

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  PURPA NET METERING STANDARD	DOCKET NO. PURPA STANDARD 11 (199 IAC 15.11(5))
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**ORDER REGARDING PURPA STANDARD 11**

(Issued August 8, 2006)

On August 8, 2005, the Energy Policy Act of 2005 (EPACT 2005) was signed into law. Among the many provisions of this federal legislation are five new federal ratemaking standards added to the Public Utility Regulatory Policies Act of 1978 (PURPA). The first of these new standards (commonly referred to as Standard 11), found in Section 211 of PURPA (16 U.S.C. 2621(d)), pertains to net metering.<sup>1</sup> PURPA requires that all state utility commissions consider and make a determination whether to adopt each of the ratemaking standards. Standard 11, if adopted by the Utilities Board (Board), would require each rate-regulated utility to make net metering available to all customers "with eligible on-site generating facilities." Under net metering, energy delivered by the customer may be used to offset metered energy received by the customer during the billing period.

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<sup>1</sup> Specifically, the PURPA Net Metering Standard (16 U.S.C. 2621(d)(11)) states:  
(11) Net Metering. Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

Pursuant to EPACT 2005, the Board must commence a proceeding on or before August 7, 2007, to consider adopting Standard 11. The Board may decline to adopt or implement the standard for electric utilities over which it has ratemaking authority, but the Board must state in writing the reasons for its decision; the Board must complete its consideration of Standard 11 and issue its decision on or before August 8, 2008. EPACT 2005 provides that the Board is excused from considering any or all of the five new PURPA ratemaking standards based on prior state actions, which can be that the Board has previously implemented the same or a similar standard, or previously conducted proceedings that substantially comply with PURPA requirements. 16 U.S.C. § 2622(d).

Iowa's statutes do not explicitly authorize the Board to mandate net metering for customer-owned distributed generation; however, this authority is implicit through the Board's enforcement of PURPA and the Alternate Energy Production statutes, Iowa Code §§ 476.41 through 476.47. Using this authority, the Board required net metering for PURPA qualifying facilities (QFs) that are also alternate energy production facilities (AEPs).

The Board's net metering subrule, 199 IAC 15.11(5), describes net metering service as "a single meter monitoring only the net amount of electricity sold or

purchased.”<sup>2</sup> The AEP customer draws electricity from, and provides excess electricity back to the utility over the same meter, making the meter run both forwards and backwards, thus netting one against the other. This “netting” of AEP kWh production against retail kWh usage can be viewed as the economic equivalent to the AEP customer selling electricity back to the utility at the utility’s retail rate. However, net metering does not involve separate purchase and sale transactions but is essentially a metering arrangement.

The Iowa State Commerce Commission, the predecessor to the Board and for purposes here also referred to as the Board, adopted the net metering subrule in Docket No. RMU-83-30 as part of its AEP rules after public comment and hearing. In describing the applicability of its AEP rules, the Board drew a clear distinction between renewable AEPs and non-renewable PURPA QFs (or cogeneration), explaining why the rules (including net metering) would apply only to AEPs.<sup>3</sup> The Board's decision was in writing and based on written comments received and comments received at public hearing. The Board restricted the application of net metering to AEPs only.

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<sup>2</sup> Specifically, the subrule states:

15.11(5) *Net metering*. Each utility shall offer to operate in parallel through net metering (with a single meter monitoring only the net amount of electricity sold or purchased) with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the fixed or negotiated buy-back rate, and any electricity provided to the AEP facility by the utility is sold to the facility at the tariffed rate.

<sup>3</sup> “Order Adopting Rules,” Docket No. RMU-83-30, issued July 27, 1984, p. 5.

The net metering subrule's description of net metering service is consistent with the description in Standard 11. The term "eligible on-site generating facilities," which is not defined in Standard 11, was effectively defined by the Board in its rule making proceeding as meaning AEPs only.

Initially, the Board's AEP rules in Docket No. RMU-83-30 applied to all electric utilities. However, in a subsequent court challenge, the Iowa Supreme Court ruled that the Board's AEP requirements would apply only to rate-regulated utilities; non-regulated utilities were no longer subject to the AEP rules. Iowa Power and Light Co. v. Iowa State Commerce Comm'n, 410 N.W.2d 236 (Iowa 1987).

A later court challenge initiated by MidAmerican Energy Company (MidAmerican) resulted in the Polk County District Court staying the Board's net metering subrule. This ruling was appealed to the Iowa Supreme Court. Separately, the Federal Energy Regulatory Commission (FERC) declined to rule that federal law preempted the subrule.<sup>4</sup>

To resolve the state court litigation, MidAmerican proposed a net metering tariff as part of a settlement supported by the Consumer Advocate Division of the Department of Justice (Consumer Advocate). The main features of the tariff: (1) limited net metering to 500 kW per AEP and (2) carried forward the net excess generation for net metering in future months, rather than selling it to the utility. In accordance with the proposed settlement, the Board docketed MidAmerican's tariff

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<sup>4</sup> "Order Denying Request for Declaratory Order," FERC Docket No. EL99-3, March 28, 2001.

filing and allowed interested parties to submit comments. MidAmerican Energy and Consumer Advocate filed responsive comments, followed by additional comments from other parties. None of the parties requested a hearing. The Board approved the settlement tariff with modifications.<sup>5</sup> MidAmerican dismissed its Iowa Supreme Court appeal on May 20, 2002. Later, after a similar public comment and review process (again, none of the parties requested a hearing), the Board approved a similar net metering tariff for Interstate Power and Light Company (IPL).<sup>6</sup>

The Board issued its tariff decisions in writing, based on evidence presented in separate public comment and review processes. For MidAmerican and IPL, the Board determined that net metering would not only be limited to AEPs, but also be limited to 500 kW per AEP, and that any net excess generation from net metering would be carried forward for net metering in future months, rather than sold to the utility. In other words, for MidAmerican and IPL, the two investor-owned rate regulated Iowa electric utilities, the Board has refined its definition of “eligible on-site generating facilities” by limiting net metering to 500 kW per AEP and has added a carry-forward provision that is consistent with Standard 11's description of net metering service. Iowa's remaining rate-regulated utility, Linn County REC, is an electric cooperative and has chosen not to propose a similar net metering tariff. Therefore, the additional refinements do not apply to Linn County REC.

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<sup>5</sup> “Order Granting Waiver and Approving, with Clarifications, Tariff,” Docket Nos. TF-01-293, WRU-02-8-156, issued March 8, 2002.

<sup>6</sup> “Order Approving Tariffs with Modification and Granting Waiver,” Docket Nos. TF-03-180, TF-03-181, WRU-03-30-150 (WRU-99-38-150, WRU-99-39-151), issued January 20, 2004.

The Board has considered and adopted Standard 11 for each Iowa rate-regulated utility under prior state actions, having previously made specific policy determinations in various dockets with regard to Standard 11. These determinations were made after opportunity for public comment and participation and the Board's determinations are consistent with the description of net metering under Standard 11. The Board has defined "eligible on-site generating facilities" as being limited to AEPs; for MidAmerican and IPL, that definition is further limited by a 500 kW cap per AEP and has added a requirement to carry-forward net excess generation for net metering in future months, consistent with Standard 11.

The Board is not precluded from making future changes to its net metering policy in other dockets. However, the Board, from its prior determinations, has fulfilled its obligations for consideration of Standard 11 and will take no further action in this docket. The Board concludes that its consideration of Standard 11 is complete and in compliance with the procedural requirements and deadlines established in EPACT 2005.

**IT IS THEREFORE ORDERED:**

The Utilities Board has considered and adopted, in prior state actions, a net metering standard for Iowa's rate-regulated electric utilities consistent with the net metering standard contained in PURPA Standard 11 and declares that its

consideration of PURPA Standard 11 is complete and in compliance with the procedural requirements and deadlines established in EPACT 2005.

**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 8<sup>th</sup> day of August, 2006.