

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

IN RE:)	
)	DOCKET NO. RMU-2016-0006
REVIEW OF COGENERATION AND)	
SMALL POWER PRODUCTION)	
RULES [199 IAC CHAPTER 15])	RESPONSE TO BOARD ORDER
)	REQUESTING COMMENTS
)	
)	

The Environmental Law & Policy Center and Iowa Environmental Council file these comments pursuant to the Iowa Utilities Board Order Requesting Stakeholder Comment on Potential Rule Changes issued on July 19, 2016.

The Environmental Law & Policy Center (ELPC) is a non-profit corporation organized under Illinois law. ELPC has members who reside in the State of Iowa and an office in Des Moines. ELPC's goals include promoting renewable energy and energy efficiency and advocating for policies and practices that facilitate the use, development and implementation of effective renewable energy and energy efficiency. ELPC has invested significant time and resources into promoting renewable energy and energy efficiency in Iowa and nine other states in the Midwest.

The Iowa Environmental Council (IEC) is a non-profit corporation organized under Iowa law. The IEC is a broad-based environmental policy organization with a mission to create a safe, healthy environment and sustainable future for Iowa. The IEC represents a broad coalition of Iowans including over 70 diverse member and cooperator organizations ranging from agricultural, conservation, and public health organizations, to educational institutions, business associations, and churches, along with hundreds of individual members. IEC's work focuses on

clean water, clean air, conservation, and clean energy, including the promotion of policies that would facilitate the development of clean energy and clean energy jobs.

ELPC and IEC have been active participants in the NOI-2014-0001 and NOI-2015-0001 dockets and submitted multiple rounds of comments on issues related to the 199 Iowa Administrative Code Chapter 15 rules, including disconnection devices and renewable energy tax credits. In this filing, we comment on a limited number of proposed rule changes in the Board's order. We anticipate that as issues arise in other filed comments, we may comment on additional sections in response to other parties in the reply comments.

Disconnection Device Amendments (rules 15.1, 15.10)

We support the Board's proposed definition for "disconnection device" in rule 15.1. The definition is consistent with Iowa Code § 476.58(1)(a) and appropriately includes specific types of disconnection devices that can be used by interconnection customers.

We generally support the Board's approach to "adjacent to the meter" for the placement of the disconnect device. In our comments in the NOI, we recommended some flexibility for unique and difficult or expensive situations. In those limited circumstances, we recommended that the rules require a permanent placard on the meter that indicates the location of the disconnect device if it is outside of the prescribed distances. MidAmerican has supported this flexibility in its comments in the NOI as well. We think that the Board may have tried to address this point in 15.10(3)(b) with the language "[i]f the distributed generation facility is not installed at the building with the electric meter, an additional placard must be placed at the electric meter to provide specific information regarding the distributed generation facility and the disconnection device." This language addresses the flexibility around the placard but does not

accomplish that flexibility in 15.10(3)(a). We recommend similar language be included in part (a) such as “In limited circumstances where the distributed generation facility is not installed at the building with the electric meter and the applicant can demonstrate significant expense or difficulty in locating the disconnect device adjacent to the meter, the disconnect device may be located adjacent to the distributed generation facility and an additional placard must be placed at the electric meter to provide specific information regarding the distributed generation facility and the disconnection device.”

We recommend that any remedy for failure to comply with disconnect device requirements be related to the purpose of the interconnection rules – to safely interconnect distributed generation systems. While the first step to remedy the situation should be to provide written notice to the customer and installer and to provide a reasonable time to correct the deficiency, we think denying interconnection service if the customer fails to comply in a reasonable timeframe is appropriate. MidAmerican has supported this approach in its comments in the NOI. We do not think denying electric service altogether is the appropriate way to address this issue and such an approach could create challenges in enforcement and unnecessary conflict.

Iowa law has a strong policy preference for limiting the situations in which customer service is disconnected. *See* Iowa Code § 476.20 (“Disconnection limited”). While HF 548 allows the Board to draft rules that include “[p]rocedures for electric utilities to deny or disconnect service for safety reasons to a person who does not comply with rules adopted pursuant to this subsection,” it is not clear whether this language refers to ‘interconnection service’ or ‘electric service.’ This statutory language must be read in the context of Iowa’s policy preference to limit disconnection of service and in the context of the bill’s focus on safely

interconnecting distributed generation systems. It is a logical interpretation that non-compliance with the interconnection disconnect device rules would be a safety reason to deny only interconnection service. When combined with the policy preference to limit disconnection of electric service, this interpretation that only interconnection service should be denied is even stronger. In fact, the Board takes this approach in other places in the proposed rules. In section 15.10(5) the proposed rules add the following language: “If the utility discovers the applicant’s facility is not in compliance with the requirements of IEEE Standard 1547, and the noncompliance adversely affects the safety or reliability of the electrical system, the utility may require disconnection of the applicant’s facility until it complies with this chapter.”

No party to NOI-2014-0001 has offered an explanation for how denying electric service altogether would increase safety when safety concerns can be met by simply denying the interconnection or disconnecting the distributed generation system. The remedy for non-compliance should be consistent with the statutory requirement that the remedy be for safety reasons, and it should not be used as a means to punish distributed generation customers. We recommend the Board revise 15.10(3)(f) to limit disconnection to the distributed generation facility only.

Potential rule change 15.10(7) includes the information that owners of distributed generation must provide to local paid or volunteer fire departments. The potential rule change states, in part, that the owner “is required to provide any information related to the distributed generation facility as required by that local fire department, including but not limited to” the listed information in 15.10(7)(a)-(c) (site map, information on access to the disconnection device, and statement verifying installation in accordance with the National Electric Code). This potential rule change goes beyond the statutory requirement for these rules and may lead to a

patchwork of notice requirements, which will unnecessarily complicate solar installations and increase costs. We note that Iowa Code § 476.58(2)(b) states that the Board’s rules must include “[a] requirement that interconnection customers notify local paid or volunteer fire departments of the location of distributed generation facilities and associated disconnection devices for distributed generation facilities on the property.” The statute clearly identifies the information required in the notification – the location of the distributed generation facility and the disconnection device – and does not provide for fire departments to add additional notification requirements. We believe the statutory notification requirement can be met with a site map and limited supplemental information to ensure the distributed generation facility and disconnection device are clearly identified. We encourage the Board to use this rulemaking process to standardize the requirements for the information in the notification provided to local fire departments and to remove the rule language allowing fire departments to require additional information beyond that standardized list.

Reporting (rules 15.3, 15.12, 15.17(4), 15.17(5), 15.22(4))

As a general matter, we support transparent reporting by the utilities with sufficient detail to allow stakeholders to independently review and understand the program details about which the utilities are reporting. We support including as much information as possible that is not redacted for the purposes of confidentiality and limiting use of confidential filings whenever possible. We also support the Board’s actions to promote transparency and stakeholder engagement and see reporting as an opportunity to advance those interests.

The Board has identified several areas where potential rule changes would impact reporting. The potential rule changes in rule 15.3, 15.12, and 15.22(4) would require the utilities

to include the existing reported information as part of the annual report filed on or before April 1 of each year. Making reporting dates more uniform, absent a reason to have a different date, and consolidating the number of reports into fewer reports should simplify and streamline the reporting process and better allow stakeholders to find needed information. Given this, we generally support adding various required reports that are filed annually to the overall annual report filed on April 1.

One potential rule change may need further clarification. Rule 15.12 is related to the information reported annually regarding AEP facilities. The current Chapter 45 proposed rules include a reference to the Chapter 15 distributed generation interconnection reporting requirements. We support including all required reporting information in the rules for better transparency, consistency, and clarity. To that end, we suggest the following additional detail in rule 15.12, although this detail could be included in Chapter 45 instead of here:

The information to be reported shall include:

- a.* The date when the application was received;
- b.* The total nameplate capacity and fuel type of the distributed generation facility;
- c.* The level of review received (Level 1, Level 2, Level 3, or Level 4), and whether the project failed any initial review screens and if so which screens, whether the project received supplemental review, and whether any impact study and/or facility study was conducted; and
- d.* Whether the interconnection was approved, denied or withdrawn and the date of such action.
- e.* Whether the distributed generation facility was constructed and began operation and, if so, the date the facility began operation.

Each utility shall include a summary as part of the report that provides aggregate information on the pre-application reports and interconnections requests and distributed generation that has been interconnected in the utility's service territory including distributed generation capacity added in the previous calendar year by fuel type and total distributed generation capacity operating in the utility's service territory by fuel type.

The additional detail we propose will help better track the interconnection process and the resulting distributed generation. These changes to the reporting requirements will significantly

improve transparency of the interconnection process and the understanding of distributed generation in Iowa. These changes will provide consistent information across the utilities about the interconnection process, the time it takes to process applications, screens that are failed, and the amount of distributed generation capacity. This additional information would not require significant additional effort from the utilities. Interstate Power and Light Company (IPL) has provided the reporting information in table format, and the additional information would only require a few additional columns. *See e.g.* IPL, Filing of Interconnection Request Annual Report (filed May 01, 2014)¹. IPL has also previously provided much of the summary information that we suggest in past reports. The transparency and consistency of the additional information would help us understand if the interconnection rules are working effectively, would help inform the need for future policy changes and would be consistent with and a natural addition to the Board's information gathering

Regarding rule 15.17(5), we support including all of this information in the utility's overall annual report filed on April 1 as well as separately providing this information to customers, as currently required in rule 15.17(5). Rule 15.17(5) could be modified to make this clear. The potential rule included in the Board order could be modified to read, in part, "... shall annually report to all its Iowa customers and shall include in its annual report due on or before April 1 of each year, as specified in 199—Chapter 23, its percentage mix of fuel and energy inputs used to produce electricity."

Renewable Energy Tax Credits (rules 15.19, 15.20, 15.21, 15.22)

¹ Available at <https://efs.iowa.gov/cs/groups/external/documents/docket/mdaw/mji3/~edisp/227276.pdf>.

The Board has identified a number of substantive potential rule changes related to the 476C renewable energy tax credit program. We support some of these changes and have concerns with others, as we discuss in more detail below for specific potential rule changes.

Potential rule change 15.19(3)(a) references the “ten MW of nameplate generating capacity reserved in Iowa Code section 476C.3(4)(b)(3).” The Iowa legislature has increased or changed the generating capacity for the 476C program a number of times since the legislation establishing the program was originally passed approximately ten years ago. We suggest removing the reference to “ten MW” in the potential rule change so the Board does not have to update its rules if this capacity reserve is changed by the legislature in future years. The words “ten MW of” simply could be removed from the proposed language to accomplish this.

Potential rule change 15.19(1)(e) states that a copy of a power purchase agreement or other agreement must be included with the application or, if an agreement is not finalized and executed, the applicant must include as an alternative a binding statement “that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.” Renewable energy projects that are potentially eligible for the 476C tax credit are likely to vary as to whether a power purchase agreement will be executed before or after the application for the tax credits is made to the Board. Some projects may require an approved application before financing arrangements can be finalized. Given the variability in the timing of the process for the application, we believe the requirement that “the designation shall not be subject to change” does not provide sufficient flexibility to projects. Instead we would support a requirement for a statement from the application that designates which party is intended to be eligible to apply for the tax credit. The applicant should then be required to update

the Board with a filing that includes the final and executed power purchase agreement (or other agreement).

Potential rule change 15.19(1) includes the application requirements for applicants for renewable energy tax credits. In the NOI-2015-0001 docket, we included in our comments a recommendation for the Board to adopt a standard application form that includes the required information. While most applications include “substantially all” of the required information as currently required in the Board’s rules, the application format can vary considerably, which makes review by stakeholders more difficult and time-consuming. By comparison, the Iowa Department of Revenue uses a standard application form for the upfront solar tax credit. We support including all of the required information in the rules – as is currently the case in the existing rules and the potential rule changes – and adding a standard application form to the Board’s website that would be required for use by all applicants. Rule 15.19 should be amended to reference the form and its required use.

Potential rule change 15.19(4) includes the potential changes regarding loss of eligibility status and extension of operational deadlines. We generally support the proposed language in rule 15.19(4)(b) regarding the types of information applicants must file at least one of in order to support the Board’s finding that the applicant intends to become operational and is continuing to make progress. This list is consistent with our comments in NOI-2015-0001 and provides applicants with sufficient flexibility to file the relevant milestone information while providing the Board with enough information to determine the intent and progress towards becoming operational.

Finally, we do not object to the manner in which the board has addressed equity interests in the rules. However, we think the intent of the legislature with the 476C program is to create

options for smaller scale renewable development. The updates to the rules may have implications for how the 476C program is able to meet this goal, and the legislature may want to revisit the program requirements to ensure that it is creating the type of small scale renewable development intended by the legislature.

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Respectfully submitted,

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