STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. WRU-06-20-156 SPU-06-11

ORDER GRANTING A ONE-YEAR WAIVER AND APPROVAL OF ADDITIONAL SHARING OF SALES FOR RESALE

(Issued August 31, 2006)

On July 20, 2006, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) a request for a waiver of 199 IAC 19.10 to permit the use of the purchased gas adjustment (PGA) to flow through the costs associated with repairs to the west liquefied natural gas (LNG) tank located in Waterloo, Iowa, and any positive margin resulting from the project. The LNG tank is one of two located in Waterloo and MidAmerican states that the west tank is no longer needed for system customer needs on peak day. MidAmerican would normally forego compliance repairs until the tank was needed. Instead, MidAmerican proposes to make the repairs, use the tank for sales for resale, and use any positive margin associated with the sales for resale to finance the costs of the project. Any positive margin after the cost of the repairs would be shared with customers. The waiver request has been identified as Docket No. WRU-06-20-156.

MidAmerican is also requesting that the Board approve a modification to the list of sales for resale that are eligible for sharing between customers and shareholders and an additional sharing apportionment to allow it to share any positive margins resulting from sales for resale made from the Waterloo west LNG tank. MidAmerican states that in Docket No. PGA-94-140, the Board directed that margins earned by gas utilities on listed sales for resale transactions should be apportioned equally between customers and shareholders. The sharing was for three types of sales for resale, and MidAmerican states that the proposed sales for resale from the west tank do not fit into any of the three categories. MidAmerican proposes that the Board expand the definition of sales for resale to include financial and physical sales of natural gas made by MidAmerican pursuant to the Waterloo project and a modification of the 50/50 sharing percentage to reflect the unique and temporary nature of the transaction. The request to modify the sharing of sales for resale margins for the Waterloo west LNG tank project has been identified as Docket No. SPU-06-11.

The waiver and modification to the sharing would only be for one year while MidAmerican determines the future use of the tank. MidAmerican indicates in the filing that the Consumer Advocate Division of the Department of Justice (Consumer Advocate) does not object to the waiver or the modification of the sharing of sales for resale.

WAIVER REQUEST

Based upon the initial pleading and additional information provided by MidAmerican, the Board understands that the two Waterloo LNG tanks were constructed during the 1970s to be used by MidAmerican's system customers for day-to-day operations because of limited capacity on the interstate pipeline serving Waterloo. Since the 1970s, open transportation has allowed large volume customers to transport their own gas and increased capacity on the interstate pipeline reduced the need for LNG to be used for system customers for day-to-day operations. Instead it is used primarily for peaking purposes. In 2004, the west tank was taken out of operation and the east tank was used only for approximately ten days each year for peaking purposes.

After the west tank was taken out of operation, MidAmerican looked at several alternatives for using the west tank and even considered decommissioning the tank. In 2005, MidAmerican made necessary safety repairs on the west tank as required by federal safety regulations. In 2006, MidAmerican decided to do the repairs necessary to make the west tank operational in order to take advantage of the significant spread in prices between gas that could be stored in the west tank and the price for gas this next winter heating season. As part of this project, MidAmerican is proposing to recover the costs of the repairs through the proceeds from the sales for resale and to share any positive margin from those sales for resale between customers and shareholders.

MidAmerican has begun the repairs and has executed the financial hedges to lock in the summer-to-winter spread in prices. MidAmerican states by using these financial instruments there is no speculation because prices are locked in.

MidAmerican has already begun to inject LNG into the west tank. MidAmerican also states that any negative margin will be absorbed and that system customers will have first call on the LNG during the winter, if needed.

MidAmerican is requesting a waiver of the PGA to allow it to offset the costs of operating and maintenance associated with the west tank. Under 199 IAC 19.10, operating and maintenance costs are not identified as a cost to be recovered through the PGA since these costs are normally recovered through base rates in a general rate case. To be able to offset the costs associated with the operation of the west tank against the proceeds from the sales for resale will require a waiver of the rule.

MidAmerican states that the waiver would not pose an undue hardship on MidAmerican or system customers. MidAmerican states that it is not required to make the repairs to the west tank under its obligation to serve since the west tank is not needed currently to provide service to system customers. Making the repairs now, at the expense of system customers, but without a corresponding benefit would not be prudent. Under this proposal, system customers will not have to cover the cost of the repairs.

MidAmerican states that it is not aware of any person who would be negatively affected by the grant of the waiver. Retail customers would benefit and no substantial legal rights of any person would be affected. In addition, MidAmerican states that rule 19.10 is not specifically mandated by statute or other provision of law and substantially equal protection of the public health, safety, and welfare will be afforded if the waiver is granted.

Board Discussion

To grant a waiver of a Board rule, the Board must find that there is clear and convincing evidence that the four criteria in 199 IAC 1.3 are met. Those four criteria are: 1) the application of the rule would pose an undue hardship on the person for whom the waiver is requested, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule subject to the waiver are not specifically mandated by statute or another provision of law, and 4) substantially equal protection of health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The Board had some concerns about the burden that granting of the waiver might have on system customers, since the west tank has been paid for by system customers and a reasonable level of operation and maintenance costs is included in the non-gas rates approved by the Board in MidAmerican's last gas rate case. However, under the project described in the waiver request, all costs associated with bringing the west tank into operation would be offset against the sales for resale and MidAmerican would bear the risk of the project resulting in a negative margin. Thus, these project costs will not burden system customers.

Other options for the west tank include decommissioning, returning it to system usage if there is sufficient additional demand for natural gas, or selling the tank to a third party. These options will still be available to MidAmerican if the waiver is granted and MidAmerican will have another year to determine whether one of these options, or some other option, is the best utilization of the west tank. This flexibility provides a real benefit to customers. The Board finds there is clear and convincing evidence that the denial of the waiver would be an undue hardship on MidAmerican and system customers since it would remove the flexibility to review additional options and could require customers to pay the costs of repair at some later date.

The Board also finds that waiver of the PGA rule will not prejudice the substantial legal rights of any person, that this provision of the PGA rule is not mandated by statute or other provision of law, and that substantially equal protection is afforded by means other than the provisions being waived. The waiver is only for one year and at the end of the year the west tank will be operational and could be of greater benefit to system customers than if the tank was just maintained and not operational. At the same time, customers are protected from any risk of MidAmerican not recovering the costs of the project.

Since the four criteria in 199 IAC 1.3 are satisfied, the Board will grant the waiver as requested by MidAmerican. MidAmerican has committed to provide reports and an update concerning the project and the future use of the west tank. Consumer Advocate supports the waiver and agrees the flexibility is important.

MODIFICATION OF PURCHASED GAS ADJUSTMENT APPORTIONMENT

In Docket No. PGA-94-140, the Board established a sharing mechanism for the margin earned by natural gas utilities on sales for resale transactions. The margin is to be shared equally between customers and shareholders. The sharing was for three types of sales for resale:

(1) An exchange that occurs when one party's volumes are exchanged for those owned by another party. An exchange does not have to utilize gas controlled by the gas utility's traditional sales customers;

(2) Sale of previously contracted supplies that are temporarily not needed by jurisdictional sales customers; and

(3) Sale of supplies that are procured for a specific jurisdictional transaction.

The sales for resale to be accomplished using the Waterloo west LNG tank do not fit into any of the categories listed above. MidAmerican states that even though the west tank sales for resale do not fit into any of the three types listed, the west tank sales for resale meet the primary public policy objective underlying margin sharing: efficient deployment of resources acquired with customer funds. MidAmerican proposes a temporary modification of the sales for resale and the sharing percentage. MidAmerican proposes to expand the definition of sales for resale to include financial and physical sales of natural gas made by MidAmerican pursuant to the Waterloo west LNG tank project. MidAmerican proposes a temporary modification to the 50/50 sharing percentage to reflect the unique and temporary nature of this transaction. MidAmerican proposes that the first $300,000 of the net margin earned on sales for resale transactions be shared 50/50, with the remaining margin in excess of that amount shared 70/30 between customers and shareholders, respectively.

MidAmerican proposes during the time this apportionment will be in effect, customers will continue to pay return, depreciation expense, and operations and maintenance expense associated with the west tank in their distribution rates. The temporary modification to the sharing will allow MidAmerican to take advantage of the financial and physical sales for resale associated with the west LNG tank.

The Board will approve the temporary modification of the sharing mechanism between customers and shareholders for sales for resale and the list of types of sales for resale for which sharing is approved. The modification will allow MidAmerican to complete the anticipated transactions under the west LNG tank project and will also allow customers to receive a reasonable share of the benefit from the sales for resale if they result in a positive margin. Under the terms of the transactions executed by MidAmerican, the margin may not be as great as originally anticipated and may not reach the $300,000 level. If the margin reaches that level, then customers will receive a larger percentage.

REPORTING AND PGA FILINGS

MidAmerican proposes that it provide information concerning the project as requested by the Board and Consumer Advocate. MidAmerican suggests that it maintain detailed documentation of the regulatory asset account that will be established for the project and these records will be available for inspection upon request. MidAmerican proposes to file reports on the project and the regulatory asset account as part of the January through March 2007 PGA filings and complete documentation will be included in a separate subcategory of the annual PGA reconciliation report filed with the Board in October 2007. Consumer Advocate indicated that the suggested reports were acceptable.

The Board considers the proposed record keeping and reporting of the regulatory asset account to be acceptable and will direct MidAmerican to file the reports as part of the January through March PGA filings. MidAmerican shall include in the January through March 2007 PGA filings a separate line item for cost recovery for the project. The Board also finds it acceptable that MidAmerican provide an update of the project and a proposal for the future use of the west LNG tank at the April natural gas purchasing/hedging meeting.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for temporary one-year waiver of 199 IAC 19.10 requested by MidAmerican Energy Company on July 20, 2006, is granted.

2. The request to modify the list of sales for resale and the margin sharing established in Docket No. PGA-94-140 filed by MidAmerican Energy Company on July 20, 2006, is approved for one year from the date of this order.

3. MidAmerican Energy Company shall comply with the reporting requirements described in this order.

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 31st day of August, 2006.