

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

<p>IN RE:</p> <p>DOUG MORGAN,</p> <p style="padding-left: 100px;">Petitioner,</p> <p style="padding-left: 100px;">vs.</p> <p>MIDAMERICAN ENERGY COMPANY,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-08-17 (C-08-64)</p>
--	---

---

**ORDER DOCKETING COMPLAINT AND  
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued October 20, 2008)

On June 13, 2008, Doug Morgan of Morgan Farms filed with the Utilities Board (Board) an informal complaint, identified as C-08-64, stating that his business was overcharged for electric service by MidAmerican Energy Company (MidAmerican). MidAmerican investigated and discovered a meter multiplier error when it completed a periodic meter change in February 2006, and a new meter was set with the correct multiplier. However, the employee did not do any additional follow-up and MidAmerican did not discover until early 2008 that the investigation had not been completed. MidAmerican later completed the investigation and refunded to Mr. Morgan the sum of \$12,323.13, which represents overcharges for a five-year period, from February 2001 to March 2006. Mr. Morgan, in his complaint, asked for an

additional refund for overcharges prior to February 2001, back to August 25, 1998, when the original permanent meter was installed.

On June 26, 2008, MidAmerican responded to the complaint. MidAmerican said its billing adjustment and refund to Mr. Morgan were consistent with its tariff and the Board's rules, which provide that the time period for billing adjustments should not exceed five years, unless otherwise ordered by the Board.

On July 2, 2008, the Board staff issued a proposed resolution finding that no facts and circumstances were present to warrant a refund for an additional period because it was not clear that Mr. Morgan's business suffered undue financial hardship because of the overcharges. Mr. Morgan provided additional information on July 11, 2008, which provided more detail regarding the harm suffered by his business and alleged contacts with MidAmerican in 1998. MidAmerican responded on July 28, 2008, again indicating that it did not believe any adjustments beyond five years were warranted and that it had no record of Mr. Morgan's alleged call to MidAmerican in 1998 regarding his high electric bills.

On August 20, 2008, a new proposed resolution was issued, reaffirming that MidAmerican had complied with the Board's rules and finding that any additional overcharges did not materially contribute to any financial hardship suffered by Mr. Morgan's business. On September 2, 2008, Mr. Morgan filed a timely request for a formal complaint proceeding.

Subrule 20.4(14)"e" provides that the time period for refunds due to meter errors such as incorrect use of a multiplier is five years, unless otherwise ordered by the Board. In adopting the rules, the Board set a five-year period for refunds to balance each customer's rights in the event of an error with the utility's costs of maintaining accurate, retrievable billing records for a potentially unlimited period. However, the Board recognized that a different time period could be applied if the facts and circumstances warrant.

Among other things, it is not clear in this case how far MidAmerican's records go back, but Mr. Morgan apparently has most, if not all, of the billings from the disputed period. There is also a factual dispute as to whether Mr. Morgan asked MidAmerican about the high billings earlier and whether MidAmerican took any steps to investigate the account at that time.

Because there are factual disputes over whether the five-year period should be extended due to the particular facts and circumstances of this case, there are reasonable grounds to warrant instituting a formal complaint proceeding pursuant to Iowa Code § 476.3. The Board will docket this matter as a formal complaint proceeding identified as Docket No. FCU-08-17. The docket will be assigned to an administrative law judge (ALJ) for further proceedings, including the establishment of a procedural schedule and conducting a hearing. The Board will also direct the ALJ to conduct a prehearing conference to discuss a procedural schedule with the parties.

**IT IS THEREFORE ORDERED:**

1. The informal complaint filed by Doug Morgan, identified as C-08-64, is docketed as a formal complaint proceeding, identified as Docket No. FCU-08-17.

2. Pursuant to Iowa code § 17A.11(1)"b" and 199 IAC 7.3, this matter is assigned to Administrative Law Judge Amy Christensen for such further proceedings as may be appropriate.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

\_\_\_\_\_

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of October, 2008.