

**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])	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 July 19, 2016.

On August 18, 2016, ELPC and IEC, the Office of Consumer Advocate, the Iowa Association of Electric cooperatives, MidAmerican Energy Company, Interstate Power and Light Company, and ITC Midwest LLC filed comments on the Board’s proposed Chapter 15 rule changes. We provide these additional comments in response to filings submitted by other parties on August 18.

Definitions – 199 IAC 15.1

In our previous comments on the definition of “disconnection device” we supported the Board’s proposed definition. Both MidAmerican and IPL suggested narrowing that definition, particularly by removing examples of disconnection devices. We continue to support the Board’s proposed definition and do not believe that the utilities provided a sufficient rationale to move away from the Board’s definition. MidAmerican also suggests rephrasing distributed generation facility as “customer-sited private generation facility”. MidAmerican’s term is not defined in the

rules and does not appear to fully capture the Board's definition of distributed generation in Chapter 45 that includes a qualifying facility, AEP facility or an energy storage facility. We think that it is important to include energy storage as part of these rules and an attempt to recast distributed generation as private generation would make that less clear.

IPL also suggests a possible revision to the definition of electric utility based on the *Eagle Point Solar* case. We do not think any change to the definition is necessary.

Utility Obligations – 199 IAC 15.4

IPL proposes to delete language in 15.4 related to charges for transmission. IPL makes the suggestion “to reflect that transmission charges are managed by qualifying facilities and in accordance with MISO rules,” but does not provide any further explanation. This change has not been justified, and ELPC and IEC have concern that this could result in QFs being subject to unreasonable transmission charges.

Utility Purchase Rates – 199 IAC 15.5

IPL suggested language to 15.5(4) that is a significant concern. First, IPL proposed creating a hard cap on the negotiated purchase rates for QFs above 100 kW. This approach eliminates the flexibility for both utilities and QFs in reaching agreement on the terms for purchases of energy and capacity and may discourage renewable energy development. While PURPA does not require a utility to pay more than its avoided cost, it also does not prohibit a utility from paying more than avoided cost as long as the rates for purchase are consistent with requirements in 18 CFR § 292.304(a) to be just and reasonable and non-discriminatory. We do not support this proposed change to the rules. Second, IPL proposed adding the following

language: To the extent, the rate-regulated electric utility's avoided cost materially changes since its most recent informational avoided cost filing with the Board, the rate-regulated electric utility shall not be obliged to pay more than the then-representative avoided cost. IPL's informational filing should not be the basis of negotiated purchase rates, rather only Board approved avoided cost rates should be allowed to serve as the basis for such purchases. There are frequently significant questions about how utilities calculate avoided cost rates, if the methodology is appropriate and if the rates reflect actual avoided costs. The tariff approval process provides an opportunity to address these questions and concerns. It should not be presumed that the informational filing is the appropriate avoided cost rate, and that information should be the basis for a cap on negotiated rates without first going through the Board approval process in the PURPA avoided cost tariff.

IPL also suggested language in 15.5(6)(a) narrowing the consideration of rates for energy and capacity only to wholesale market rates. At this time, we think this could unnecessarily limit rate consideration and the current language should be retained. More information is needed to evaluate the impact of the IPL's proposed changes on avoided cost rates.

IPL also suggested language in 15.5(6)(b) narrowing the consideration of rates for energy and capacity only to wholesale market rates. We think this unnecessarily limits rate consideration. The costs to be considered in this section are to reflect the utility cost to develop generating assets and are specifically different from the wholesale market rate. This change would eliminate an important consideration in determining avoided costs and is fundamentally inconsistent with PURPA.

Testing and Disconnection – 199 IAC 15.10

IPL suggests several additions to 15.10(5) on inspections and testing that we think are unnecessary. IPL suggests changing the periodic testing requirements to require testing every five years even if the manufacturer recommends less frequent testing. The Board's proposal only requires a test every five years if a testing schedule is not specified by the manufacturer. We do not see any reason to vary from the manufacturer's recommended testing procedure. Requiring more frequent testing than the manufacturer recommends simply creates an unnecessary expense and requirement without any corresponding benefit. IPL also recommends reporting requirements to the utility. Currently, inspection and testing are for the operator of the facility "to determine necessity for replacement and repair." The additional requirements are unnecessary to meet this purpose and simply create an additional unnecessary burden for system operators.

IPL suggests adding an option to disconnect a customer's electric service for failure to meet the notification requirements in 15.10(7). We have previously expressed concern with those notification requirements and the option for local departments to expand the information required without any limiting principle. We have more generally expressed concern with providing for disconnection of a customer's electric service for concerns related to interconnection of a distributed generation facility. MidAmerican has expressed similar concerns. We do not think the notification requirements necessitate any type of customer disconnection, but if they did, we think disconnection of the distributed generation facility would be the only appropriate type of disconnection for a violation of the notification requirements.

Reporting Requirements

MidAmerican and IPL proposed changes to retain broad use of confidentiality in reporting requirements. As stated in our initial comments, we support minimizing and limiting

the use of confidential reports to the extent possible and providing as much information and transparency to stakeholders through required reporting. The rulemaking process can identify the limited circumstances where reported information must be filed confidentially rather than apply a broad use of confidentiality.

DATE: September 2, 2016

Respectfully submitted,

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