several of our responses to comments reference the role of the Technical Reference Manual. While it is yet to be filed, we think that a workshop could also build on the work of the TRM Oversight Committee and determine how the TRM should be addressed in the energy efficiency rules.

In addition to our recommendation for a workshop, we offer the following reply comments:

Black Hills' Concern About Contractor Conflict of Interest Should Be Addressed Comprehensively in the Energy Efficiency Plan Process.

Black Hills recommended limiting the ability of third party contractors to intervene in energy efficiency dockets. Black Hills bases its rationale on concerns about contractor conflict of interest and cites the steps that were taken to limit conflict of interest in the current assessment of potential process as a precedent to address the issue. We agree with Black Hills that conflicts of contractors are a significant concern in the planning and implementation of energy efficiency plans. However, we do not think that creating a blanket limit on contractor participation in energy efficiency dockets is the best way to address this concern. We think a first step is transparency about potential conflicts. A contractor should be transparent about any aspect of energy efficiency that they are working on. We also think that there are clear instances of conflicts that should be avoided. For example, a contractor should not work on implementation of a utility program and evaluation of the same program. It is important that the contractors working on evaluation, measurement, and verification be independent of implementation. Another example of place to avoid conflict is the assessment of potential and the design of the plan. The assessment of potential is meant to demonstrate the universe of what is possible, and plan design necessarily requires making decisions and assumptions related to the universe of what is possible. We do not want an instance where a contractor would limit the assessment of potential in order to facilitate the work they are doing designing a utility program. Avoiding any potential conflict there is important.

We think that there can be value in contractor participation in energy efficiency dockets. Contractors have a range of experience and knowledge on energy efficiency issues and can

effectively use that experience to help improve program design and implementation. That type of input can and should be welcomed to improve program design and implementation. We are opposed to a blanket limitation on contractor participation as intervenors, but we do support efforts to better address conflict of interest throughout the energy efficiency design, implementation and evaluation process. We would welcome a workshop to broadly address conflict of interest concerns and to make progress on this important issue.

There Should Be a Robust Role for the Office of Consumer Advocate and Stakeholders in Plan Design, Implementation and Evaluation.

Black Hills expressed concern about the role of the Office of Consumer Advocate (OCA) during the plan implementation process and requested clarity of OCA's role. We think that there is an important role for the Office of Consumer Advocate and stakeholders in the implementation of energy efficiency plans. In general, the involvement of OCA and stakeholders throughout plan implementation can provide important input and accountability. This leads to stronger energy efficiency programs and more effective use of ratepayer dollars. While we suggested the possibility of an oversight committee that includes stakeholders for utility evaluation, measurement and verification, we think similar involvement and oversight is beneficial throughout the energy efficiency plan development and implementation process. There is significant value in OCA and stakeholders providing oversight on critical aspects of plan implementation. This in turn creates a better, more comprehensive record for Board review of plan activities and makes it easier for the Board to effectively exercise regulatory oversight. If the Board decides to address this issue, we think that the Board should strengthen the role for stakeholders and the Office of Consumer Advocate throughout the energy efficiency plan process.

Black Hills Recommendation for More Frequent Prudence Reviews and OCA's Recommendation the EMV Be Completed by the End of the Third Plan Year Underscores the Need for a Shorter Plan Cycle.

Black Hills recommended that the Board shorten prudence review from five years to a shorter term such as every two years. OCA recommends that monitoring and evaluation be completed by the end of the third year of the five year plan. These recommendations are consistent with the recommendation that we made in our initial comments to shorten the plan cycle to three years. These recommendations highlight the need for energy efficiency plans that can respond to significant changes and a five-year plan horizon limits the ability to effectively respond to a host of material changes from technological developments to economic changes to regulatory developments. While we acknowledge that these issues were previously raised prior to the last plan cycle, the experiences that we have had in the last five years and the comments from multiple stakeholders on these proposed rules demonstrate that there would be value to addressing the issue of plan cycle length and applying lessons from the past five years to improve the way energy efficiency plans respond to a rapidly changing world.

199 IAC 35.2

We agree with OCA's observation that "removal of the explanatory definitional language could introduce confusion and disputes." This informed several of our initial comments on definitions.

IPL proposed definitions for spillover, free riders, and market effects. We suggested a shorter definition of spillover in our initial comments but do not object to IPL's more detailed definition. We also support IPL's suggestion to add definitions for free riders and market effects. IPL's definitions are again detailed for both of these terms. While we do not object to including these detailed definitions, these definitions may be appropriate for discussion by stakeholders at

any future workshop given the considerable work on net to gross issues being conducted by the Net to Gross Oversight Committee.

IPL proposed a change to the societal cost test definition and proposed adding a definition for the total resource cost test. In our initial comments, we recommended evaluating use of the new National Home Performance Council's "National Standard Practice Manual for Energy Efficiency" that is currently under development, with a first draft due out at the end of this year and a final version due out by October 2017. See <http://www.nationalefficiencyscreening.org/>. We noted that moving to this new standard practice would likely affect the definitions for the benefit/cost tests. Since the first draft of this document is not yet out, we cannot evaluate IPL's proposed changes in that context. We encourage the Board to review the first draft once it is available and wait to modify the definitions for these tests to ensure that they are in line with national best practices. If the Board decides to move forward with the definitions, we wanted to note that we would have concerns with the Total Resource Cost test proposed by IPL. The proposed definition would not parallel the definitional approach to other tests. In particular, the definition does not define what benefits and costs are to be included, how they should be measured and how the discount rate is to be determined. This definition would take significant review and input before it was consistent with the approach to existing definitions.

199 IAC 35.6

We support OCA's discussion of plan modification and would support OCA's proposed rule change, which achieves the same purpose as the rule change we proposed in our initial comments.

IPL suggests an additional requirement that a participant proposing a new program for utility consideration must present sufficient analysis for the utility to analyze the proposal. We are uncertain what impact IPL's proposal would have, but our concern is that imposing additional requirements that are potentially vague or subjective could impair stakeholder participation in the development of energy efficiency plans and programs. The existing standard of 'sufficient' is already not well-defined and IPL's additional language introduces the potential for even more subjectivity to allow utilities to reject participant proposals. In the last plan cycle, we worked with MidAmerican and IPL on a template form for program recommendations that stakeholders could fill out. Using this type of approach can provide clear requirements for both stakeholders and utilities in the collaborative process. While we are not opposed to having requirements placed on stakeholders who want to propose programs for utility consideration, we think the Board should evaluate how any new requirements will help further collaboration and consideration of ideas that would add value to the utility programs. We would be interested in exploring what we can do to provide program ideas that the utilities would adopt, and this might be a good topic for a workshop to facilitate additional discussion among stakeholders.

199 IAC 35.8

IPL proposed changing 'phase-in' to 'discretionary' regarding the technical potential in this section of the rules. IPL's explanation references the potential from "retro-fit or early replacement of equipment" to support this wording change. IPL Comments on Proposed Rule Changes at 5. We agree that both retrofit and early replacement should be included or contemplated in energy efficiency potential, but do not see how the use of the word 'discretionary' accomplishes this. The current definition of technical potential does not specifically reference retrofit or early replacement, but is likely broad enough to include both.

The same is true for the definition of phase-in technical potential. We do not support IPL's proposal.

IPL suggests removing language requiring the calculation of interactive effects because of the complexity of the calculation. IPL did not offer any explanation of the complexity. The existing language – if “appropriate and calculable” – provides for flexibility that can address concerns on certain complex calculations. In addition, the current draft of the first Technical Reference Manual addresses and evaluates interactive effects for certain individual measure characterizations and includes a discussion of the role of interactive effects in Volume 1, Overview and User Guide. Consideration of interactive effects is an important component of energy efficiency programs and should be analyzed and evaluated where possible. The TRM should help considerably on the calculation and consideration of interactive effects, and the existing rule language provides sufficient flexibility. We are opposed to removing consideration of interactive effects as proposed by IPL.

IPL suggests adding free drivers, spillover and market effects to the items considered in the estimation of gross and net savings. We note that IPL's proposed definition of spillover indicated that spillover and free drivers are the same thing, and therefore, IPL's proposal to include both free drivers and spillover to this subsection is not necessary – e.g., only spillover should be added. It is important to have an accurate assessment of both gross savings and net savings from these programs. Accurately understanding the difference between gross savings and net savings for a particular program or measure helps inform program design, spending decisions, and allows ratepayers to maximize the benefits they get from energy efficiency programs. We think that it is appropriate to consider spillover and market effects to help get the

most accurate net savings estimates possible and do not object to their inclusion in this subsection.

IPL suggests consolidating customer incentive costs, equipment costs, and installation costs into one bundle in its presentation of the plan budget. This change would make costs less transparent. This in turn would impact the feedback and evaluation that could be provided on program design. In particular, it would make it more difficult for other stakeholders to evaluate the appropriateness of customer incentives and the assumptions on equipment cost and installation costs since they would be grouped together. The overall grouped cost could appear reasonable while the allocation among the incentive, equipment cost and installation cost could be unreasonable. This type of change would make it more difficult for stakeholders to help get program and budget design right in the plan development process. In addition, the TRM includes measure cost information, which should make this information easier to provide and reduce IPL's claimed burden.

IPL also requests that the Board evaluate elimination of the subcategorization language at the end of 35.8(2)(d). In general, we think that providing transparency is positive and important. IPL asserts a burden but does not provide data to help weigh the asserted burden compared to the benefit. We also note that this subcategorization requires the utilities to provide information about contractors and the services that they provide related to the energy efficiency programs. The utilities rely heavily on contractors to deliver the energy efficiency programs. This is a particularly important requirement for understanding the programs and how they operate and are implemented. We are opposed to the elimination of this requirement.

199 IAC 35.9

IPL proposes to eliminate significant information about its load forecast, to move reporting on class load data outside of the energy efficiency rules and to shorten the capacity surplus and shortfall reporting period to 10 years from the current 20. We are opposed to these changes. As we stated in our initial comments, we believe the filing requirements provide valuable information and think the filing requirements here could be better coordinated with similar filing requirements found in other dockets and rules. This information is important in understanding energy efficiency potential and effectively using energy efficiency as a resource. Iowa is missing an opportunity to engage in more robust resource planning that treats energy efficiency as a resource comparable to new generating assets. In our initial comments, we encouraged the Board to engage stakeholders in the development of a more comprehensive and unified resource planning process. Eliminating key data filings to support the resource planning process would take us in the opposite direction and make it more difficult to ensure that low-cost clean energy resources, including efficiency, are prioritized for acquisition by the utilities and maximized in energy efficiency plan development.

We are opposed to IPL's proposed change to 35.9(7). IPL suggests that this change is only for clarification purposes, but it is a substantive change that would lower avoided costs.

Conclusion

We appreciate the Board's review of the energy efficiency rules as part of its comprehensive review of Board rules. We think the energy efficiency rules would benefit from a more in-depth review and encourage the Board to solicit additional stakeholder input on key topics in order to maximize Iowa's energy efficiency resource.

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Respectfully submitted,

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