

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-91-5
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**ORDER APROVING FIRST AMENDMENT TO SETTLEMENT AGREEMENT AND
DIRECTING DISPOSITION OF FUNDS**

(Issued December 23, 2005)

On October 16, 2000, the Utilities Board issued an order approving a settlement between MidAmerican Energy Company (MidAmerican) and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) that allowed MidAmerican to retain insurance recoveries related to former manufactured gas plant (FMGP) sites and to use the recoveries to accelerate remediation of FMGP sites. As part of the settlement, MidAmerican was required to file semi-annual reports showing the level of remediation activity accomplished and the expenditures made for each site.

On December 12, 2005, MidAmerican and Consumer Advocate filed a joint motion for approval of a First Amendment to the Settlement Agreement. In support of the motion, MidAmerican and Consumer Advocate state that the insurance recoveries have been used exclusively to permit MidAmerican to expedite remediation of the FMGP sites and that the objective has been accomplished. As shown in the October 15, 2005, report, MidAmerican has undertaken all possible

expedited remediation and MidAmerican anticipates that after payment of the bills for services during the remainder of 2005, a balance of \$2,500,000 will remain.

MidAmerican and Consumer Advocate indicate that because the costs for expedited remediation are known and the activity will be concluded by the end of 2005, it is appropriate to revisit the settlement agreement to reflect current conditions. They propose specifically to amend Article VI of the settlement that sets out the Principles of Settlement. The amendment entitled "2005 Principles of Settlement" states as follows:

Consistent with the Principles of Settlement contained in Article VI, the Parties agree that the remaining balance of insurance proceeds should not be used for expedited remediation. Instead, upon approval of this Settlement Agreement, the remaining proceeds shall be directed by the Board for disposition to MidAmerican customers as the Board deems appropriate. One such disposition would be for the Board to authorize MidAmerican to return these amounts to its I-CARE Account to be distributed to community action agencies ("CAP Agencies") in proportion to the number of MidAmerican gas customers in each agency's Iowa service area, with the CAP agencies directed to use the insurance proceeds to supplement the heating bill assistance provided by the Low-Income Home Energy Assistance Program (LIHEAP).

In addition, MidAmerican commits to file a final report within 30 days after the distribution of the remaining proceeds. The report will include the level of remediation activity accomplished and expenditures for that activity, divided into categories of threshold and expedited remediation for the period October 16, 2005, through December 31, 2005, and a final accounting of remediation cost recoveries

and dispositions, including data on amounts provided by MidAmerican pursuant to directives of the Board issued in accordance with the amended settlement.

The Board has reviewed its past decisions with regard to insurance recoveries in determining whether it can approve the disposition proposed in the First Amendment. A review of those past Board decisions shows the Board has been faced with unique circumstances in each instance in which it addressed the disposition of FMGP insurance recoveries. In past decisions, the Board has ordered refunding of the recoveries or allowed retention by the utility of the recoveries depending on the specific fact situation involved.

In reaching these decisions concerning the appropriate disposition of the recoveries, the Board has relied on its general regulatory authority under Iowa Code § 476.2. This broad authority allows the Board to decide the proper disposition of the insurance recoveries that will remain after MidAmerican has completed accelerated remediation of the FMGP sites. For each unique fact situation, the Board has balanced the benefits to the public, the general body of ratepayers, and all consumers in determining the proper disposition of the remaining money.

The Board has calculated that a refund of the \$2.5 million to all MidAmerican sales customers, or even just to residential customers, would have only a minimal effect on customer bills. MidAmerican's 2004 annual report shows 474,960 residential customers and 49,624 other sales customers. If the money were refunded only to residential customers, the average refund would be \$5.26 per customer. If

the money were refunded to all sales customers, the average refund would be \$4.77. This amount does not include the expenses associated with the administrative costs for making the refund, which would further reduce the averages.

The Board has weighed the minimal refund amounts calculated above against what it considers will be a substantial benefit to MidAmerican's low-income customers if the \$2.5 million is flowed through the CAP agencies this winter as proposed by the parties. As the Board (and many others) have recognized, heating costs are increasing dramatically this winter and funds to aid low-income customers are not likely to keep pace with the increased costs. A supplement of \$2.5 million will help low-income customers maintain service. The supplement to low-income customers will also inure to the benefit of all customers as well, since it will tend to reduce the total bad debt expense that MidAmerican could incur this winter. All customers would potentially have to pay for the overall level of bad debts incurred by MidAmerican customers during this winter; by reducing those bad debts, all customers will benefit from this disposition of the remaining money. The Board finds that the overall benefits of allowing MidAmerican to supplement funds for low-income customers with the remaining recoveries in the manner described outweigh the benefit customers would receive from a direct refund.

In addition, Consumer Advocate has agreed to the proposed disposition of the remaining money, as it did to the use of the recoveries for accelerated remediation. Consumer Advocate is mandated by statute to investigate the legality of rates,

charges, rules, regulations, and practices of persons and to represent all consumers generally and the public generally in all proceedings before the Board. Iowa Code § 475A.2. By entering into the First Amendment, Consumer Advocate has determined that the proposed disposition of the remaining money is in the interests of all consumers and the public. Based upon the balancing discussed above and the agreement of Consumer Advocate, the Board will approve the First Amendment filed December 12, 2005, to Article VI of the Settlement Agreement approved in the October 16, 2000, order.

Pursuant to 199 IAC 7.2(11), the Board may accept a settlement if it is reasonable in light of the whole record, consistent with law, and in the public interest. The Board finds that the First Amendment filed in this docket on December 12, 2005, is reasonable in light of the whole record before the Board, is consistent with law under these unique circumstances, and is in the public interest. The use of the remaining funds to supplement funds available for this winter's heating bills for low-income customers meets this standard and helps protect MidAmerican's ratepayers from the effects of ever-increasing gas prices and cold winter weather.

IT IS THEREFORE ORDERED:

1. The First Amendment to the Settlement Agreement filed by MidAmerican Energy Company and the Consumer Advocate Division of the Department of Justice on December 12, 2005, is approved.

2. The remaining insurance recoveries associated with former manufactured gas plant sites shall be distributed by MidAmerican Energy Company as described in the First Amendment to the Settlement Agreement.

3. MidAmerican Energy Company shall file a final report, as described in the First Amendment to the Settlement Agreement, of the disposition of the insurance recoveries within 30 days of the distribution of the remaining amounts of insurance recoveries.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 23rd day of December, 2005.