

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY AND CITY OF ALTON, IOWA	DOCKET NO. SPU-08-12
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**ORDER DOCKETING APPLICATION FOR
DISCONTINUANCE OF SERVICE FOR FURTHER REVIEW**

(Issued November 14, 2008)

On October 21, 2008, a joint application for discontinuance of service was filed with the Utilities Board (Board) by MidAmerican Energy Company (MidAmerican) and the City of Alton, Iowa (Alton), pursuant to 199 IAC 7.1(6). The application states that under the provisions of Iowa Code § 6B.46, Alton exercised its power of eminent domain and filed petitions on November 17, 2004, and April 11, 2006, with the Sioux County Court of Condemnation to condemn the natural gas distribution system owned and operated by MidAmerican in Alton. The petitions were tried to the Sioux County Court of Condemnation on May 9, 2006. After an appeal of the Court of Condemnation decision, the parties negotiated a settlement on October 1, 2008. The settlement provided that the damage sustained by the taking of MidAmerican's property was \$584,000, exclusive of certain items and costs that will be resolved at time of closing.

Alton states that it has adopted the necessary ordinances, manuals, and service tariffs for the operation of the gas distribution system and stands ready,

willing, and able to provide comparable service to the residents of Alton.

MidAmerican joined in the application but not the allegations concerning Alton having the appropriate ordinances, service rules, and manuals or that Alton is ready, willing, and able to operate the natural gas system. The joint application states that the parties are in the process of developing appropriate documents to effectuate the transfer of MidAmerican's utility assets in Alton and the parties will notify the Board of the effective date of the transfer.

On October 27, 2008, a member of the Board's Safety and Engineering staff met with the City Administrator for Alton and the City Administrator, Gas Superintendent, and Public Works Director of Orange City, Iowa (Orange City). Board staff learned at that meeting that Alton currently relies on Orange City for additional police protection on request and provides water service jointly with Orange City. Board staff also learned that Alton is seeking to combine additional services with Orange City and operation of the Alton gas utility will be one of the services that will be provided by Orange City. Board staff learned at the meeting that Alton was aware of the day-to-day and long-term requirements for record keeping associated with operation of a gas utility and that Alton understands it is ultimately responsible for the operation of its system even though Orange City will be operating the natural gas system. In the meeting, Alton indicated it would not take possession of the system until sometime in 2009, perhaps around the first of July which is the beginning of Alton's fiscal year.

Iowa Code § 476.20(1) requires a utility to obtain Board permission to discontinue service to a community or part of a community. Board subrule 199 IAC 7.1(6) requires the Board to approve the application for discontinuance of service within 30 days of filing or docket the matter for further investigation. The subrule also provides that the failure of the Board to act within 30 days is deemed approval of the application.

Paragraph 7.1(6)"e" provides that the application for discontinuance of service will be granted if the Board finds the utility service is no longer necessary or if the Board finds the transferee is ready, willing, and able to provide comparable utility service. In this instance, Alton has condemned the natural gas distribution system of MidAmerican within the Alton corporate limits and Alton proposes to use Orange City personnel to operate the system. Alton appears to be capable of operating the system by using Orange City services; however, there appears to be a question whether Alton is ready and willing to operate the system based upon the uncertainty of when the transfer of ownership will occur and when Alton will begin to provide service. In addition, it will be necessary for MidAmerican to continue to operate the system until the transfer of ownership occurs and Alton is ready to operate the system. Since MidAmerican will be required to operate the system until the transfer of ownership and Alton is ready, willing, and able to operate the system, the requirements of paragraph 7.1(6)"e" have not yet been met.

In other dockets where a discontinuance of service is requested because a municipality has condemned the system, such as Docket No. SPU-08-11 for the City of Mapleton, the city is ready, willing, and able to begin operation of the gas system at the time or shortly after the Board's order granting discontinuance. Also, the transfer of ownership has already occurred or occurs around the time of the Board's order. In this instance, transfer of ownership is not anticipated to occur until the middle of 2009 and therefore operations will not transfer until that time. Although it appears that Orange City would be capable of operating the system at this time, the delay in the transfer in ownership may mean that Alton is not ready, willing, and able to take over operations of the gas system at this time. Rather than grant permission to discontinue service this far in advance of Alton taking over operation of the system, the Board will docket the application and request additional information from Alton.

The Board will direct Alton to provide the following information as part of the continuing review of the application: (a) the reason for the delay in taking over operation; (2) a description of the arrangement with Orange City for operating and maintenance assistance; (3) a more definite date for when Alton (with or without Orange City's assistance) will be ready to operate the system; and (4) a more definite date for when ownership will transfer.

IT IS THEREFORE ORDERED:

1 The joint application filed by MidAmerican Energy Company and the City of Alton, Iowa, on October 21, 2008, for MidAmerican Energy Company to

discontinue natural gas service to the City of Alton, Iowa, is docketed for further investigation.

2. The City of Alton, Iowa, shall file the information described in this order within 45 days of the date of this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 14th day of November, 2008.