

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY AND FPL ENERGY DUANE ARNOLD, LLC	DOCKET NO. SPU-05-15
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ORDER DENYING INTERVENTION

(Issued September 6, 2005)

On August 22, 2005, Midwest Energy Renewable Projects LLC (Midwest Renewable) filed a petition with the Utilities Board (Board) to intervene in Docket No. SPU-05-15. This docket involves a reorganization that would allow Interstate Power and Light Company (IPL) to sell and transfer its ownership interest in the Duane Arnold Energy Center (DAEC), including nuclear fuel, to FPL Energy Duane Arnold, LLC (FPLE Duane Arnold). IPL owns 70 percent of DAEC. IPL and FPLE Duane Arnold, hereinafter collectively referred to as Applicants, filed a joint resistance to the petition to intervene on August 29, 2005.

In support of its petition to intervene, Midwest Renewable says that it has previously petitioned the Board in separate dockets, Docket Nos. AEP-05-1 through AEP-05-4, to determine specific rates to be paid by IPL for mandatory purchases of energy or capacity from several qualifying small power production facilities (QFs) pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA). Midwest Renewable states that because all of these proposed QFs are located in IPL's

service territory, Midwest Renewable will be a customer of IPL's during their construction and after they become operational. By virtue of its status as a prospective customer, Midwest Renewable claims it has an interest in the reorganization docket that is unique and requires representation in addition to the interests of the current parties. Midwest Renewable states that it qualifies as an intervenor of right or, in the alternative, that it should be granted permissive intervenor status. 199 IAC 7.2(7)"d"(1) and (2).

In their resistance, Applicants state Midwest Renewable does not qualify as an intervenor as a matter of right. The Board agrees. Midwest Renewable has not demonstrated that it has a unique interest in this proceeding that is separate and apart from that of other customers of IPL. Generally, except in unusual circumstances, customers (and prospective customers) fit within the provisions of 199 IAC 7.2(7)"d"(2) for permissive intervention. See, MidAmerican Energy Company, "Order Granting Interventions," Docket No. RPU-02-2 (5/17/02), p. 3.

Applicants also argue that Midwest Renewable does not qualify for permissive intervention because Midwest Renewable is not yet a customer and has failed to meet the standards of the subrule for permissive intervention. Applicants note that the issue of whether IPL has any PURPA obligations to Midwest Renewable is currently pending before the Federal Regulatory Energy Commission (FERC).

Subparagraph 199 7.2(7)"d"(2) provides that in determining whether to grant permissive intervention, the Board shall consider:

1. The prospective intervenor's precise interest in the subject matter of the proceeding.
2. The effect of a decision which may be rendered upon the prospective intervenor's interest.
3. The extent to which the prospective intervenor's interest will be represented by other parties.
4. The availability of other means by which the prospective intervenor's interest may be protected.
5. The extent to which the prospective intervenor's participation may reasonably be expected to assist the development of a sound record through the presentation of relevant evidence and argument.

Midwest Renewable is not a current customer of IPL, and it is speculative when, if ever, it will be a customer of IPL because of pending litigation before FERC. Midwest Renewable has not identified its "precise interest" in the proceeding nor has it demonstrated the "effect of a decision" upon its interests. Lastly, Midwest Renewable has not identified any issues or information it would present that would "assist the development of a sound record."

The Board generally encourages participation by all interested parties in its proceedings. However, here Midwest Renewable has identified no interest in the proceeding, except for a speculative one as a possible future customer of IPL, an interest that does not distinguish Midwest Renewable from the general public to any significant degree. Midwest Renewable's issues appear to relate to PURPA only, and these are the subjects of other dockets pending before the Board and FERC.

The reorganization docket does not address PURPA purchase obligations or other PURPA issues. The petition to intervene will be denied.

IT IS THEREFORE ORDERED:

The petition to intervene filed by Midwest Energy Renewable Projects LLC on August 22, 2005, is denied without prejudice.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of September, 2005.