

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ELECTRIC ENERGY ADJUSTMENT CLAUSE	DOCKET NO. RMU-07-11
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ORDER ADOPTING RULE MAKING

(Issued April 15, 2008)

Pursuant to the authority of Iowa Code §§ 17A.4, 17A.7, 476.1, 476.2, and 476.6(8), the Utilities Board (Board) adopts the rules attached hereto and incorporated by reference. The rule-making proceeding is identified as Docket No. RMU-07-11.

The adopted rules incorporate changes to the definitions in 199 IAC 20.1(3) and the energy adjustment clause (EAC) rules in 199 IAC 20.9, 20.13, and 20.17 to reflect new emissions allowances created by federal law. The adopted rules also exempt from the EAC refund a class of transactions called "vintage trades" (sale or trade of allowances for one year for allowances from another year). Under the rule changes being adopted, the proceeds from any such sale could be used for the purchase of another vintage of allowances with any net difference flowing through the EAC. Other changes to the EAC rules include an amendment to the definition of "historical costs" and a definition of options to use in a recognized hedging strategy. The reasons for adopting the rules are set forth in the attached notice entitled

"Adopted and Filed," which is incorporated herein by reference. All written and oral comments received supported the rule changes as noticed.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-07-11, is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 15th day of April, 2008.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.6(8), the Utilities Board (Board) gives notice that on April 15, 2008, the Board issued an order in Docket No. RMU-07-11, In re: Electric Energy Adjustment Clause, "Order Adopting Rule Making." The Board is adopting amendments to 199 IAC 20.1(3), 20.9(476), 20.13(476), and 20.17(476).

The adopted amendments reflect new emissions allowances under the federal law. The amendments also exempt from the energy adjustment clause (EAC) refund transactions that are called "vintage trades" (sale or trade of allowances from one year for allowances from another year). Under the adopted amendments, only the net difference between the sale or trade values of the different vintages of allowances would flow through the EAC, eliminating any generational inequity in their treatment under the prior rules. Other changes adopted include an amendment to the definition of "historical costs" and definitions of options for use in a recognized hedging strategy.

The Notice of Intended Action for Docket No. RMU-07-11 was published in IAB Vol. XXX, No. 18 (2/27/08) p. 1354, as **ARC 6616B**. The Consumer Advocate Division of the Department of Justice, Interstate Power and Light Company, and MidAmerican Energy Company filed written comments. All three commenters also appeared at the oral presentation on April 8, 2008; all written and oral comments received supported the

amendments. The adopted rules are identical to the noticed rules and, therefore, no additional notice prior to adopting these rules is required.

The Board does not find it necessary to adopt a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3 is applicable to these amendments.

These amendments will become effective on June 11, 2008.

These amendments are intended to implement Iowa Code section 476.6(8).

The following amendments are adopted.

Item 1. Amend subrule **20.1(3)** as follows:

Amend the definitions of "affected unit," "allowance," and "compliance plan" as follows:

"Affected unit" means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR) or the Clean Air Mercury Rule (CAMR), or a unit or source that opts in under 40 CFR Part 74.

"Allowance" means an authorization, allocated by the United States Environmental Protection Agency (EPA) under the Acid Rain Program, to emit ~~up to one ton of~~ sulfur dioxide (SO₂), any SO₂ and nitrogen oxide (NO_x) emissions subject to the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), during or after a specified calendar year.

"Compliance plan" means the document submitted for an affected source to the ~~Environmental Protection Agency~~ EPA which specifies the methods by which each

affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

Adopt the following **new** definitions in alphabetical order:

"Allowance forward contract" is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Clean Air Interstate Rule" or "CAIR" means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

"Clean Air Mercury Rule" or "CAMR" means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO₂ emission allowances for NO_x emission allowances.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

Item 2. Amend subparagraph **20.9(2)"b"(8)** as follows:

(8) The gains and losses, as described in subrule 20.17(9), from allowance ~~sales~~ transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

Item 3. Amend subparagraph **20.9(2)"e"(1)** as follows:

(1) The number and weighted average unit cost of allowances used during the month to offset ~~sulfur dioxide~~ emissions from the utility's affected units;

Item 4. Amend paragraph **20.13(1)"h"** as follows:

h. Compliance plans. Each utility shall file its SO₂ emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

Item 5. Amend subrule 20.17(1) as follows:

20.17(1) Applicability and purpose. This rule applies to all rate-regulated utilities providing electric service in Iowa. Under Title IV of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset ~~sulfur dioxide~~ emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

Item 6. Amend subrule **20.17(2)** as follows:

Amend the definition of "historical cost" as follows:

"Historical cost" is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

Adopt the following new definitions in alphabetical order:

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO₂ emission allowances for NO_x emission allowances.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

Item 7. Amend subrule 20.17(8) as follows:

20.17(8) Expense recognition and recovery of allowance costs.

a. Expense recognition. Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related ~~sulfur dioxide~~ emissions occur.

b. Expense recovery. The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. Allowance inventory shortage. If a utility emits more ~~sulfur dioxide~~ emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the

allowances shall be passed through the energy adjustment as specified in rule 20.9(476).

Item 8. Amend subrule 20.17(9) as follows:

20.17(9) Gains/losses from allowance transactions. The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

Item 9. Amend subrule 20.17(10) as follows:

20.17(10) Allowance futures or option contracts.

a. Price hedging. Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. Speculation. Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

April 15, 2008

/s/ John R. Norris

John R. Norris
Chairman