STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE:	**)**	
	)	**DOCKET NO. TF-2020-0273**
MIDAMERICAN ENERGY COMPANY	**)**	
	)	
	)	

COMMENTS ON TECHNICAL CONFERENCE AND MIDAMERICAN'S ADDITIONAL INFORMATION

Environmental Law & Policy Center and Iowa Environmental Council ("Environmental Intervenors") provide these comments in response to the technical conference held on March 29, 2021, regarding MidAmerican's Renewable Subscription Program ("RSP") Tariff in docket TF-2020-0273. The comments also respond to information filed by MidAmerican on March 25, 2021, in response to the Order Requesting Additional Information and Scheduling Technical Conference issued by the Iowa Utilities Board ("Board") on March 19, 2021.

The Additional Information and Technical Conference provided new information, but important questions remain about specific implementation of the tariff and the potentially sweeping regulatory impacts of Board approval. ELPC and IEC support the addition of renewable energy to utility portfolios in Iowa. However, there are risks to the approach MidAmerican has proposed.

The Board should be cautious about this tariff and creating an unchecked process for adding new generation resources without the oversight of rate review or the scrutiny of an advance ratemaking process. Should the Board approve the tariff, it should be clear that approval applies to this tranche only and that future tranches will be subject to Board review and oversight.

I. The Tariff Circumvents the Board's Regulatory Procedures.

ELPC and IEC provide these comments in large part due to the long-term implications that could result from approval. The language of the tariff would allow it to apply to any customer in the future; by implementing the tariff through tranches, MidAmerican has broad discretion to select eligible customers.[1] The novel approach and potentially expansive impact means the Board's decision carries potentially significant consequences. ELPC, IEC, and their members in MidAmerican's service territory would all be affected by the tariff, and the broader implications of the RSP tariff could shape the addition of new generation resources for years to come by circumventing the procedures provided in statute and rule for the addition of generation by rate-regulated utilities.

During advance ratemaking proceedings, the Board conducts a contested case hearing and considers a variety of factors including the availability of other sources of long-term electric supply and reasonableness compared to those alternatives. Iowa Code § 476.53. In these proceedings the Board also regularly determines the appropriate return on equity for the projects. *See, e.g.*, Docket No. RPU-2018-0003 ("Wind XII"), "Final Decision and Order" at 20 (filed December 4, 2018). Here, MidAmerican is asking the Board to set the return on equity and other elements of pricing without a formal review of the generating assets. MidAmerican claims to be working to create a product that will be fully subscribed and reduce risk to non-participating ratepayers, yet eligible customers Microsoft and Google have provided comments in the docket that the price is above market rates. This red flag for the tariff's success could be fully considered and vetted through a regular advance ratemaking procedure instead of the thin record of the tariff docket.

[1] Tariff Sheet No. 492 ("This program will be made available in tranches to any customer that meets the eligibility requirements of the tranche.").

Rate cases provide the opportunity for the Board to review the prudency of utility investments. This review is essential to fulfill the Board's obligation to ensure just and reasonable rates. Iowa Code § 476.8. Although MidAmerican expects to negotiate contracts under this tariff with sophisticated customers, that is not a substitute for Board review of prudence or the need to understand how new generating assets fit within a broader resource mix, especially at a time of overall rapid change in the energy sector. Until its next rate case, which MidAmerican has said is many years away, this tariff provides the only opportunity for the Board to review MidAmerican's investments included in the first tranche under the tariff.

MidAmerican stated in the Technical Conference that it views the tariff as a "premium" for customers. MidAmerican is pursuing the tariff approach under the premise that it allows eligible customers to pay this premium without harming other customers. The characterization is questionable on its own and MidAmerican was even less clear about how its approach will adjust to reflect the expected continued decline in renewable energy costs. MidAmerican stated that in the future it would make a case-by-case determination for the appropriate regulatory approach to add generation. Although MidAmerican stated that it plans to apply the tariff only to customer demand that would require an additional net cost to the customer, those terms, including definitions of such terms, are not included in the tariff.

If the Board moves forward with this tariff, it should make clear in any decision that it only applies to the first tranche. The Board must also evaluate any future tranche to ensure the generation resources are appropriate for this tariff, rather than being used to benefit all customers. The discussion in the Technical Conference included questioning about MidAmerican's vision for future tranches and the potential scope of the program. MidAmerican stated that future tranches would not be limited to 90% load factor customers, or incremental growth, and referred to a potential residential tranche. While each tranche would need to come to the Board for review, the review does not provide the same depth or level of analysis as a rate case or advanced ratemaking principles. MidAmerican could offer programs at a premium to residential customers without seeking Board review for many years. It is unclear if review of future tranches will provide the same level of scrutiny as this initial review of the tariff. Given that future tranches could be substantially different in terms of resources, eligible customers, cost and pricing, future tranches should have significant review. The Board should not create a program that circumvents its regulatory review.

II. The Board Must Address Future Treatment of Resources.

MidAmerican has positioned the RSP tariff as a program that will not harm customers because it would not increase customer rates or alter revenue sharing in MidAmerican's envisioned implementation. However, MidAmerican has not addressed how to treat the generation assets in a future rate case, the treatment after expiration of the RSP Tariff contracts, the relationship to MidAmerican's renewable vision, or MidAmerican's resource planning.

MidAmerican appears to be proposing to exclude the RSP tariff generation assets from customer rate base indefinitely. It is not clear whether MidAmerican intends to use this tactic to fully avoid prudency review by the board. At the Technical Conference, MidAmerican stated that the company believes the tariff provides the most value if it survives a rate case. MidAmerican noted, however, that it has warned potential participants that MidAmerican has no assurance of the outcome of the rate case ("all bets are off"). Tariff contracts will likely not expire at the same time as a rate case, so this will almost certainly be an issue.

The 20-year contracts for the tariff will expire before the expected life of the generation assets, but MidAmerican has not specified what happens to the assets after the contract period. In response to the Order and a direct question in the Technical Conference, MidAmerican repeated that they would be treated like any other asset. This does not answer the question: other assets are included in rate base at the outset or as part of a rate case, but as discussed above, MidAmerican did not clearly state tariff assets would be incorporated into rate base. As we previously noted, it would be much clearer that this program has long-term benefit to all MidAmerican customers if MidAmerican made a commitment to maintain these resources for the benefit of all customers after the initial 20-year term rather than using them as part of a separate program for the benefit of a few customers that can pay a premium.

Finally, the first tranche MidAmerican has proposed for this program would allow a select few customers to achieve sustainability and clean energy goals without advancing the goal for MidAmerican's remaining customers. Without the RSP tariff, MidAmerican may have proposed the generation resources be available to all customers. MidAmerican stated at the Technical Conference that economics were the primary driver of the decision to include the generation assets in the RSP, indicating that lower-priced assets would proceed through advance ratemaking or building at risk. Of course, the determination of which assets are "lower-cost" depends on a number of factors and requires comparison to an alternative – exactly what the advance ratemaking procedure statute requires. MidAmerican stated in the Technical Conference that it selected the resources for the RSP tariff because the resources were already under development and already in a pipeline for MidAmerican review; there was no request for proposals to compare costs to alternatives. Project cost depends upon factors such as return on equity, debt to equity ratio, depreciation, and treatment of tax credits. Microsoft and Google – target customers for this tariff

– have pointed to MidAmerican's pricing under the tariff as higher than available in the market. Would a more realistic price point put these resources in a competitive position with other resources in MidAmerican's fleet? What is the cost of MidAmerican's other resources? Are resources in a tranche intended to be part of MidAmerican's accredited capacity, either now or in the future? Broad approval of this tariff would mean resources could be added outside of rate review and resource planning. The Board should not erode its regulatory oversight out of existence.

MidAmerican could use this approach, which does not exist in Iowa law, to build much – or even all – future generation, charging a premium for a renewable product that is actually less expensive and saddling its remaining customers with the utility's existing, and potentially less economic, generating assets as they age. MidAmerican should not be able to use the Renewable Subscription Program to avoid answering tough questions and replacing uneconomic fossil fuel assets with lower cost renewable resources.

<u>Conclusion</u>

The Renewable Subscription Program is being proposed outside of existing statute with no set of criteria for Board review and approval of the generating assets in this context. MidAmerican's responses to the Board's questions did not clarify how the proposed tariff would impact non-participating customers in the future. The outcome of this docket could have significant impact on future customers and the distribution of benefits from the addition of clean energy resources, particularly if it becomes a template for future renewable energy development. This tariff could allow limited review of new generation projects to become the norm. Without robust vetting and Board oversight, MidAmerican could divert renewable resources to select hand-picked customers, earning MidAmerican a premium price where a more thorough review might reveal these resources could benefit all customers by providing lower-cost generation than existing fossil fuel plants. This tariff should not be used as a mechanism to avoid prudency review and/or resource planning. The Board has an important regulatory oversight role, and it should ensure that any precedents set in this docket preserve that role.

Respectfully submitted,

/s/ Joshua T. Mandelbaum

Joshua T. Mandelbaum (AT0010151)
Environmental Law & Policy Center
505 5th Avenue, Suite 333
Des Moines, Iowa 50309
P: (515) 244-0253
jmandelbaum@elpc.org

/s/ Michael R. Schmidt

Michael R. Schmidt (AT0013962)
Iowa Environmental Council
505 5th Avenue, Suite 850
Des Moines, Iowa 50309
P: (515) 244-1194 x211
schmidt@iaenvironment.org

DATE: April 8, 2021