

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. RPU-01-3 RPU-01-5
--	----------------------------------

ORDER ON REHEARING

(Issued February 6, 2002)

On December 21, 2001, the Utilities Board (Board) issued an "Order Approving Settlement with Modifications" in Docket Nos. RPU-01-3 and RPU-01-5. Docket No. RPU-01-3 involved a petition filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) alleging that MidAmerican Energy Company's (MidAmerican) electric rates were excessive. Docket No. RPU-01-5 dealt with MidAmerican's application for a general increase in electric rates. The settlement approved by the Board, with modifications, on December 21, 2001, resolved all issues in both dockets. Signatories to the settlement are MidAmerican, Consumer Advocate, the International Brotherhood of Electrical Workers, Iowa State Conference, Deere & Company, and Local 109, International Brotherhood of Electric Workers, AFL-CIO. None of the settlement signatories objected to the modifications imposed by the Board within the ten days provided for in the Board's order. Therefore, the signatories are deemed to have approved the modifications and made them part of the settlement.

Two intervenors, Archer Daniels Midland Company (ADM) and Ag Processing Inc. (Ag Processing), opposed the settlement. ADM filed an application for rehearing of the Board's order approving the settlement on January 10, 2002. Consumer Advocate filed a response on January 22, 2002, and MidAmerican filed a response on January 24, 2002.

Most of the arguments raised in the rehearing petition, and the responses thereto, were exhaustively argued in settlement comments, at hearing, and in post-hearing initial and reply briefs. The Board, however, will specifically address several of the allegations of error made by ADM.

First, the allegation that Consumer Advocate had a conflict of interest by participating in the settlement is without merit. Iowa Code § 475A.2(2) provides, in relevant part, that "[t]he consumer advocate shall act as attorney for and represent all consumers generally and the public generally in all proceedings before the utilities board." Nothing in the record indicates that Consumer Advocate ever purported to represent the individual and unique interests of any specific MidAmerican customer, including ADM. In fact, ADM in its petition to intervene filed on June 20, 2001, recognizes this fact by stating that "[b]ecause of its [ADM's] service characteristics, its interests are not now and cannot be represented by any other party in this proceeding and are obviously not consistent with the interest of Consumer Advocate, or of MidAmerican." It is clear ADM never had an expectation of individual representation from Consumer Advocate. Consumer Advocate's statutory duty to represent all consumers and the public generally may be different than some

customers' individual interests. That is why the Board has rules governing intervention by customers like ADM that have individual and unique interests.

Second, ADM's arguments appear to presume that Iowa Code chapter 476 dictates the use of cost-of-service or traditional ratemaking. This is not the case. The Board has the authority to use other approaches to regulation that reflect the realities of the "hybrid environment" of regulation and deregulation in which MidAmerican operates its electric business. (12/21/01 Order, p. 6). ADM's arguments fail to acknowledge that MidAmerican operates in a non-traditional utility business climate without the use of one of the bulwarks of "traditional" electric utility regulation, the energy adjustment clause.

Third, there is not a requirement that an explicit revenue requirement be determined in this case. As noted in the order, revenue requirement calculations are only required if some or all of the revenue requirement issues are settled. Because no individual revenue requirement issues were settled, those calculations are not required. (12/21/01 Order, p. 16). The revenue requirement calculations have little, if any, significance in the hybrid, non-traditional environment in which MidAmerican operates.

ADM's arguments on the revenue requirement calculations ignore that the Board exhaustively examined the two primary issues associated with the determination of the reasonableness of MidAmerican's rates: (1) the return on equity and (2) the ratemaking treatment afforded to wholesale revenues. In determining whether the 12 percent trigger mechanism for revenue sharing was reasonable, the

Board looked at a traditional return on equity analysis, while at the same time recognizing the volatility of the wholesale market and the risk MidAmerican incurs by not using an energy adjustment clause. The absence of an energy adjustment clause significantly changes any risk analysis, a fact ADM does not want to recognize.

Fourth, the settlement provides important benefits to Iowa consumers that are detailed in the Board's December 21, 2001, order. These include an equity sharing arrangement for five years, rate stability, a commitment to build and operate new generation facilities in Iowa, and the avoidance of litigation risks. Absent the settlement, these benefits are lost.

Fifth, the Board has not relied on non-record evidence in approving the settlement. While 199 IAC 7.2(11) provides that the Board is to examine the "whole" record, the evidentiary record of this proceeding supports the Board's finding that the settlement be approved. The Board's reference to other dockets was not for purposes of determining the reasonableness of this settlement but to refute ADM's unfounded assertion that MidAmerican is in effect deregulated and has never been subject to an investigation by the Board. (12/31/01 Order, p. 16). The language was intended to convey merely the fact that such investigations had occurred, not that the results of any such investigations or any documents or testimony filed therein were used in evaluating the settlement before the Board.

Finally, the benefits of this settlement go beyond what would be available under traditional ratemaking. The revenue sharing mechanism protects ratepayers

and allows them to share in revenues that under traditional ratemaking would benefit only MidAmerican until there was another rate case filing. The stability provided for by the settlement also provides a predictable environment to facilitate new generation and delivery reliability investments.

IT IS THEREFORE ORDERED:

1. The application for rehearing filed by Archer Daniels Midland Company on January 10, 2002, is granted to the extent of the clarifications discussed in this order, and denied in all other respects.

2. Motions and objections not previously granted or sustained are denied or overruled. Any argument in the rehearing application not specifically addressed in this order is rejected as either not supported by the evidence or as not being of sufficient persuasiveness to warrant comments.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 6th day of February, 2002.