

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>MIDWEST RENEWABLE ENERGY PROJECTS LLC,</p> <p style="padding-left: 40px;">Petitioner,</p> <p style="text-align:center">v.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,</p> <p style="padding-left: 40px;">Respondent.</p>	<p>DOCKET NO. AEP-05-1</p>
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ORDER ON REHEARING

(Issued February 16, 2006)

On January 12, 2005, Midwest Renewable Energy Projects LLC (Midwest Renewable) filed with the Utilities Board (Board), pursuant to 199 IAC 15.4 and 15.5, a petition to determine specific rates to be paid by Interstate Power and Light Company (IPL) for purchases of qualifying energy and/or capacity for a certain qualifying small power production facility. The petition also asked that the Board order IPL to purchase such energy and/or capacity from the facility pursuant to a long-term agreement that may, but need not, convey to IPL any environmental attributes, such as emission credits, alternate energy credits, or similar tradable certificates.

In its petition, Midwest Renewable requested that the Board issue a decision on an expedited basis. At the time, Midwest Renewable hoped that its proposed wind project could be in-service on December 31, 2005, to take advantage of federal tax credits. At the hearing held on April 5, 2005, Midwest Renewable's witness testified wind turbines were not available to Midwest Renewable for a December 31, 2005, in-service date.

On May 20, 2005, prior to the deadline for reply briefs, IPL filed a motion to reopen the record to file additional testimony and evidence regarding an anticipated wind generation power purchase agreement (PPA) resulting from a request for proposals (RFP) that IPL had issued. On June 3, 2005, Midwest Renewable filed its own motion to present additional evidence. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) did not object to either motion and the Board issued an order on June 13, 2005, reopening the record.

IPL was unable to file its PPA by the deadline established by the Board, but Midwest Renewable filed additional prefiled testimony and exhibits. IPL and Consumer Advocate filed responsive testimony and a second hearing was held on July 20, 2005. Final briefs were filed subsequent to the second hearing.

On August 12, 2005, IPL filed a motion to hold the docket in abeyance pending a ruling by the Federal Energy Regulatory Commission (FERC) on a petition for declaratory order filed by IPL asking FERC to determine IPL is no longer required to enter into a new contract or obligation to purchase electricity under the Public Utility Regulatory Policies Act of 1978 (PURPA), or to enter into a PPA with any

unbuilt Qualifying Facilities (QF) project, such as the Midwest Renewable project. IPL claimed that the Energy Policy Act of 2005 relieved it of these obligations, making it unnecessary for the Board to determine avoided cost in this docket because there was no longer an obligation for IPL to purchase energy from a QF such as Midwest Renewable.

On September 21, 2005, the Board denied IPL's motion to hold the docket in abeyance. The Board notes that while FERC has not granted IPL the relief it requested, it has opened a rule making docket.

The Board issued its "Final Decision and Order" (Final Decision) on December 28, 2005.¹ In that order the Board, among other things, set the avoided cost rate for IPL's purchases of energy or capacity from Midwest Renewable's proposed qualifying small power production facility in Worth County that are made pursuant to PURPA and 199 IAC 15 at \$29 per MWh. The Board said if the parties are unable to agree on terms for the sale of environmental attributes, IPL is required to make the energy or capacity purchases regardless of whether the agreement conveys to IPL associated environmental attributes.

¹ Board member Stamp previously was an attorney with Dickinson, Mackaman, Tyler & Hagen, P.C., Law Firm, which is representing Midwest Renewable in this matter. However, during his time with the firm as it pertains to this matter, Board member Stamp did not do any work for Midwest Renewable, was not involved in counseling or advising Midwest Renewable, and was not privy to any confidential information involving Midwest Renewable. After reviewing the relevant professional codes, the Board's General Counsel has advised Board member Stamp that he may participate in the decision-making in this docket and, in fact, Board member Stamp is a signatory to the "Final Decision and Order" issued December 28, 2005.

Midwest Renewable filed an application for rehearing and reconsideration on January 17, 2006. Included with the application was a conditional motion for procedural consolidation with three other dockets where Midwest Renewable has requested that the Board determine IPL's avoided costs for other projects, Docket Nos. AEP-05-2, AEP-05-3, and AEP-05-4. Midwest Renewable filed a supplement to its application for reconsideration and rehearing on January 25, 2006. IPL and Consumer Advocate each filed responses to the application for rehearing on January 31, 2006. Midwest Renewable filed a reply to IPL's response on February 2, 2006.

On February 14, 2006, IPL filed a pleading entitled "Disclosure of Change in Evidentiary Facts." The pleading indicated that there have been "subsequent developments that change facts in the evidentiary record in this docket"; the actual evidentiary facts were disclosed in a filing for which IPL requested confidentiality.

The 30-day deadline for the Board to issue a rehearing order is February 16, 2006. The deadline, two days after IPL's most recent filing, does not allow the Board sufficient time for consideration of the new evidentiary facts or provide Midwest Renewable and Consumer Advocate with an opportunity to respond. Therefore, the Board will grant rehearing to reconsider its December 28, 2005, order, including the impact of the February 14, 2006, pleading filed by IPL and any responses filed thereto. After examining the additional information and responses, the Board will determine what other steps are necessary to conclude this docket. Responses to IPL's February 14, 2006, filing will be due on March 10, 2006.

IT IS THEREFORE ORDERED:

1. The application for rehearing filed by Midwest Renewable Energy Projects LLC on January 17, 2006, is granted for the purposes of reconsidering the Board's December 28, 2005, order, including the impact of IPL's February 14, 2006, filing on that order.

2. Midwest Renewable and Consumer Advocate shall file any responses to IPL's February 14, 2006, filing on or before March 10, 2006.

UTILITIES BOARD

/s/ John R. Norris

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 16th day of February, 2006.