

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. EPB-08-156
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**ORDER ADDRESSING COMPLETENESS
OF EMISSIONS FILING AND APPROVING SETTLEMENT**

(Issued October 29, 2008)

On March 31, 2008, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) an updated multiyear plan and budget (2008 Plan Update) for managing regulated emissions from its electric power generating facilities located in Iowa that are fueled by coal. The 2008 Plan Update generally covers the period from 2008 through 2010. Pursuant to Iowa Code § 476.6(25) (2007), updates to the plan and budget are to be filed at least every 24 months. The 2008 Plan Update supercedes MidAmerican's prior plan update filed on April 1, 2006, that was approved by the Board in an order issued on August 18, 2006, in Docket No. EPB-06-156; an amendment to the prior plan was approved by the Board on January 25, 2007.

On September 17, 2008, MidAmerican and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a proposed partial settlement agreement between MidAmerican and Consumer Advocate. The settlement stipulates that the 2008 Plan Update complies with Iowa Code § 476.6(25), pending

review by the Iowa Department of Natural Resources (IDNR), and should be approved. The settlement was designated a partial settlement because it is not intended to interfere with IDNR carrying out its statutory responsibilities pursuant to Iowa Code § 476.6(25). Included in the settlement is MidAmerican's commitment to file periodic reports with the Board and Consumer Advocate every 12 months. These reports are to include information on project implementation to date, actions taken to minimize costs, and expected actions contemplated during the next calendar year.

IDNR has an important role in the plan review process. Iowa Code § 476.6(25)"a"(4) provides, in part, that the IDNR "shall state whether the plan or update meets applicable state environmental requirements for regulated emissions." If the answer is no, IDNR shall recommend amendments that outline actions to bring the plan in compliance. The Board cannot approve a plan that does not meet applicable standards. Iowa Code § 476.6(25)"b."

While not a party to the settlement, the IDNR filed testimony on September 11, 2008, commenting on the 2008 Plan Update. The IDNR's testimony concludes that, based on information available to it at the time its testimony was filed, the 2008 Plan Update, in conjunction with continued compliance with all permitting requirements and permit conditions, meets applicable state environmental requirements for regulated emissions. The IDNR stated in a cover letter to its filing that it did not believe it was necessary to hold an evidentiary hearing in this docket.

No other party requested a hearing. Because the IDNR has answered the question posed by the statute in the affirmative, the Board may decide whether to approve the 2008 Plan Update and settlement.

Iowa Code § 476.6(25)"d" requires the Board to issue an order approving or rejecting the 2008 Plan Update within 180 days after the filing has been deemed complete. The Board finds the filing is complete and that additional information is not required to rule on the proposed settlement. The Board did not make this finding earlier because of the settlement between MidAmerican and Consumer Advocate and IDNR's review process.

In reviewing a proposed settlement, the Board examines all settlements by the criteria found in 199 IAC 7.2(11). This rule provides that "[t]he board will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest."

MidAmerican's 2008 Plan Update is divided into two main sections, MidAmerican's assessment of future emissions requirements and the potential impacts of those requirements on MidAmerican's coal-fired plants (in other words, MidAmerican's plan for meeting these emissions requirements). The IDNR states in its testimony, based on its information to date, that the 2008 Plan Update, in conjunction with continued compliance with all permitting requirements and permit conditions, meets applicable state environmental requirements for regulated emissions.

MidAmerican's 2008 Plan Update adequately addresses costs, economic development, and reliability as provided in Iowa Code § 476.6(25)"c." The primary driver in the 2008 Plan Update is the adoption of rules by the IDNR to implement the federal Clean Air Interstate (CAIR) and Clean Air Mercury (CAMR) rules, both of which have a cap and trade program, and continuing efforts to meet particulate matter standards. While the 2008 Plan Update is specifically for the 2008-2010 time frame, MidAmerican has included a summary of controls it believes will be installed through 2017; these projections could change based on future regulatory requirements or changes in the allowance markets.

One change that occurred since MidAmerican filed its 2008 Plan Update is that on July 11, 2008, in State of North Carolina v. Environmental Protection Agency, Case No. 05-1244, the United States Court of Appeals for the District of Columbia vacated the CAIR rules promulgated by the Environmental Protection Agency. In response to an order requesting additional information issued by the Board on September 25, 2008, MidAmerican filed responses on October 2, 2008, stating that any regulations that would replace CAIR would likely be at least as restrictive and that MidAmerican's 2008 Plan Update would likely remain the most economical alternative for compliance with any replacement regulations, although MidAmerican would continue to monitor future regulatory developments. MidAmerican said this analysis also applied to the CAMR rules, which were vacated by a court decision prior to the filing of MidAmerican's 2008 Plan Update.

MidAmerican's 2008 Plan Update reasonably balances costs, environmental requirements, economic development potential, and reliability of the generation and transmission system. The Board will therefore approve the settlement. The settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

IT IS THEREFORE ORDERED:

1. MidAmerican Energy Company's updated multiyear plan and budget for managing regulated emissions from its electric power generating facilities located in Iowa that are fueled by coal filed on March 31, 2008, is deemed complete pursuant to Iowa Code § 476.6(25)"d."
2. The settlement filed by MidAmerican and Consumer Advocate on September 17, 2008, is approved.

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 29th day of October, 2008.