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PUBLIC

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE: **MIDAMERICAN ENERGY COMPANY**	**DOCKET NO. RPU-2022-0001**

MIDAMERICAN ENERGY COMPANY'S APPLICATION FOR RECONSIDERATION OR REHEARING

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INTRODUCTION

There are few success stories for the Iowa economy and Iowans that are bigger than the combination of the visionary advance ratemaking principles legislation the General Assembly enacted in 2001; the Iowa Utilities Board's consistent but flexible approval of principles and projects that advanced the policy intent of that legislation; and MidAmerican Energy Company's ("MidAmerican") recurring and responsible use of advance ratemaking principles to deploy renewable energy projects across Iowa. The results have been consistent with, but surely beyond, what the 2001 legislature could have hoped – billions of dollars in economic investment in Iowa, terawatts of new generation capacity (most of it fueled at zero-fuel costs and zero-emissions), a robust sector of high-tech data center-driven companies locating in and expanding in Iowa, and stronger load growth (an indicator of a healthy economy) than surrounding states, all while maintaining some of the lowest average retail electric rates in the nation (8th lowest, according to the Edison Electric Institute Rankings Winter 2022 report).

Against this extraordinary success, the Board's Final Decision and Order ("Order") was surprising. It represents a sudden and comprehensive change of approach that is trying to "fix" something that is not broken, and in fact is working well – an advance ratemaking process that has delivered low rates, short- and long-term customer benefits, and economic benefits that have made Iowa and MidAmerican leaders in the renewable energy transition. As the following explains, this sudden change in approach is based on errors of law, errors of fact, and a regulatory approach that is contrary to the Iowa legislature's express policy goals and contrary to the Board's own precedents.

MidAmerican appreciates the Board's willingness to approve Wind PRIME and to grant several of the ratemaking principles. However, MidAmerican is, respectfully, unwilling to accept principles that will be detrimental to customers. The principles proposed by the Board will likely accelerate MidAmerican's next rate case and leave customers in an inferior position when that proceeding comes, notably by **rejecting immediate and guaranteed energy adjustment clause relief of up to $100 million and rejecting guaranteed rate base reductions projected at more than $[redacted] million. The result is a set of principles that produces less rate base reductions for customers than the Settlement proposed by MidAmerican, the Office of Consumer Advocate ("OCA") and the Iowa Business Energy Coalition ("IBEC"), by a projected $266 million**. The Board should reconsider its Order and return to the path it has followed for a dozen prior MidAmerican ratemaking principles dockets involving renewable generation. The most straightforward and sound way to do so is to approve the Settlement proposed by MidAmerican, the OCA and IBEC.

Accordingly, MidAmerican Energy Company submits this Application for Reconsideration or Rehearing pursuant to Iowa Code sections 17A.16 and 476.12 and Iowa Administrative Code rule 199—7.27.

STANDARD FOR RECONSIDERATION OR REHEARING

Iowa Code sections 17A.16 and 476.12 allow any party to a contested case to file an application for rehearing. The Board's administrative rules similarly allow any party to file an application for rehearing or reconsideration. Iowa Administrative Code r. 199—7.27. "[A]n appropriate ground for rehearing or reconsideration of a final decision by the Board is an error of fact or law." *In Re: Coggon Solar LLC*, I.U.B. Docket No. GCU-2021-0001, 2023 WL 143211 (Jan. 6, 2023). "In a request for reconsideration or rehearing, a party may raise 'new or additional argument to correct legal error.'" *In re: MidAmerican Energy Company*, I.U.B. Docket No.

E-22313, 2019 WL 7373083 (Dec. 20, 2019). A party seeking reconsideration may submit new evidence that has arisen since the final order by affidavit. Iowa Administrative Code r. 199—7.27(2).

ARGUMENT

At a high level, the Board should reconsider and reverse its Order for at least three broad reasons. ***First***, the Order is the product of errors of law, including but not limited to moving away from the Iowa Supreme Court's expansive definition of "need," failing to follow the Board's own longstanding precedents on the jurisdictional allocation principle, changing its historical position on return on equity ("ROE") without any warning, adopting approaches that deny the certainty the statute provides through advance ratemaking principles, arbitrarily applying a new test that was not even applied in the contemporaneous Interstate Power and Light ("IPL") ratemaking principles decision[1] and which was not adopted in recent new rules, and creating a new ratemaking principle that no one advocated for and which was therefore untested and which has no support at all in the record. At the most fundamental level, however, the Board failed to follow its long body of precedent in a way that is easy to see: the Board has previously *approved* numerous advance ratemaking proposals that provided fewer benefits at more net cost and more risk than Wind PRIME. Wind PRIME proposes the generation the legislature sought to obtain along with a suite of associated benefits at less net cost and with more risk protection than virtually any prior ratemaking principles docket – but the Board nonetheless denied those principles or modified them in unworkable ways. Most of this could have been avoided had the Board not also deviated from its historical treatment of settlements.

[1] "Order Addressing Reconsideration and Rehearing," *In Re: Interstate Power and Light Company*, Iowa Utils. Bd. Docket No. RPU-2021-0003, (issued Apr. 27, 2023) ("IPL Order").

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Second, the Order relies on errors of fact, including but not limited to ignoring economic benefits due to an erroneous assumption that the same projects would be built and deliver the same benefits anyway, analyzing the case as if "no net cost" were the only justification provided for the Project despite evidence demonstrating present need, failing to acknowledge significant record evidence supporting MidAmerican's decision to limit the amount of solar in Wind PRIME, making unfounded assumptions about the cost cap containing excess contingency and arbitrarily reducing the amount of that cap, and asserting that a spreadsheet calculating MidAmerican's depreciation projections was not credible without explaining how any numerical input or formula was incorrect. The Order is also undermined by internal inconsistencies – saying, for example, that storage is not yet ready for broad adoption, and then taking MidAmerican to task for not giving additional consideration to storage.

Third, the Order is contrary to public policy. The Order undermines the explicit policy of the legislature, ignoring the value the legislature has recognized in generating wind energy for export, limiting the regulatory innovation and investment incentive the legislature sought to achieve through the advance ratemaking principles statute, and instead moving back towards a reliance on what the Board itself refers to as "a traditional utility analysis." Order at 48. The Order ignores the continuing bipartisan support for additional wind energy from both Iowa and U.S. policy leaders and is inconsistent in how it treats the role and importance of the Midcontinent Independent System Operator ("MISO"). The Order improperly treats the Inflation Reduction Act ("IRA") as a radical and fundamental change despite it being just one (albeit important) in a long line of federal investment and production tax incentive programs. Most fundamental and harmful to Iowa customers, however, is that the Board's Order deprives customers of hundreds of millions

of dollars in benefits that are not replicated in the Board's principles and which can only be secured through approval of the ratemaking principles requested in the Settlement.

I. THE BOARD'S ORDER SHOULD BE RECONSIDERED DUE TO LEGAL ERRORS, FACTUAL ERRORS, AND INCONSISTENCY WITH PRECEDENT.

A. The Order's Needs Analysis is based on Legal and Factual Errors.

On page 8 of the Order, the Board frames its task this way: "The Board's statutory responsibilities include ensuring that the utility builds sufficient quantities of generating assets – *but no more* – to ensure reliable service at a reasonable cost." (emphasis added.) This position is contrary to the legislature's intent and unfortunately it appears to color the Board's analysis of Wind PRIME throughout the Order; the Board suggests repeatedly that capacity that it does not believe is necessary to serve Iowa customers is only appropriate if it can be built at no net cost.

A finding of need in the traditional sense is not required under Iowa Code section 476.53. *NextEra Energy Resources LLC v. Iowa Utilities Bd.*, 815 N.W.2d 30, 40 (Iowa 2012). The Board committed a legal error by analyzing Wind PRIME differently than previous advance ratemaking applications based on the Board's belief that it must ensure "no more" generation is built than what is sufficient to ensure reliable service. The goal of Iowa Code section 476.53 was to incentivize new generation, unbounded by the limit the Board asserts. The legislature expressly intended to spur investment in generation beyond just what was needed to directly serve Iowa customers. The legislature's intent is reflected in two other provisions in Iowa Code chapter 476. Section 476.53A provides:

> It is the intent of the general assembly to encourage the development of renewable electric power generation. It is also the intent of the general assembly to encourage the use of renewable power to meet local electric needs and the development of transmission capacity ***to export wind power generated in Iowa***.

(Emphasis added.) Further, § 476.45 provides:

> Capacity of an alternate energy production[2] facility or small hydro facility, that is owned or purchased by an electric utility, shall not be included in a calculation of an electric utility's excess generating capacity for ratemaking purposes.

The question of whether the "need" criteria in § 476.53 is broader than just the capacity or energy needs of Iowa customers has already been thoroughly litigated. In Wind VII (RPU-2009-0003), NextEra Energy Resources ("NextEra") and Iberdrola Renewables challenged MidAmerican's need for advanced ratemaking principles for a 1,001 MW tranche of wind generation, arguing that MidAmerican was already selling output from its Iowa generation fleet on the wholesale market, showing that MidAmerican had excess capacity. The Board correctly rejected this argument and granted the ratemaking principles. NextEra sought judicial review and continued the appeal to the Iowa Supreme Court. The Iowa Supreme Court agreed with the Board and MidAmerican: "[T]he general assembly did not intend the 'need' requirement of section 476.53 to only include present capacity, but rather the general assembly also intended it to include needs based on other considerations such as fuel diversity, the supply of less expensive energy to consumers, and compliance with future environmental regulations requiring clean energy." *NextEra*, 815 N.W.2d at 40.[3]

Since *NextEra*, the Board has continued to grant advance ratemaking principles for additional investment in renewable energy because the Board correctly understood that (a) those

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[2] Iowa Code § 476.42(1)(a) defines "alternative energy production facility" to include wind turbines and accompanying land on on-site improvements necessary or convenient to the construction, completion, or operation of the turbines.

[3] *NextEra* included a single-justice concurrence that questioned whether it would raise legal or constitutional concerns for a utility to build a facility to serve only nonretail customers while incorporating the costs into its retail rate base. *NextEra*, 815 N.W.2d at 53-53 (Mansfield, J., concurring). The Board has cited Justice Mansfield's concurrence as a consideration in other recent cases. *See, e.g., "*Order Addressing Motion for Reconsideration or Rehearing," *In re: Interstate Power & Light Co.*, Docket No. RPU-021-0003 at 8-9 (issued Dec. 29, 2022). As discussed below, MidAmerican's project serves many needs for Iowa's customers, so the question raised in Justice Mansfield's concurrence is not pertinent. In that case, as here, the new generation was "mixed" in that it would serve both retail customer needs and be sold on the wholesale market (which *also* serves Iowa retail customers), and the *NextEra* court found the Board's approval constitutional. It's also clear that Mansfield never anticipated the customer benefits and revenue sharing that flow from wholesale sales.

investments provided economic and environmental benefits to Iowa and Iowa customers (and in the case of environmental benefits, beyond); and (b) MidAmerican has very successfully used wholesale sales revenue to "buy down" its retail rates in Iowa, keeping them among the lowest in the nation. Yet despite the Iowa Supreme Court's approval of the Board's historical approach to advance ratemaking cases, and despite the Court's determination in *NextEra* that the legislature did not vest the Board with any special authority to interpret section 476.53, the Board inexplicably created a new seven-factor test—which the parties did not have any advance notice of—to determine whether the project satisfies the "need" requirement in section 476.53. The Board then gave undue weight to the "sufficient quantity" factor, which permeated the rest of the Order and the Board's ratemaking principles.

Although Iowa Code section 476.53 does not require a traditional showing of capacity need, even assuming that such a showing was required, the Board erred by finding that MidAmerican did not demonstrate a capacity need for the project. *See* Order at 29. The evidence in the record – which was not contested – is that MidAmerican projects capacity shortfalls as soon as 2027-2028 and continuing through 2040.[4] Given the extensive lead time necessary to obtain regulatory approvals, conduct required studies, secure facility locations, transmission rights and equipment, and build new generating assets, MidAmerican's projected shortfall four to five years out is a *present* need. The Board simply ignored this fact. To the extent it mentions it at all, twice in passing the Board asserts that there will be no shortfall until 2028 and discusses it as a distant and remote issue. But MidAmerican cannot wait to address a capacity shortfall that is only four to five years out. It would already be too late, for example, for MidAmerican to decide to build a new thermal facility and have it online in time to address a 2028 shortfall. Wind PRIME, which would

[4] *See* "MidAmerican Energy Company's Post-Hearing Brief," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-2022-0001, at 39-40 (filed March 27, 2023) ("MidAmerican's Post-Hearing Brief").

provide capacity benefits sufficient to offset all of the projected capacity shortfall through 2028-2029, and nearly all of the projected shortfall in 2029-2030, does in fact address a direct and pressing need for MidAmerican's Iowa customers. The Board's conclusion to the contrary ignores the substantial evidence in the record and ignores Board precedent where the Board has recognized the capacity benefit in advance ratemaking proposals of similar capacity shortfalls over a similar 4-year time frame. *See*, *e.g.*, Wind IV (104 MW capacity deficit four years in the future); Wind V (70 MW deficit in two years); Wind VI (61 MW deficit in six years); Wind VII (would defer a capacity deficit ten years in the future).[5]

B. The Order Applies a New and Arbitrary Standard to the Reasonable Alternatives Requirement and Ignores the Substantial Evidence in the Record about Alternatives.

Similar (and related) problems arise in the Board's treatment of the statutory requirement to demonstrate that a utility has "considered other sources for long-term electric supply" and to show that "the facility or lease is reasonable when compared to other feasible alternative sources of supply." Iowa Code §476.53(3)(c)(2). The Order relies on a test for "Reasonableness of Alternatives" that has never been used in any of the nearly 20 prior advanced ratemaking principles dockets, that is more stringent than what the Board or the Iowa Supreme Court have required previously, and that wasn't even applied in the IPL advance ratemaking order, which was issued the same day.[6] The Board's invention of an entirely new seven-factor test, which it applied twice in the Order without any notice to the parties or opportunity for MidAmerican to tailor its application to the test, was arbitrary and not supported by Board or judicial precedent.

It is also a test that makes little sense on the facts of the case. While the Board frames the issue as whether MidAmerican considered *any* other options (while never mentioning, let alone

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[5] *See id*. at 18-19, 39.
[6] IPL Order.

applying, the "thoughtful consideration" standard from *NextEra*), the record not only shows that MidAmerican did so – it also reflects why MidAmerican did not consider all other possible options equally. As an initial matter, no party has advocated in this docket for more carbon-based generation; no one has argued that it was an error to not give more coal or natural gas a more robust consideration. In addition, this is not the first ratemaking principles docket. MidAmerican has considered and proposed ratemaking principles for coal, gas, wind and now solar generation over time, and MidAmerican is actively operating in and studying the forward-looking market and supply options. Nor is this docket the only docket in which sources of generation are considered: they have been discussed in prior advance ratemaking principles dockets, emission plan and budget proceedings, and in the now-closed SPU-2021-0003 docket.

MidAmerican has extensive expertise and experience that doesn't disappear between generation-related dockets or internal resource decisions. MidAmerican's internal experts know there are technologies (nuclear fusion, to use an obvious example) that would not make sense to propose and are not relevant to include in testimony. Regarding options that would include accelerated coal plant retirements or energy storage, the Board itself expressed skepticism:

> The Board is not persuaded that the accelerated retirement of coal would improve reliability, and prefers storage technology to mature before broad adoption at ratepayer expense. . ..

Order at 34. On these points, MidAmerican and the Board agree. While MidAmerican has committed to phase out the use of coal in its generation portfolio, there are serious reliability concerns with accelerating those retirements faster than what is prudent. MidAmerican, with a responsibility to supply affordable, reliable energy in all manner of conditions and circumstances, believes it is wise to be more cautious about removing what has long been a cornerstone baseload

fuel from the American electricity system (as does the North American Electric Reliability Corporation).[7]

Even as the Board discourages the "accelerated retirement" of coal baseload generation based on reliability concerns, however, the Board then *penalizes* MidAmerican's application for *not* retiring its coal plants as part of its needs analysis:

> Wind and solar provide low carbon intensity generation. The proposed project as a stand-alone could meet the overall state goals of reducing the carbon intensity in new generation assets; however, the lack of decommissioning of coal generation from the MidAmerican portfolio mitigates the degree of this benefit.

Order at 39. The Board similarly penalizes MidAmerican for not having included a quantitative comparison of carbon intensity, but does not discuss or acknowledge record evidence, which was uncontroverted, that Wind PRIME will allow MidAmerican to run its coal plants less frequently and will reduce the overall carbon intensity of MidAmerican's generating fleet. *See* Order at 46; *see also* McIvor Direct Testimony p. 22, Rebuttal Testimony p. 5.

The inconsistency of the Board's treatment of coal is not the only problem with the analysis in the Order. The Order is also internally inconsistent. In the "Carbon Intensity" section, the Board states that the proposed project – an addition of 2,042 MW of new wind and 50 MW of new solar generation – "as a stand-alone" would "meet the overall state goals of reducing the carbon intensity." Order p. 39. But if the portfolio of projects "as a stand-alone" would satisfy the "reducing carbon intensity criteria," it makes no sense that as part of a ratemaking principles docket those same assets apparently do *not*. The ratemaking principles docket is generally about project

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[7] *See* "MidAmerican's Reply to Comments on Joint Stipulation and Agreement," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. RPU-2022-0001 at 26 (filed December 27, 2022) (citing MidAmerican witness Hammer Surrebuttal testimony, at pp. 18-19 (discussing "North American Electric Reliability Corporation 2022-2023 Winter Reliability Assessment," https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2022.pdf (Nov. 2022), at p. 5 and "'A sobering assessment': Large parts of US at risk of outages during extreme weather this winter: NERC," https://www.utilitydive.com/news/nerc-ercot-miso-iso-ne-winter-reliability-risks/636440/ (published Nov. 14. 2022)).

economics – how the project is financed and paid for, how revenues and credits are used to provide benefits to customers. Nothing about the assets being part of this case as opposed to a "stand-alone" changes the impact of those assets on the carbon intensity of the "new generation assets." This reasoning is illogical. *See* Iowa Code § 17A.19(10)(i).

The Board's treatment of energy storage is similarly problematic. MidAmerican believes storage technologies have promise and can help renewable fuels overcome the issues of intermittency, but that storage technologies – particularly in adequate quantities and duration – are not mature and haven't been tested enough to be proposed at this time. Hammer Direct Testimony p. 51, Surrebuttal p. 5; Fehr Direct Testimony p. 28-29, Rebuttal p. 13-14, Surrebuttal p. 5. Yet even after making it clear that *the Board agrees that storage is not ready*, the Board unfairly faults MidAmerican for not considering storage as an alternative. The Board goes on to fault MidAmerican for not providing an alternative portfolio similar to that of Environmental Intervenor witness Hotaling, and gives weight to Hotaling's model (Order at 47), even though, as the Board admits, that model "significantly expands storage as a recommended portfolio mix" – *which the Board itself finds to be premature*.

The consideration of alternatives is a much more limited question than the Board suggests: the *only* alternative in dispute is how much solar to include in the proposal. The Environmental Intervenors believe MidAmerican should include more solar, and MidAmerican disagrees and believes wind should remain the primary addition to its generation portfolio at this time. Faced with this greatly clarified choice – 50 MW of solar as MidAmerican is proposing, or more than 50 MW solar – the Board should be wary of micromanaging MidAmerican's portfolio decision under the guise of the test of "reasonable alternatives." First, there may be many energy portfolios that are all reasonable, particularly without a perfect crystal ball into future costs, supply chain

issues, load growth, state and federal policies, technical innovations, customer interests, etc. Second, this is highly unlikely to be the last incremental addition to MidAmerican's fleet – it is, after all, MidAmerican's 13th advance ratemaking principles docket focused on renewables. Additional solar certainly remains on the table in the future (which is one reason it was included in Wind PRIME), and the settlement in this case provides a Resource Evaluation Study ("RES") process to allow stakeholders to more broadly consider the relative benefits of other sources of supply.[8]

The Board's order ignores pertinent record evidence about solar options. The Board focused almost entirely on the Zero Emission Study ("ZES") to assert that MidAmerican had not given adequate consideration to more solar. The Order omits the fact that MidAmerican explained the shortcomings of the ZES, and that it is nowhere near the newest information on the pros and cons of more solar. Hammer Surrebuttal Testimony p. 20. Economically, because wind has roughly double the net capacity factor of solar in Iowa, for a given quantity of nameplate capacity the available annual electricity supplied and the production tax credits on that electric production will be twice as much for wind as for solar. The higher amount of acres/MW of land use also presents unique permitting and regulatory risks. At present, there are also supply chain risks that are more prevalent for solar than for wind.[9] Notably, Tech Customers' witness Pollock testified less than a year ago in Georgia, in response to a question about higher projected solar PPA prices, that the reasons for such projections included:

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[8] The RES is yet another benefit several intervenors wanted that will be lost if Wind PRIME is not approved in a manner that is feasible for MidAmerican to accept.

[9] *See*, *e.g.*, "Biden allies join Republicans in vote to resume solar tariffs." *The Hill*, https://thehill.com/policy/energy-environment/3986765-biden-allies-join-republicans-in-vote-to-resume-solar-tariffs/?email=066c0990fa413d52c3842f29a42abb22ffa00eae&emaila=02c3337a6605235631b8cab2e023d54e&emailb=e0d37ab6f97ed06914f0e75a1ebed673001a81f7f84978ff9209f3e23f7ba5d3&utm_source=Sailthru&utm_medium=email&utm_campaign=05.03.23%20SP%20The%20Hill%20News%20Alerts%20-%20republicans%20solar%20tariffs (May 3, 2023).

> the "pervasive and unabating headwinds renewable developers are encountering on nearly every front of project development." Among the headwinds are "[s]upply chain turmoil and spiking prices for commodities, labor; and project components" which have "added substantial costs and uncertainty for developers. . . ."

MEC Hearing Exh. 4, 27:4-8 (Pollock citing a Level 10 study).

In sum, while the record demonstrates current "headwinds" in the solar market, the evidence in this case shows that Wind PRIME's wind-forward mix provides substantial additional clean, no-fuel-cost generation, and the resulting environmental and customer benefits, to address a present need in a manner that is projected to come at no net cost to customers.

C. The Board's Order Includes Additional Factual Errors and Inconsistencies with the Record.

Many of the issues where the Board made errors of fact also involved errors of law and are discussed above. There remain, however, several other issues where the Board's discussion of the facts simply are not consistent with the record as a whole.

Perhaps most problematic, the Board goes out of its way to portray Wind PRIME as being supported *only* on the basis that it can be delivered at "no net cost" to ratepayers. As with the Board's erroneous approach to need (discussed above), this error permeates the Order as the Board used the "no net cost" classification to justify rejection and modification of many requested ratemaking principles that are critical to the project as a coherent whole. To cabin Wind PRIME into this "no net cost" box, however, the Order wrongly ignores that Wind PRIME also provides other benefits that are recognized by Iowa law and past Board cases – economic benefits, environmental benefits, and customer benefits, to name a few. The record in this case strongly supports a conclusion that Wind PRIME would provide meaningful benefits; it is an added positive aspect of the project that the benefits are projected to be provided at no net cost.

As one important example, the Order's conclusion that there would be no economic benefits from Wind PRIME is based on an unsupported and questionable belief that the underlying

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wind and solar projects would be built anyway. The Order also misunderstands how the benefits of Wind PRIME are delivered: even if the individual projects were built, many of the economic and customer benefits would not be assured of flowing to Iowa and Iowa ratepayers in the absence of the mechanisms that are part of Wind PRIME.

With respect to economic benefits, it is useful to start with a comparison between what the Order says – and what the testimony it cites *actually* says. The Order dismissed economic benefits as follows:

> MidAmerican witness Brown testified that since the source of Wind PRIME projects is the MISO Generator Interconnection Queue, it is highly likely that all of these projects will be built regardless of approval of advance ratemaking principles. (Brown Direct, p. 11.) Given that the benefit will likely occur irrespective of whether advance ratemaking is approved, the benefits described by Mr. Fehr are not considered economic benefits of the project under this factor.

Final Order at 36. This is a significant distortion of what MidAmerican witness Brown actually said, and the context in which it was said:

> Renewable energy developers, utilities across the region and customers themselves are *competing* for renewable generation development opportunities that are *limited by the generator interconnection queue* and the lag between generation development and the transmission development that is necessary to fully facilitate the clean energy transformation. To make MidAmerican's 100% renewable energy vision real, and not just aspirational, MidAmerican must act now to take advantage of development opportunities in Iowa that will benefit all our customers. Without action, other parties will *likely* still build the projects, but they *may not serve or benefit Iowa customers*, and in the process *limited queue positions and economic projects will be lost*.

Brown Direct at 11:6-14 (emphasis added). The point Ms. Brown is making here is that MidAmerican is competing for a limited set of the best projects, projects that are advanced in the interconnection queue and have reasonable upgrade costs. She states that it is likely – but not certain – the projects MidAmerican has targeted would still be built, but that if someone else builds

them the economic and customer benefits may be lost. Finally, she testifies that once lost those benefits may not be able to be recaptured by MidAmerican later.

The Board turned Ms. Brown's description that it is "likely" that other parties will build the projects (which was not the point of the cited passage to begin with, but rather an assumption for her point about lost benefits) into a certainty that all projects in the queue will be built by someone. That is not consistent with the general history of projects in ISO interconnection queues. A study by the United States' Berkeley National Laboratories suggests that of all projects in the queue from 2000 to 2017, *only 21% had been built by the end of 2022*.[10] The Order also ignores the role of MidAmerican (and IPL) – and favorable advance ratemaking principles – in projects making it into service. As the Board is aware, most renewable energy projects in Iowa are either developed by, or purchased from developers by, one of Iowa's investor-owned utilities. The Order ignores the extent to which MidAmerican *creates* the market for projects in Iowa. To the extent the Order weakens MidAmerican's demand, it is far from certain that as many projects would in fact be built in Iowa. The Order makes an assumption that is fundamental to its argument with no evidentiary support, and which is almost surely incorrect.

Even if it were true that the same projects would still be built by *someone*, the Order is incorrect that the benefits would be the same. While the Order appears agnostic as to who builds renewable assets in Iowa, the Iowa legislature is not: the entire point of adopting advance ratemaking principles in Iowa was to incent *Iowa utilities* to invest in more generation assets. The reasons are simple. When Iowa utilities own and operate the generation facilities, it ensures that Iowa has ample capacity to support reliability and future growth. And when Iowa utilities own and operate the generation facilities, wholesale revenues, tax credits, and renewable energy attributes

[10] Berkeley Lab, "Queued Up: Characteristics of Power Plants Seeking Transmission Interconnection | Electricity Markets and Policy Group,"https://emp.lbl.gov/queues (last visited May 15, 2023).

flow back to mitigate current and future rates for Iowa retail customers. Profits are reinvested in Iowa for reliability and community betterment. The Iowa legislature knew this; it is important that the Board does as well. The Order's determination that Wind PRIME should not be credited with economic benefits because the projects would be built anyway is factually wrong, and contrary to the language and intent of Iowa law.

The Order's treatment of environmental benefits does not stand up to scrutiny any better. As with the economic benefits discussed above, the Order curtly dismisses environmental benefits because MidAmerican is not also retiring coal-fired facilities. Aside from the Board itself concluding that accelerated retirement of coal harms reliability, the substantial evidence in the record demonstrates that Wind PRIME would reduce operating hours for carbon-fueled thermal units. Wind PRIME allows MidAmerican to substitute renewable generation for non-renewable generation. McIvor Direct Testimony p. 22, Rebuttal Testimony p. 5. The Order also ignores that MidAmerican's announced plan to retire its coal fleet over a prudent planning horizon requires continuing to build non-carbon generation *now*.

Among other factual errors, the Order concludes, without explanation, that witness Specketer's testimony on accelerated depreciation "isn't credible." Final Order at 78. The Order provides no support for this finding. The testimony on accelerated depreciation is supported by an Excel spreadsheet – the calculation is straightforward arithmetic. *See* Specketer Additional Testimony, pp. 6-7, Confidential Table 2. The Order does not point to any mistakes in witness Specketer's numerical inputs, nor any flaw in the formulas used to turn those numbers into a result. The Order effectively asserts a disbelief in mathematics, for no better reason that an apparent gut feeling. That feeling is not, however, substantial evidence. This is yet another instance where the Order inexplicably takes a broadly skeptical view of MidAmerican's proposal without explanation.

Worse yet, this apparent lack of trust is not only unjustified, but also inconsistent with numerous prior decisions where the Board accepted Mr. Specketer's analysis and testimony regarding depreciation. It also ignores the impact of the guaranteed Iowa retail energy benefits that are part of the ratemaking principles proposed in the settlement and detailed in Mr. Specketer's Additional Testimony, which is addressed in more detail in the discussion of the Rate Mitigation principle proposed in the order.

II. THE ORDER REJECTS THE SETTLEMENT IN FAVOR OF PRINCIPLES THAT DEVIATE FROM LAW AND PRECEDENT AND ARE DETRIMENTAL TO CUSTOMERS.

A. The Board Did Not Give the Same Favorable Consideration to Settlements it has Given in Past Cases.

Even when non-unanimous, the Board traditionally looks favorably on settlements, looking at the totality of the entire settlement and assessing whether the settlement is reasonable.[11] In this case, MidAmerican, OCA and IBEC, a group of major Iowa industrial entities, have reached a balanced settlement. Many of the proposed settlement principles were uncontested, and for other principles the non-settling parties don't object to the concepts, they just want more: more solar (despite MidAmerican adding solar for the first time), a more restrictive Consumer Protection Plan,

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[11] *See* cases cited in footnote 13, *infra*. MidAmerican discussed at some length the Board's treatment of settlements in its Post-Hearing Brief, at pages 26 to 27. In RPU-2013-0004, the Board specifically discussed the value of non-unanimous settlements, stating:

> There is nothing in the administrative procedure act which expressly requires unanimous consent of all the participating parties to an agreement of settlement; and to read such a contention into the statute in view of the countless state agencies, municipalities, and consumers who may be interested in an administrative proceeding would effectually destroy the settlement provision. In Re: Iowa Electric Light and Power Co., 46 P.U.R.4th 130, 146 (1982), citing Cities of Lexington, Ky. v. Federal Power Comm'n, 295 F.2d 109, 121 (4th Cir. 1961).
>
> The Board's rules (199 IAC 7.18) expressly provide for consideration of non-unanimous settlements and nothing in the administrative procedure act (Iowa Code chapter 17A) prohibits non-unanimous settlements from being considered by the agency.

"Order on Rehearing," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. RPU-2013-0004 at 4 (issued July 10, 2014) ("Rate Case Order").

and more revenue sharing (despite the Board approving numerous prior proposals with no Consumer Protection Plan or revenue sharing at all). Yet the Board did not afford the proposed Settlement the same favorable treatment it has traditionally given to settlements. Instead, the Board rejected the Settlement altogether and inserted its own ratemaking principles, many of which were never presented to the parties. In doing so, it appears the Board lost sight of its own admonition that "[t]he fact that a different result might have been reached had the settlement not been proposed does not mean that the settlement is not supported by the record and in compliance with applicable law."[12]

B. The Board's Ratemaking Principles are Contrary to Law and Precedent and Detrimental to Customers.

The legal errors that pervade the Board's articulation of the conditions precedent to advance ratemaking and its approach to need and consideration of alternatives cascade to the critical legal error, which is rejection of the Settlement in favor of principles that cannot be reconciled with the law, precedent, or the record, and that as a package are detrimental to the customers and the public interest.

Iowa Jurisdictional Allocation

This starts with the Iowa Jurisdictional Allocation, which as presented in the Settlement allocated 99% of the Project to Iowa (and 1% to South Dakota). Surprisingly, the Board modified this principle even though (a) as the Board concedes, it is consistent with, if not identical to the jurisdictional allocation principle the Board approved for every single MidAmerican advance ratemaking asset before Wind PRIME (not just Wind I-XII, but also Water Scott 4 and Greater Des Moines Energy Center – a total of 14 separate projects that span the period 2001 to 2018), and (b) *no party contested the proposed Settlement principle*.

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[12] *Id*. at 5 (quoting an answer filed by the OCA in that docket on April 21, 2014).

The Board asserts that there have been significant changes since the jurisdictional allocation was *first* adopted in 2005, but the Order makes no effort to explain what has changed since *the same jurisdictional allocation was approved in Wind XII*, as recently as December 2018. The short answer is that nothing relevant has changed. The Board cites the creation of MISO markets (which began in 2005) and the use by MISO of Local Resource Zones (which were adopted in a 2012 tariff), but even using the later of those dates, the Board has since approved Wind VIII, IX, X, XI and XII with the same jurisdictional allocation. Consider this statement, which originated in Wind VII and was repeated in Wind VIII, IX and X:

> A portion of Wind VII will be allocated to Iowa in the same manner as prior MidAmerican wind projects that received advance ratemaking principles. This principle is consistent with prior cases, and allocates to Iowa customers most of Wind VII's costs and benefits because Wind VII was in response to Iowa legislation that promoted the expansion of rate-regulated utility-owned generation in Iowa.[13]

MidAmerican witness Specketer's explanation of jurisdictional allocation was entirely consistent with this precedent:

> This is the same ratemaking principle proposed and approved in Wind XI and Wind XII. MidAmerican again proposes this allocation because Wind PRIME is being built in response to Iowa energy policy, and Iowa customers should receive the appropriate benefits of Iowa's forward-looking energy policy. Iowa energy policy, as stated in Iowa Code §476.53, encourages utilities to make new generation investments (including renewable generation investments) in Iowa. Further, regulatory circumstances are much different in Illinois where MidAmerican also provides retail electric service (equal to roughly 10% of total retail electric load). By law, Illinois promotes retail electric competition. Incumbent providers such as MidAmerican are required to provide bundled electric service to customers who do not choose to be served by alternative retail electric service providers. Illinois also

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[13] "Final Decision and Order," *In re: MidAmerican Energy Co.,* Iowa Utils. Bd. Docket No. RPU-2009-0003, at p. 69 (issued Dec. 14, 2009) ("Wind VII"); *see also* "Order Approving Settlement and Requiring Reports," *In re: MidAmerican Energy Co.*, Iowa Utils. Bd. Docket No. RPU-2013-0003 at p. 10 (issued Aug. 9, 2013) ("Wind VIII"); "Order Approving Settlement with Modifications," *In re: MidAmerican Energy Co.*, Iowa Utils. Bd. Docket No. RPU-2014-0002 at p. 9 (issued Jan. 20, 2015) ("Wind IX"); "Order Approving Settlement with Modification and Requiring Reports," *In re: MidAmerican Energy Co.*, Iowa Utils. Bd. Docket No. RPU-2015-0002 at p. 9 (issued Aug. 21, 2015) ("Wind X").

> established the Illinois Power Agency, which is empowered to procure electric supply on behalf of incumbent providers. MidAmerican also has a small South Dakota electric service territory accounting for less than 1% of MidAmerican's total retail electric load. Like Iowa, South Dakota does not provide for competitive retail electric service, but receives an allocation of less than 1% of all MidAmerican's generation investment and costs.

Specketer Direct Testimony at 4. What the Order overlooks, and what remains true, is that because of these policy differences, MidAmerican's Illinois customers do not receive the *benefits* of Iowa renewable generation – with the exception of the small allocation to South Dakota, *Iowa customers* reap those benefits. The incidental benefit to Illinois customers from adding renewable energy to MISO's LRZ3 is no different than the incidental benefit to any other energy users in any state or service territory in MISO's LRZ3, who could not plausibly be allocated costs for Wind PRIME.

Imposing this principle will do nothing to shift costs to Illinois customers, but it *will* proportionally *decrease* (by approximately 8%) the benefits Iowa customers will receive from the project, whether arising from allocation of federal production tax credits; renewable energy credits; retail energy benefits; or access to clean, no-cost fuel. The Order's position on jurisdictional allocation upends 20 years of settled precedent entirely on the Board's own motion, and on reasoning that does not hold up, is not supported by the record, and is inconsistent with the Board's advance ratemaking rules. *See* Iowa Admin. Code r. 199—41.3(5)(c) (proposed jurisdictional allocations "shall be supported by jurisdictional allocation studies *or recent board-ordered or -approved allocations for the applicant*.") (emphasis added).

Cost Cap

Similarly, the reduction of the Cost Cap proposed in the Settlement cannot be reconciled with the Board's prior orders or the record in this case. Again, the substance of the Cost Cap proposed in the Settlement is identical to that in prior orders, including Wind XI and XII orders. And while the Tech Customers sought a "hard" cap, they did not ask for the cap figure to be

reduced (nor did any other party). Rather, as with the Jurisdictional Allocation, the Board acted on its own rather than ruling on the positions of the parties and reduced the amount of the cost cap by an arbitrary amount (which appears to be 10%, although notably the Order never makes that clear). This is particularly odd, given that the Board expressed surprise that MidAmerican did not ask to *increase* the cost cap in response to inflationary pressures. *See* Order at 90 ("It is remarkable that MidAmerican felt no need to adjust the proposed Cost Cap despite suddenly increased inflation and projected price pressures resulting from the IRA"). The Board made an inexplicable leap of logic when, with no evidentiary support whatsoever, the Board speculated that if MidAmerican did not respond to inflation by requesting a *higher* cap, it must have too much cushion for contingencies in its cap, and therefore – despite upward pressure on costs – *reduced* the cost cap. (This logic is also at odds with the contemporaneous IPL advance ratemaking order, where the Board rejected IPL's proposed *increase* in its cost cap to meet inflationary pressure and returned the cost cap to the level proposed in IPL's original application.[14] Between the two orders, the Board has adopted a "darned if you do, darned if you don't" position for utilities attempting to advance renewable generation projects under the IRA.)

MidAmerican has been persistent in its efforts to maintain the cost cap in the face of inflationary pressures, which adds risk for MidAmerican. Punishing MidAmerican's good faith persistence with an arbitrary 10% reduction only enhances inflationary pressure and heightens the prospect of a rate case sooner, which is a detriment to customers. The Order's position on the Cost Cap is speculative and is not supported by the record.

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[14] IPL Order at pp. 24-25.

Return on Equity

The Board made yet another abrupt departure from longstanding precedent when it rejected the return on equity proposed in the Settlement and set an initial ROE of 9.5% that will fluctuate in future rate cases, in the process rejecting traditional adders that were intended to incentivize investment in renewables over non-renewable generation and ignoring the legislative mandate that principles granted will apply for the life of the asset.

The significance of this departure is evident from the table on page 83 of MidAmerican's Post-Hearing Brief.[15] As that table shows, the Board issued a fixed ROE in 19 consecutive advance ratemaking principle dockets from 2001 to 2018, with 13 higher than the 11% proposed in the Settlement and five equal to the 11% proposed in the Settlement, including the last four wind portfolios – MidAmerican's Wind XI and XII and IPL's New Wind 1 and New Wind 2. (Over the entire span, the minimum was 10.1% (for an IPL coal plant), the maximum was 12.23%, the median was 11.54% and the mean was 11.5%.)[16]

The Order attempts to justify this radical departure from past practice regarding the level of ROE by (1) asserting that projects approved for advance ratemaking are less risky than projects that follow the "ordinary course and receive approval for cost recovery in a general rate case," and (2) by asserting that the IRA represents such a significant "change in the market" that renewables no longer present risk that justifies any premium or incentive. Board Order at pp. 73-74. Coupled with the first assertion is the entirely new position that "a risk premium for advance ratemaking is

[15] Originally presented in by IPL in its most recent advance ratemaking principles case. *See* "Post-Hearing Brief of Interstate Power and Light Company," *In re: Interstate Power and Light Company.,* Iowa Utils. Bd. Docket No. RPU-2021-0003, p. 51 (filed Sept. 28, 2022).

[16] As the Settlement proposed, a lower ROE has been traditionally assigned to allowance for funds used during construction (AFUDC) because "AFUDC costs are incurred under current market conditions" and not a 30 or 40-year life of a renewable project. *See, e.g., In re: MidAmerican Energy Co., Iowa Utils. Bd*. Docket No. RPU-2018-0003 ("Wind XII"), p. 2021 (Dec. 4, 2018) (Wind XII").

not necessary as an additional incentive unless the project relates to new or untried technologies such as modular nuclear generation." *Id*. at 73.

Taking these assertions in reverse order, the entire Order is affected by the Board's view that the Inflation Reduction Act changed everything, and one way everything changed was a substantial reduction in risk of tax credits going away. Although the IRA was certainly welcome and provides an incentive for additional investment in renewable energy, it is more accurately seen as an incremental change. The level and duration of production tax credits for wind and investment tax credits for solar have changed many times since those programs were introduced. While they often have had short extensions, they have in total been extended many times over a long expanse of time. That this extension is longer, and that solar is now eligible for either investment tax credits or production tax credits are beneficial, but nonetheless the tax incentive program is of the same general nature, particularly for wind, as has been the case since 1992, which is when the credits for wind were first introduced. Moreover, extension of the tax credits does not mean that investment in renewables is suddenly without risk. Even now, the supply chains, as just one example, are not as mature as for thermal plants, and there remain political risks of policy changes at the state and federal level. (In fact, this risk is playing out right now. Even as the Board was issuing this Order and IPL's Order, some are advocating to repeal the production tax credits established in the IRA.[17])

Perhaps most important, however, is that the ROE adder for renewables has never been just about risk. Rather, it has been an incentive to encourage generation decisions to favor renewable over non-renewable fuels consistent with express legislative policy. As the Board explained in its *Wind VII* Order,

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[17] *See* https://www.politico.com/news/2023/04/20/house-gop-debt-limit-plan-inflation-reduction-act-00092891 (last viewed May 11, 2023)).

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> In reviewing the 12.2 percent return included in the Settlement, it appears to reflect at least three factors: the actual cost of capital, *an incentive component for renewable energy*, and a component to reflect the unusual time lag in this case between the time the investments will be made and the time they will be included in MidAmerican's Iowa retail rates.
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> * * *
>
> It is important to note that the 10.1 percent ROE determined by the Board for [IPL's Sutherland coal plant] *did not include any incentive for renewable energy, unlike ROEs agreed to in prior settlements for wind facilities*.
>
> * * *
>
> [I]t is important to remember that . . . most involve wind facilities that provide some externality benefits, such as no carbon emissions.

Wind VII at 81-82 (emphasis added). The Board has also consistently expressed this in other dockets:

> The 11.7 percent return on equity agreed to by the parties appears to be within the zone of reasonableness given the risks associated with new generation, the current 12-month yield on A-rated utility bonds, *the intent of § 476.53*, and the fact that this will prevail for the regulated life of Wind VI.

Wind VI at 10 (emphasis added).[18]

> Both parties agreed that the cost of equity should be higher than current capital costs because the ratemaking principle fixes Wind X's [11.35%] ROE for the 30-year life of the facilities. Also *both agreed that the legislative intent embodied in Iowa Code § 476.53 and prior Board decisions* justify a return above current market conditions.

Wind X at 12 (emphasis added) (reciting the basis for finding the ROE proposed in a settlement between MidAmerican and OCA was reasonable).[19]

The Order adopts the policy position that it is no longer necessary to approve principles that incentivize wind and solar generation. But that position fails to recognize what the Board

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[18] The Board used identical language in Wind III (11.9%) and Wind V at 9-10 (11.7%) *See* "Order Approving Settlement and Agreement," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-05-04 at 14 (issued April 18, 2006); "Order Approving Settlement and Agreement," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-08-02 at 9-10 (issued June 16, 2008)

[19] The Board used identical language in Wind VIII (11.625%) and Wind IX at 12 (11.5%). *See* Wind VIII at 12; Wind IX at 12.

consistently recognized across prior dockets, which is that the policy decision to incentivize renewable generation is the Iowa legislature's, not the Board's. The legislature has not expressed any change in that policy, either through section 476.53 or section 476.53A, even though it could have in this last session after the IRA became law. It is not the Board's place to make that change for the legislature.

The other justification for revising the ROE was that the Board will now revisit the ROE (and, it appears, several other terms and conditions of the ratemaking principles) in future rate cases. *See* Order at 92 ("There is no statutory requirement that the ROE for assets in an advance ratemaking proceeding must be established for the entire life of the assets, although that has been past practice."). This defeats the purpose of the advance ratemaking principles statute, which was to provide certainty for investors as a way for obtaining additional investment in new generation in Iowa. The Board's position is also contrary to the plain language of Iowa's advance ratemaking statute. Iowa Code section 476.53(3)(g) states, "Notwithstanding any provision of this chapter to the contrary, the ratemaking principles established by the order . . . *shall be binding* with regard to the specific electric power generating facility in any subsequent rate proceeding." (emphasis added). The Board recognized this in *Greater Des Moines Energy Center*, RPU-01-09, where the Board observed that section 476.53 encourages utility-built generation in Iowa "'by making the principles approved by the Board 'binding with respect to the specific electric power generating facility in any subsequent rate proceeding.' Iowa Code § 476.53(3)(g)."[20] The ROE for the proposed facilities is a principle that is critical to fulfilling the purpose of the statute; the Board has included an ROE principle in every set of ratemaking principles issued until April 27, 2023, and included an ROE as one of only three proposed ratemaking principles specifically "envisioned

[20] "Order," *In re: MidAmerican Energy Co.*, Iowa Utils. Bd. Docket No. RPU-01-9 (issued May 29, 2002).

by [the Board's advance ratemaking] rules . . . ." *See* 199 IAC § 41.3(5) (the others being depreciable life and jurisdictional allocation). The Board's new approach of establishing ratemaking principles that are expressly subject to re-litigation in the next rate case is contrary to the express language of the statute and defeats its purpose, as the Board's own precedent recognizes.

The Board's ROE principle is contrary to precedent, contrary to the statute, and not supported by the record; it results in an ROE that is lower than the ROE awarded in MidAmerican's last electric rate case for non-advance ratemaking assets (10%) and appears to have been considered in isolation, without considering it as part of the Settlement and the guarantees the Settlement provides, and without considering the mitigating effect of depreciation before the next rate case.[21] By comparison, the ROE principle stated in the Settlement is consistent with precedent, consistent with the statute, and (contrary to the Order) adequately supported by the record – the compromise figure of 11.0% is within the range of testimony and lower than the 11.25% figure supported by MidAmerican Witness Bulkley, whose testimony has not been rebutted since the filing of her rebuttal testimony defending that figure.

[21] As a point of comparison, the Board has been clear that it is not useful or equitable to view the ROE in isolation, and that guaranteed benefits, like those included in the Iowa Retail Energy Benefits principle included in the settlement, offset downward risk. "Order on Rehearing," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. RPU-2013-0004 at 5, 22 (issued July 10, 2014). Further, when addressing the reasonableness of the proposed return on equity, the Board has taken into consideration the fact that the return awarded is nominal, meaning that the effective return on equity for the investment when the assets are brought into base rates at some future date will be lower than what is awarded, through the effect of both book depreciation and accelerated depreciation between the time the assets are placed service and are brought into base rates. *See, e.g.,* Wind VII at 79 (approving a return of equity of 12.2% and noting, "While the ROE . . . agreed to in the Settlement provides for a 12.2 percent equity return . . . , MidAmerican pointed out that due to accelerated tax depreciation and book depreciation, the effective ROE on this investment will likely be between 9.7 percent and 11.2 percent for the life of Wind VII."). That will certainly be the case here, as the RES imposes what is in effect a two-year freeze before MidAmerican's next rate case, and beyond that MidAmerican projected a substantial delay until its next rate case under the Settlement.

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Rate Mitigation

The Order effectively replaces the proposed Iowa Energy Adjustment Clause and Rate Mitigation and Consumer Protection Plan principles (and potentially the Environmental Benefits, CO_2 Credits and the Like; Federal Production Tax Credit, and Iowa Retail Energy Benefits)[22] with a new Rate Mitigation principle. This presents several legal and factual errors.

First, the Board created this principle from whole cloth. It was never proposed by any party, was not proposed by the Board for parties to discuss, has never been modeled, and is not supported by any evidence in the record. Although the Board may certainly approve, deny, or modify proposed ratemaking principles, it is not at all clear that the Board can simply change the way a utility is regulated by creating its own new regulatory structures and imposing them – in this case, effectively penalizing MidAmerican for availing itself of advance ratemaking procedures. In over 20 years of advance ratemaking principles cases, MidAmerican is aware of no precedent for the Board so completely disrupting the proposed principles and inserting a major principle of its own making entirely different from any proposal offered by any party.

Second, the principle suffers from the same infirmity as the Return on Equity principle proposed in the Order, in that it is another ratemaking principle that is expressly subject to re-litigation (or even cancellation) in the next rate case (and the case after that, and the case after that), contrary to the express language of section 476.53(3)(g) and the overall purpose of section 476.53.

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[22] The Order amends all of these principles to add language that requires they be "accounted for" in the new regulatory account created by the Board's Rate Mitigation Principle. It is not clear whether this means that tax credits and wholesale revenues will continue to flow as they do today, but those amounts will be tracked to determine if Wind PRIME is at no net cost to customers after the life of the project, or whether those cash flows will in fact all change and will be directed into the regulatory account created by the Board's rate mitigation principle to be held for disposition in future rate cases. MidAmerican interprets the Order as requiring the former. If it is the latter, the adverse impact on current customer benefits will be more significant.

Third, the principle is the product of preceding legal errors and unsupported assumptions. This starts at page 35 to 36, where the Order surmises that "[t]he fact that the Wind PRIME project is proposed for advance ratemaking principles indicates that MidAmerican believes there is a non-trivial risk that Wind PRIME may not meet the no net cost projection" because MidAmerican would have "no obvious business reason . . . to propose the project for advance ratemaking principles" if Wind PRIME will truly perform as projected. "Instead, MidAmerican would construct the project through a non-regulated subsidiary or an affiliate and receive 100% of the profits." (Order at 35.) Besides completely misstating the legal relationship between MidAmerican and its affiliates (MidAmerican and its affiliates are legally separate and distinct entities subject to affiliate restrictions applicable to utilities and do not pass projects back and forth; MidAmerican would never receive or benefit from the profits earned by an affiliate), it is both surprising and disappointing that the Board would (a) impliedly encourage rate-regulated utilities to hold the "good" projects for themselves rather than pursue them for the benefit of their customers and (b) misuse the advance ratemaking statute by making a utility's very act of exercising its lawful rights under the statute as a strike against the utility and the project. It is another example of penalizing MidAmerican for availing itself of advance ratemaking procedures and suggests an inappropriate suspicion of the Project that appears to have permeated the Order and the decision to impose the Rate Mitigation principle.

Beyond this, however, the Order carefully avoids recognizing any benefits from Wind PRIME other than the ability to deliver the Project at no net cost to customers, and then posits this new Rate Mitigation principle as the only way the Project can meet the requirements of section 476.53. But this approach only holds up if one ignores precedent and the record. The Order's conclusion that Wind PRIME meets no other needs and offers no other benefits ignores long-held

and consistently applied articulations of price volatility, fuel diversity, zero emission/clean energy, economic and policy, and capacity needs and benefits. (*See* MidAmerican's Post-Hearing Brief at 27-39). It is illogical to assume that a project that offers up to 2,092 MW of clean, no-cost fuel and several hundred megawatts of accredited capacity, and that the State itself has been touting for its economic benefits,[23] offers no benefit beyond good project economics. And the Order's conclusion that customers will not be adequately protected absent the safeguards of the Board's unmodeled Rate Mitigation principle seemingly overlooks or ignores the 15% margin between the Project's projected net benefit and the no net cost threshold; gives no weight to the conservative decision to leave bonus PTCs (which would only improve economics) out of the modeling assumptions; gives no weight to the record regarding existing regulatory mechanisms that protect against future rate increases, which showed that these mechanisms will contribute to a near-zero future rate increase; and perpetuates the invalid assumption that MidAmerican will include "approximately $11 billion in rate base increase [in the Company's next rate case] pursuant to wind dockets VIII-XII and the Wind PRIME docket" (Order at 79), an assumption that again fails to recognize that the value of these assets eligible for inclusion in rate base will continue to decrease each year the Company does not have a rate case, both through annual book depreciation and accelerated depreciation through revenue sharing.[24] It also overlooks or ignores the *guaranteed* rate base reductions – projected at more than $[redacted] million through 2035 – that the Iowa Retail Energy Benefits principle of the Settlement offered but the Order rejected. This is a surprising oversight and a surprising

[23] *See* MidAmerican's Post-Hearing Brief at 37.
[24] MidAmerican witness Specketer Hearing Testimony, Hearing Transcript Vol. 4, at 794, line 15 to 795, line 23; 798, line 11 to 800, line 21. This is again why the ROE approved for a given asset in advance ratemaking is nominal only, and does not reflect the lower effective ROE achieved when the asset is finally placed in rates.

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rejection, given that the Board has previously stated that guaranteed benefits are "perhaps the most important" benefits a settlement may offer.[25]

And this leads to the fourth, and most important point regarding the Board's newly-invented Rate Mitigation Principle – even setting aside all the above, the principle is simply detrimental to customers. The Order diverts revenue sharing associated with Wind PRIME to a regulatory account through the life of the assets, to be held until the Board decides in future rate cases whether and how those amounts will be applied, rather than using Wind PRIME revenue sharing to annually accelerate depreciation on assets with the highest authorized return on equity. This turns a certain benefit to an uncertain benefit; turns a benefit that applies equally to all customers to one that may only apply to some, and exponentially decreases the benefits customers will realize. By not applying those amounts to accelerate depreciation in the year in which they accrue, the principle leaves the threshold for revenue sharing higher in future years, which decreases future revenue sharing and increases future revenue deficiency.[26] Although the Order did not include any analysis of the projected performance of this principle, MidAmerican has done so and compared it against the projected performance of the Settlement. This showed that **imposing the Board's Rate Mitigation Principle in lieu of the Settlement will result in a projected $266 million *less* in rate base reduction through 2035**, with a significant factor in that difference being the rejection of the *guaranteed* rate base reductions the Settlement offers via the Iowa Retail Energy benefits principle, which are projected at $[redacted] million through 2035.[27] *See*

[25] "Order on Rehearing," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. RPU-2013-0004 at 9 (issued July 10, 2014).

[26] The Board recognized the inverse of this relationship in Wind X, where it relied on this observation from the OCA to approve a customer revenue credit that reduced rate base: ". . . [U]nder this approach there will be more earnings available for revenue sharing because rate base will be decreasing, a reduced rate base will mitigate the amount of future rate increases, and reducing rate base produces more intergenerational equity." Wind X at 14.

[27] The Board did not find it "credible that shifting revenues out of revenue sharing pursuant to the Settlement will result in an increase in the amount of rate base reduction, as suggested by Mr. Specketer," (Order at 79) but that

Affidavit of Thomas Specketer, filed with this Application. It is difficult to conclude that the Rate Mitigation principle is reasonable as compared to the Settlement or better serves the public interest than the Settlement.

Iowa Retail Energy Benefits, Consumer Protection Plan, and Iowa Energy Adjustment Clause and Rate Mitigation Principles

The Order modified or rejected all of these principles in favor of the Board's new Rate Mitigation principle. These principles are all beneficial to customers and should be retained within the Settlement.

As noted above, the Board (without discussion) modified the Iowa Retail Energy Benefits principle to guide all the retail energy benefits to revenue sharing, which eliminated the portion that applied 50% of the retail energy benefits to accelerate depreciation against the highest earning return on equity asset rate base, *regardless of revenue sharing position*. This is the kind of guaranteed benefit the Board has historically favored; rejecting it is detrimental to customers because it exchanges guaranteed benefits for contingent benefits and (as discussed above) decreases rate base reduction by a projected $266 million. There is no record, legal, or public interest obstacle to approving this principle as part of the Settlement.

The Order rejected outright the Consumer Protection Plan in favor of the Board's Rate Mitigation principle (*see* Order at 87-88), but there is likewise no obstacle to approving this

statement, which is not supported by any calculation or spreadsheet analysis, clearly fails to grasp the impact of the Settlement's Iowa Retail Energy Benefits principle. The Iowa Retail Energy Benefits principle proposed in the Settlement would apply 50% of the Iowa retail energy benefits from Wind PRIME production to accelerate depreciation against the highest earning return on equity asset rate base, *regardless of revenue sharing position*.

As noted above, the projected value of this benefit through 2035 is $[redacted] million, and it is a key driver for the increased rate base reduction the Settlement offered. As MidAmerican Witness Specketer explained in his Additional Testimony (*see* Specketer Additional Testimony at 5-7 and Confidential Table 2) this principle decreases funds that flow to revenue sharing, but because it applies funds directly to rate base reduction regardless of revenue sharing (which occurs only when financial performance exceeds a defined level), it *increases* rate base reduction. It's quite simply the difference between a *guaranteed* benefit and a *contingent* benefit.

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principle as part of the Settlement – the Board expressly found this principle was reasonable, consistent with the law, and in the public interest. *See id.* at 86.

The order also rejected the Energy Adjustment Clause and Rate Mitigation Principle ("EAC principle") in favor of the Board's Rate Mitigation Principle. *See id*. at 87-88. There, the Board objected to including nuclear PTCs available under the IRA within a series of steps intended to "buy-down" the EAC as needed to reach an annual EAC target of $0.0125/kWh (with any amount not needed going to revenue sharing and rate base reduction), and also objected to using sources (here revenue sharing and EADIT amortization) that are "not relevant to" the assets at issue as supplanting a general rate case. The Board's view of the principle also appears to be clouded by the Board's opinion that it was not "credible" that revenue sharing could be reduced while rate base reduction increased. *See* Order at 76-83. However, section 476.53(3)(b) authorizes the Board to approve non-traditional advance ratemaking principle terms, the Board has authority under 199 IAC § 20.9(2)(c)(10) to address the treatment of nuclear PTCs relevant to the EAC, and the Board (in Wind VII and Wind IX) has included principles that provide EAC relief from funds not directly relevant to the assets at issue (without a cost of service study).[28] Further, the concerns regarding rate base reduction are answered by the guaranteed rate base reduction included in the Settlement's Iowa Retail Energy Benefits clause (discussed above).

Like the Iowa Retail Energy Benefits principle, the EAC principle offers *guaranteed* benefits that customers will not enjoy under the Board's Rate Mitigation Principle – **namely, up to $100 million in EAC relief in 2023**, when it is known to be needed, and a long-term strategy for EAC relief that offers customers more predictability and (as the OCA aptly observed) is

[28] *See* Wind VII at 15, Wind IX at 15.

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specifically structured to align to market forces.[29] The principle provides better benefits to customers, especially within the Settlement as a whole, and there is likewise no record, legal, or public interest obstacle to approving this principle as part of the Settlement.

Revenue Sharing

The Board's rejection of the revenue sharing principle proposed in the Settlement, which only sought to confirm a commitment to the terms and principles that have governed revenue sharing for more than two decades, stands out as another recent and unexpected change of approach that attempts to fix what not only isn't broken but which is working well. Revenue Sharing has a long history; a brief review of the basics may be helpful.

i. What is Revenue Sharing?

As MidAmerican explained in its Post-Hearing Reply Brief,[30] revenue sharing (which is neither required by statute or regulation but is instead a product of settlement and agreement) is a unique mechanism by which MidAmerican shares earnings with its customers. Under revenue sharing, MidAmerican annually undertakes a calculation that uses Iowa electric rate base and operating income to derive the Company's actual return on equity ("ROE") for the year. If that calculation shows that the ROE derived exceeds the revenue sharing threshold calculated for the year, then (under the allocation currently in effect) *90 percent of MidAmerican's earnings in excess of that amount is shared with customers*, and only 10 percent is retained by the Company.[31]

[29] "Higher fuel costs and increasing electric demand contribute to higher electric market prices, wholesale margins, and revenue sharing. The Iowa EAC and Rate Mitigation Principle recognizes this relationship and provides an opportunity for EAC relief to Iowa electric customers when they face higher EAC rates due to increasing fuel costs." *See* "Office of Consumer Advocate Post-Hearing Brief," *In re: MidAmerican Energy Co.*, Iowa Utils. Bd. Docket No. RPU-2022-0001 at 18 (filed Mar. 27, 2023).

[30] "Post-Hearing Reply Brief of MidAmerican Energy Company," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-2022-0001, at 19-23 (filed April 3, 2023) ("MidAmerican's Post-Hearing Reply Brief").

[31] MidAmerican witness Specketer Hearing Testimony, Hearing Transcript Vol. 4, at 763, lines 9-21.

ii. What is the revenue sharing calculation based on?

Under terms approved by the Board, the calculation is based on MidAmerican's annual IE-1 report to the Board, which is a verifiable reflection of MidAmerican's Iowa regulated electric operations. The content of the IE-1 is consistent with the Federal Energy Regulatory Commission ("FERC") chart of accounts and reflects actual costs from an operating income and rate base perspective.[32] It reflects all the costs and revenues MidAmerican incurs or receives to serve the Company's Iowa electric operations, including generation, transmission, and distribution investments and myriad other capital and operations and maintenance expenditures, regardless of whether they have been approved in a rate case or advanced ratemaking proceeding, and regardless of whether they have been included in base rates.[33] This is consistent with the terms of a Settlement Agreement the Board approved in Docket No. RPU-03-1, which stated that the intent of the methodology for the revenue sharing calculation is to "keep the calculation as simple as possible, making it verifiable to MidAmerican's 1E-1 filing, and avoiding the voluminous amount of detail required for a traditional rate filing, while arriving at a calculation that is reasonable and acceptable to all parties."[34] This methodology has not changed since its original articulation.[35]

iii. How is the revenue sharing threshold calculated?

The threshold calculation has evolved with each case. In the past, there was no calculation to determine the revenue sharing threshold, it was just set at a specified percentage. In MidAmerican's last electric rate case, RPU-2013-004, the final order specified that customers

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[32] *Id.* at p. 745, lines 2—25; p. 746, lines 5-13.
[33] *Id.* at p. 746, lines 5-13; pp. 756-757, lines 23-5; pp. 786, line 14 to 787, line 16. As Mr. Specketer noted, there are "50 different things" the Company spends money on every day, month and year that result in additional capital and O&M expenditures, ranging from transmission improvements, substations, and distribution changes to trucks, cars and computer software. *Id*. at p. 787, lines 3-16.
[34] *See* Attachment B to MidAmerican's Post-Hearing Brief, at 1.
[35] *See* Wind XII, Attachment A at 6 (setting forth the approved principles approved Rate Mitigation principle, which states the "methodology used to calculate revenue sharing shall be as approved by the Board in Docket No. RPU-03-01").

would receive 80% of Iowa jurisdictional revenues above an ROE of 11% and 100% of Iowa jurisdictional revenues above an ROE of 14%.[36] In Wind XI, the Board approved a Rate Mitigation principle that modified the threshold by setting the threshold at the weighted average cost of common equity or 11%, whichever is less, with the weighted average cost of equity calculated annually based on the ROE approved by the Board for assets approved in an advance ratemaking principles case, and for all other rate base assets based on 30-year single-A utility bonds as of June 30th of each year plus 400 basis points, but no lower than 9.5%.[37] As an example, the following shows MidAmerican's calculation of the revenue sharing threshold for 2022, which was calculated at 10.291%:

[36] "Order Approving Settlement, With Modifications, and Requiring Additional Information," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. RPU-2013-0004 at 1 (issued March 17, 2014).
[37] "Order Approving Settlement with Reporting Requirements," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-2016-0001 at Attachment, unnumbered page 2-3 (issued August 26, 2016) (setting forth the Rate Mitigation principle) ("Wind XI").

Threshold ROE

		Average Rate Base	Weight	ROE	Weighted Average
1	Wind I	$ 28,697	0.205%	12.200%	0.025%
2	Wind II	6,189	0.044%	12.200%	0.005%
3	Wind III	66,562	0.476%	11.900%	0.057%
4	Wind IV	219,318	1.568%	11.700%	0.183%
5	Wind V	49,678	0.355%	11.700%	0.042%
6	Wind VI	24,077	0.172%	11.700%	0.020%
7	Wind VII	734,323	5.251%	12.200%	0.641%
8	Wind VIII	908,443	6.496%	11.625%	0.755%
9	Wind IX	121,527	0.869%	11.500%	0.100%
10	Wind X	490,680	3.509%	11.350%	0.398%
11	Wind XI	2,393,958	17.119%	11.000%	1.883%
12	Wind XII	738,203	5.279%	11.000%	0.581%
13	GDMEC	66,911	0.478%	12.230%	0.059%
14	WSEC-4	78,644	0.562%	12.290%	0.069%
15	All other	8,056,705	57.614%	9.500%	5.473%
16	Total	$ 13,983,915	100.000%		10.291%

ROE for Non-Ratemaking Principle Rate Base

1	Moody's Yield on 30-year A-rated utility bond	4.804%
2	Plus 400 basis points	4.000%
3	Total	8.804%
4	Greater of 9.500% or line 3	9.500%

Figure 1 – 2022 Revenue Sharing Threshold Calculation (Source: "Revenue Sharing Filing, IA Revenue Sharing PDF," Iowa Utils. Bd. Docket No. RPU-2013-0004 (filed February 9, 2023).) All dollar figures are $000's.

As the Board itself has noted, the revenue sharing threshold, whether pre-determined or set annually by a calculation, "*is not a state-authorized return on equity in the traditional sense but merely a trigger for [the] revenue sharing mechanism.*"[38]

iv. What is the purpose of revenue sharing?

The purpose of revenue sharing is to incentivize MidAmerican to efficiently manage the Company's business, while at the same time protecting customers against unacceptably high earnings and making sure that customers share in the benefits whenever the Company does well, without having to initiate repeated, expensive and lengthy rate cases.[39]

[38] "Order Denying Reconsideration and Affirming June 4, 2021 Order," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. TF-2020-0273 at 8-9 (issued July 26, 2021) (quoting Docket Nos. RPU-01-3 and RPU-01-5, "Order Approving Settlement with Modifications" 2001 WL 1711521 (Iowa U.B. December 21, 2001), at 12) (emphasis added).
[39] MidAmerican witness Specketer Hearing Testimony, Hearing Transcript Vol. 4, at p. 698, lines 10-23; MidAmerican witness Specketer Direct Testimony, at p. 14, lines 9-19.

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v. How does revenue sharing benefit customers?

Through settlements and agreements, the way revenue sharing has benefited customers has changed over the years, both in level and manner of return. On the level side, it has ranged from sharing 50% of the earnings above the threshold to a staggered sharing of 50% for revenues over a threshold of 12% and 88.33% over threshold of 14%,[40] to the 80%/100% stagger established in MidAmerican's last electric rate case, and again to the current level of 90% over the weighted average cost of capital as described above. On the manner side, it started with direct returns to customers via bill credits or refunds, moved to an offset of AFUDC (allowance for funds used during construction) on specific generation facilities, and (through MidAmerican's last rate case) settled to what it is today: accelerated depreciation of highest ROE assets, which reduces rate base, reduces future revenue deficiencies, and mitigates future rate increases.[41] Since the inception of revenue sharing, MidAmerican's rates have remained low and stable even as load has grown and the Company and state have become renewable energy leaders. Remarkably, MidAmerican has had only one electric base rate increase in the 27 years that have passed since then (in 2013). At the same time revenue sharing has returned over $870 million to customers in the form of rate base reductions and resulted in the full depreciation of Walter Scott Energy Center Unit No. 4 and Greater Des Moines Energy Center in less than 20 years.

vi. So, what is wrong with revenue sharing?

Revenue sharing is performing exactly as it was intended to perform. However, the Board has taken the position "that *assets* that have not been approved in either a general rate case or an advance ratemaking case may not be included in revenue sharing." Order at 85 (emphasis added).

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[40] *See generally* Brent E. Gale, "Iowa Alternative Electric Utility Regulation for MidAmerican Energy Company 1997 to 2013 – A Case Study in Why it Developed, Why it Worked & Why You Should be Interested," at 32-45 (Sept. 2017) https://stratagconsulting.com/publication-1/.These are examples and not all of the iterations that were employed over the years.

[41] *See id.*; *see also* Wind XII, Attachment A, at 4-5.

This is a limitation that has never appeared in any settlement, agreement, or principle regarding revenue sharing and was not proposed by any party in this proceeding.

As noted in the Order, this issue first took root in a 2020 tariff filing (Docket No. TF-2020-0273) that sought to establish a renewable subscription program for certain renewable generation assets (the "RSP assets"), which had been constructed at risk after MidAmerican's last electric rate case, and without an advance ratemaking proceeding. Although the tariff filing was never intended to affect revenue sharing, the Board raised the issue on its own motion and for the first time (in an order issued without hearing and without prejudice that rejected the proposed tariff) took the position that "[r]evenue sharing is intended to allow MidAmerican to increase its rate base and expenses for *normal business operations*; however, constructing generating facilities for specific customers is not part of normal operations."[42] Again, this is a limitation that has never appeared in any settlement, agreement, or principle regarding revenue sharing.

Although there has been much back and forth between MidAmerican and the Board regarding this issue, the Board's position centers on the premise that (a) including assets in revenue sharing that have not been approved by the Board impacts customer rates by affecting the revenue sharing calculation – "[i]nclusion in revenue sharing calculations allows for those facilities to impact customers before those facilities are approved in inclusion in base rates in a general rate case,"[43] and (b) allows MidAmerican to "pay themselves both a recovery on those assets [depreciation] and an ROE on those assets." Order at 85. However, what the Board's position fails to articulate is how this is different than for any asset placed in service outside a general rate case or advance ratemaking proceeding.

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[42] "Order Rejecting Tariff Without Prejudice," *In re: MidAmerican Energy Company*, Iowa Utils Bd. Docket No. TF-2020-0273 at 13-14 (issued June 4, 2021) ("Order Rejecting Tariff").

[43] "Order Denying Reconsideration and Affirming June 4, 2021 Order," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. TF-2020-0273 at 19 (issued July 26, 2021) ("Order Denying Reconsideration").

There is almost no end to the things that can impact customers through revenue sharing, whether favorably or unfavorably. Some of them are within the control of MidAmerican (for instance, staffing levels, compensation packages, decisions to upgrade equipment, efficiency and performance controls) and some are not (for instance, derechos, international pandemics, global gas shortages, unusually high wind production, weather-related customer usage). But as it relates to the acquisition and deployment of assets, there has never been a requirement that MidAmerican seek Board approval for an asset before it is included in rate base for the purpose of revenue sharing. As the Board itself recognizes, the very purpose of revenue sharing is to account for growth in rate base, expenses, and revenues *between* rate cases.[44] Accordingly, for every year MidAmerican has calculated and reported revenue sharing, it has included myriad assets that have been acquired and deployed since the Company's last electric rate case, that are accounted for in the Company's annual IE-1 report, and whose costs and depreciation go into the revenue sharing calculation – everything from transmission improvements, substations, distribution changes, service centers, and training facilities to trucks, cars and computer software. Just as the Board itself articulated (see above), MidAmerican is not earning a "state-authorized return on equity [on those assets] in the traditional sense," as they have not been subject to a prudency review and are not included in base rates. Rather, they merely contribute to calculation of the "trigger for [the] revenue sharing mechanism."[45]

If the intent of the Order is to encompass all "assets" that have never been approved by the Board in some fashion, it arbitrarily and capriciously overreaches by calling into question every single asset added to rate base since 2013, and completely upends the long-established purpose and methodology for calculating revenue sharing. And if the intent is to instead encompass only

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[44] Order Rejecting Tariff, at 12.
[45] Order Denying Reconsideration at 8-9.

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generation assets that have never been approved by the Board, then it arbitrarily and capriciously draws a line that has no basis in logic; has no basis in any settlement, agreement, or principle entered or accepted by MidAmerican; and has no basis in law. The Board has never pointed to or articulated any language in any settlement, agreement, principle or order (other than the tariff order discussed above) that draws such a line. To the contrary, both Wind XI and Wind XII articulated rate mitigation principles that modified the revenue sharing calculation in specific detail, but neither drew such a line – both (again) simply affirm that "[t]he methodology used to calculate revenue sharing will be as approved by the Board in Docket No. RPU-03-01."[46]

The Board's reasoning is a circular and conclusory "implied agreement" argument – essentially, because MidAmerican filed for approval of advance ratemaking principles before expanding certain facilities that were already approved and included in revenue sharing, historically "MidAmerican has intended to follow the [unwritten] legal requirement of seeking Board approval of generating facilities before including them in the revenue sharing calculation . . . ."[47] This is an extremely thin basis for articulating a major condition for revenue sharing when the details have been carefully negotiated and articulated over time, and it is fair to question whether MidAmerican would have agreed to a 90/10 split of revenue sharing, or even accepted the principles proposed in 2018 in Wind XII, if it had been made clear to MidAmerican that the Board would categorically exclude certain assets from revenue sharing just a few years later. Further, it runs counter to the position the Board took in its contemporaneous IPL order, where the Board made clear that whether a utility needs advance ratemaking principles to construct generation facilities remains "a business decision" for the utility.[48] It is entirely inconsistent and arbitrary to

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[46] Wind XI, Attachment, unnumbered page 2-3 (setting forth the Rate Mitigation principle); Wind XII, Attachment A, at 4-5 (setting forth the Rate Mitigation principle).
[47] Order Denying Reconsideration, at 18.
[48] IPL Order at 18.

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acknowledge the construction of generation assets is a utility business decision, but then exclude the decision from "normal" business utility operations without articulating what constitutes normal utility business operations.

vii. Can the Board address revenue sharing in this docket?

The Board can and should address revenue sharing to correct these errors and eliminate the uncertainty that surrounds revenue sharing. The Order takes the position that the "record does not demonstrate why revenue sharing as a whole is uniquely implicated by Wind PRIME to justify using an advance ratemaking proceeding to revisit the applicability of a rate doctrine created in a general rate case and applicable to assets greater than those included in the advance ratemaking application." But that is exactly what the Rate Mitigation principles approved in Wind XI and Wind XII did – they articulated changes to revenue sharing that applied not just to those assets but to all assets reflected in the Company's IE-1 report.

Beyond that, however, understanding the future treatment of revenue sharing is critical to MidAmerican's decision whether to accept the principles and proceed with the Project – it affects the treatment of costs above the cost cap, the treatment of repowering and repowered assets (which, under the Depreciation Principle proposed by the Board, suffers from the same infirmities as the Board's treatment of revenue sharing), and on the whole affects the risks the Company is willing to bear and the benefits it is willing to extend and share.

By asserting this principle, MidAmerican is not attempting to put customers at a disadvantage (or even change revenue sharing), it is only attempting to maintain the balance that has long existed. The incentive remains for MidAmerican to perform effectively and well for the benefit of the Company and customers, and the original terms of revenue sharing allow parties to dispute unreasonable or unrepresentative results and to submit disputes that cannot be resolved to the Board for final decision and order under the Iowa Administrative Procedure Act. (*See*

Appendix 3 of the Settlement Agreement approved by the Board in Docket No. RPU-2013-0004, included as Attachment B to MidAmerican's Post-Hearing Brief.) Further, the mere fact that a particular asset was not approved by the Board does not mean that it acts to the detriment of customers. The inclusion of assets in revenue sharing carries with it the benefits of those assets, and to that point, if the Board implements revenue sharing as MidAmerican has advocated, **revenue sharing and rate base reduction will *increase* by over $10 million during the three-year period from 2020 to 2023, and MidAmerican's customers will enjoy an *increase* in the renewable energy certificates retired on their behalf and an *increase* in GreenAdvantage® percentage they may claim, from 92% to 100% for 2022.**[49] But revenue sharing should accurately reflect MidAmerican's performance and should not become an annual prudency review and constraint on the Company's business that has never been authorized.

SUMMARY AND CONCLUSION

Iowa's advance ratemaking statute has been an extraordinary success, creating the investment it sought with long-term benefits to the Iowa economy, environment, and customers, including the 8th lowest retail electricity rates in the nation. The Board's Wind PRIME Order is an outlier after more than 20 years of stability and regulatory predictability that risks the loss of hundreds of million in immediate and long-term customer benefits – and risks ending the long era of economic success in Iowa's energy sector facilitated by consistent, effective use of advance ratemaking principles.

[49] *See* "MidAmerican Energy Company 2022 Revenue Sharing and Weighted Average Cost of Capital Compliance Filing," *In re: MidAmerican Energy Company*, Iowa Utils. Bd. Docket No. RPU-2013-0004 (filed February 9, 2023); "MidAmerican 2022 Annual Fuel Report," Iowa Utils Bd. Docket No. IAC-2023-1517 (filed April 3, 2023).

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The Board should continue Iowa's success story by reconsidering the Order and adopting the well-balanced Settlement agreed to by MidAmerican, OCA, and IBEC. MidAmerican respectfully requests that the Board grant its Application for reconsideration or rehearing.

Respectfully submitted,

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