

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

MidAmerican Energy Company)	
)	Docket No. 03-0496
Verified Petition for Declaratory Ruling,)	
Or, in the Alternative, Application for)	
Approval of Affiliated Interest Contract)	

Reply Brief of MidAmerican Energy Company

NOW COMES MidAmerican Energy Company (“MidAmerican”) and hereby submits its Reply Brief in response to the Initial Brief filed by the Staff of the Illinois Commerce Commission (“Staff”) in this proceeding on September 2, 2005.

RESPONSE TO STATEMENT OF FACTS

The Staff Initial Brief inaccurately characterizes the scope of House File 577, the recent Iowa legislation to which MidAmerican responded by constructing electric facilities in Iowa. *Laws of the 2001 Regular Session of the Seventy-ninth General Assembly of the State of Iowa, Chapter 4 (2001 Extraordinary Session)*. Staff’s Initial Brief describes only one aspect of the new electric generation policy in Footnote 1 stating:

HF 577 allows Iowa utilities to learn the allowed rate of return for investments in new utility-owned generation prior to the start of construction. Prior to HF 577, a utility in Iowa that built a generating facility would learn the return it would be allowed for its investment during rate proceedings after plant completion.

While H.F. 577 does indeed permit a utility to reduce regulatory risk by seeking a determination of ratemaking principles in advance of construction (which **may** include the allowed return on equity investment), that is only one element of the new state policy

favoring Iowa-based electric generation.¹ Elements of the new state generation policy adopted in H.F. 577 that are just as, if not more, significant include (1) providing an explicit preference in state policy for construction of generation in Iowa that excludes power purchases and out-of-state resources; and (2) replacing the “least cost” standard for generation siting with a “reasonable cost” standard.²

It is important for the Commission to recognize the circumstances in which MidAmerican found itself early in the present decade. MidAmerican needed about 1,000 MW of additional generation or power purchases (or some combination of both) to meet its load and reserve requirements in the three states that it serves by the middle of the decade. [MEC Exh. 5.1]. In June 2001, the Iowa General Assembly met in an extraordinary session. Only five pieces of legislation were enacted in that session. All were related to the operation of state government (redistricting, income tax, unemployment insurance and appropriations were the other types of matters at issue) except for H.F. 577. *Laws of the 2001 Regular Session of the Seventy-ninth General Assembly of the State of Iowa (2001 Extraordinary Session)*. The passage of the new law provided strong policy directives favoring in-state, utility-owned generation. There was only one prudent and reasonable course for MidAmerican to take, and that was to

¹ The State of Illinois has no comparable state policy favoring construction of Illinois-based generation.

² After passage of H.F. 577, *Iowa Code* §476.53(1) (2005) provides that “It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state” and *Iowa Code* §476A.6(1) (2005) provides that the Iowa Utilities Board shall approve applications for electric power generating facilities if “the services and operations resulting from the construction of the facility are consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state...and will not be detrimental to the provision of adequate and reliable electric service.” In addition, the other criteria of *Iowa Code* § 476A.6 require applicants to be capable of constructing and operating the facility and the facility must be consistent with reasonable land use and environmental policies.

construct generation in Iowa. The options that Staff suggests MidAmerican should have explored, such as extension of purchase power contracts for the output of plants located in Illinois or Nebraska or third-party construction of generation close to the Des Moines load center, would not have been consistent with the Iowa electric generation policy enunciated in H.F. 577, nor were they the best options for providing reliable service to MidAmerican's customers. [MEC Exh. 1.1 at pp. 2-3].

Staff takes the position that the Commission should not consent to the assignment of the contract for two Siemens-Westinghouse turbine generators from MidAmerican Energy Holdings Company to MidAmerican ("Turbine Assignment") because MidAmerican did not follow what Staff contends are the "requirements" of Illinois law. But, Staff does not point to any such requirement of Illinois law, either in its testimony or its Initial Brief. This is important because, although Illinois has no state preference or requirement for in-state generation, Iowa does – and Staff fails to recognize that preference and accord it appropriate comity. If the Commission is to provide fair and equitable regulation of multi-state utilities, it must recognize and reconcile the potentially competing obligations of all states served by such utilities. Failure to do so effectively denies utilities a reasonable opportunity to operate in interstate commerce and should be rejected by the Commission. Further, taking a rigid approach does not allow Commission to make a fair assessment of whether the actions the utility **did** take (as opposed to the process it did not adopt) are in the public interest.

ARGUMENT

I. All standards for review of the Turbine Assignment demonstrate that it was entered into in the public interest

The evidentiary record in this case now irrefutably supports MidAmerican's initial position that Commission consent to the Turbine Assignment was not required under 83 Ill. Admin. Code §310.60 as a transaction entered into in the ordinary course of business at a standard or prevailing market price. However, if the Commission should determine not to exempt the Turbine Assignment, the evidence adduced in this proceeding supports Commission consent in the public interest.

Both Staff and MidAmerican agree that the "public interest" standard of Section 7-101(3) of the Illinois Public Utilities Act, 220 ILCS 5/101, et seq. ("Act") is flexible and subject to more than one interpretation. [Staff Init. Br. at pp.8-9; MEC Init. Br. at pp.10-11]. Despite agreement on the need for flexibility in review, Staff proceeds to evaluate the Turbine Assignment using only one methodology. Staff applies a rigid, three-part test, ignoring the potential multiple interpretations of the "public interest" standard. Staff's inflexible analytical method requires a determination of whether MidAmerican has demonstrated need for the **Iowa** generator under what it claims are the standards of **Illinois** law.

Regardless of whether the Turbine Assignment is analyzed by considering the factors MidAmerican brings to the Commission's attention or by applying Staff's test, the result is the same. The Turbine Assignment was entered into in the public interest and should be consented to pursuant to Section 7-101(3) of the Act.

A. MidAmerican’s evidence supports Commission consent to the Turbine Assignment

In its Initial Brief, MidAmerican presented a number of reasons the Commission should consent to the turbine transfer in the public interest. All or any of these lead to the indisputable conclusion that the Turbine Assignment should be approved in the public interest:

- The turbine was acquired by MidAmerican at or below a market price. [MEC Exhs. 3.0 and 4.0; Staff Exh. 3.0 at 160-164]. That undisputed fact standing alone should be sufficient for Commission consent because customers will be neutral to the impact of the transaction.
- Greater Des Moines Energy Center (“GDMEC”) was needed to meet 2003 demands for capacity of MidAmerican’s customers. [MEC Exh. 5.1]. During the years prior to 2003, MidAmerican customer demand was increasing at the rate of 70 MW per year. [MEC Exh. 1.1; MEC Exh. 5.0 at ll. 112-113]. The Des Moines area had set a record peak in 1999 and was experiencing the strongest growth in MidAmerican’s service area. [MEC Exh. 5.0 at ll. 267-273]. Given that level of demand increase, if hot weather conditions were experienced, or if demand grew more rapidly than historical levels suggested, MidAmerican would have had as little as 6 MW above required minimum capacity reserves, hardly an appropriate margin of error for a utility with a projected 2003 peak load of 4,070 MW. [MEC Exh. 1.1; MEC Exh. 5.1]. If the summer of 2003 was extremely hot, demand would have outstripped capacity and minimum required reserves by 255 MW. [*Id.*].
- The projected capacity for the summer of 2003 assumed that all electric facilities would be fully operational during the contract term. However, that had not been MidAmerican’s experience prior to 2001. The Cooper Nuclear Station (“Cooper”), the source of one of the purchased power contracts set to expire in 2004, had experienced a number of operating problems. [MEC Exh. 1.1; MEC Exh. 5.0 at ll. 135-145]. An unplanned outage at Cooper would have exacerbated a capacity shortage if it occurred at the same time as peak demand.
- GDMEC is located close to MidAmerican’s load center. At the time of the decision to construct GDMEC only a minor amount of generation capacity (all peaking) was located in the Des Moines, Iowa area, MidAmerican’s largest load center. [MEC Exh. 1.1; MEC Exh. 5.0 at l. 272]. In addition, the Des Moines area had set a record peak in 1999 and was experiencing the strongest growth in MidAmerican’s service area. [MEC Exh. 1.1; MEC Exh. 5.0 at ll. 267-273]. The lack of local generation caused MidAmerican to rely heavily on its transmission system to serve the Des Moines area load. [MEC Exh.1.1; MEC Exh. 5.0 at ll.

278-285]. Transmission bottlenecks had led MidAmerican to determine that location of a generation resource close to the load center was required at that point in time. [MEC Exh. 5.0 at ll. 161-167, 245-263].

- The change in Iowa law brought about by H.F. 577 provided a significant incentive for utility-owned generation located in Iowa. [MEC Exh. 1.0 at 111-114].
- The Iowa Utilities Board, applying H.F. 577, approved construction of GDMEC and also determined ratemaking principles that will apply to the unit when it is reflected in regulated retail rates in Iowa. *MidAmerican Energy Company*, Docket No. RPU-01-9, Order (Iowa Utilities Board 2002).

Any one of these reasons supports a determination that the Turbine Assignment was entered into in the public interest. Taken together, they provide a compelling argument that is was.

B. The turbine transfer passes Staff’s rigid three-part public interest test

Staff witness Rockrohr applies a three-part test to determine whether the Turbine Assignment should be approved. Staff’s test has no precedent in Illinois law. Not surprisingly, Staff applies the test and concludes the Turbine Assignment was not entered into in the public interest. However, Staff applies its own test incorrectly. When Staff’s test is reasonably applied it demonstrates that the Turbine Assignment was entered into in the public interest. In this Reply Brief, MidAmerican provides its own application of Staff’s test to the Turbine Assignment. However, MidAmerican’s analysis should not be construed as its acquiescence in the test for GDMEC or for any other generation investment, whether applied to Section 7-101(3), Section 9-211, or any other section of the Act.

1. The Turbine Assignment meets prong one of Staff's test - MidAmerican demonstrated a need for capacity in the summer of 2003

The first prong of Staff's test involves a determination whether GDMEC's capacity was needed by the summer 2003. [Staff Init. Br. at p. 3]. If the unit was not needed until a later time, Staff reasons, it would not have been necessary for MidAmerican to procure a turbine generator during the summer of 2001, and it could have bought a turbine later on the open market. [Staff Exh. 3.0 at ll. 31-134]. Based on two of the three scenarios of MidAmerican's Load and Capability Forecasts and a statement in testimony filed in a regulatory proceeding [Staff Exh. 3.0 at ll. 116-139], Staff witness Rockrohr concludes that MidAmerican had sufficient capacity resources to meet its requirements, including reserves, in the event of hot weather. [Staff Exh. 3.0 at ll. 140-142].

Mr. Rockrohr's conclusion that MidAmerican could have waited is flawed. It ignores (1) the extreme weather forecast for 2003 that showed a large (255 MW) deficit [MEC Exh. 1.1 at p. 2; MEC Exh. 5.0 at ll. 130-134; MEC Exh. 5.11]; (2) the hot weather forecast for 2003 that showed a very slim margin of 6 MW over MAPP-required reserves (which would not have been sufficient to meet MidAmerican's needs in the event of an unforeseen outage of a generator) [MEC Exh. 5.0 at 145-151; MEC Exh. 5.1]; and (3) the lack of precision in reserve requirements between reliability authorities. If MidAmerican utilized the services of Mid-America Interconnected Power Network as its reliability coordinator instead of the Mid-Continent Power Pool, its reserve margin requirements would have been 18 percent instead of 15 percent, turning the 6 MW surplus into a deficit. [MEC Exh. 5.1; MEC Exh. 5.4 at p. 3]. For all these reasons, the strict reliance

of Staff on only situations involving typical weather, if adopted by the Commission, could leave Illinois customers vulnerable to blackouts or brownouts during times of extreme heat.³

The utility executives who were responsible in 2001 to meet MidAmerican's continuing obligations to serve customers had to consider all reasonably possible load scenarios. Normal weather, hot weather and extreme weather are all possibilities for the Midwest summer and were included in the forecast. [MEC Exh. 5.1]. These forecasts, particularly the slim capacity margin for hot weather and the large deficit in the event of extreme weather, could not be ignored and reasonably would have led any utility executive to the conclusion there would be a need for capacity by the summer of 2003.

Staff also cites as corroborating evidence the testimony of MidAmerican's witness Graves in the Iowa proceeding that approved GDMEC as a reasonable generation alternative. [Staff Exh. 3.0 at ll. 135-139]. Staff's argument is circular. Mr. Graves did not prepare an independent forecast. The purpose of his testimony was to:

determine whether MidAmerican Energy Company's ("MidAmerican") election to construct the Greater Des Moines Energy Center ("GDMEC") is a reasonable choice when compared to MidAmerican's alternatives for long-term electric supply.

[MEC Exh. 5.2 at p. 3 of the Direct Testimony of Dr. Joseph S. Graves before the Iowa Utilities Board]. His charge was **not** to assess the timing or need for capacity by MidAmerican. Nor did Dr. Graves offer his opinion on the load and capability study. Dr. Graves used the same load and capability study prepared by O. Dale Stevens that has

³ A utility cannot assume that 100 percent of its generation resources will always be available in times of peak demand. With a fleet of generators, there is always the possibility that force majeure conditions may adversely impact the level of available generation from one or more units. Such a circumstance occurred at MidAmerican's Louisa Generating Station in 1998 and is described at MEC Exh. 5.0 at ll. 145-148. Further, transmission constraints may occur during times of high electric demand. [MEC Exh. 5.0 at ll. 171-179].

been furnished to Staff in this proceeding and which showed a positive capacity position relative to a minimum reserve margin of 6 MW in 2003 and a negative capacity position of 324 MW in 2004.⁴ Dr. Graves' purpose was to analyze whether GDMEC was a reasonable alternative compared with other reasonable alternatives.

In developing his conclusion that MidAmerican did not need capacity in the summer of 2003, Mr. Rockrohr had the luxury of after-the-fact evaluation and no responsibility for the consequences of a decision. When the hot and extreme weather forecasts are combined with the consequences of a potentially significant capacity shortfall (including a generator outage or transmission reliability concerns), it becomes clear that a prudent utility executive could only make one decision in the summer of 2001 and that was to build generation, not to wait another year.

2. The Turbine Assignment meets prong two of Staff's test - GDMEC was the least cost means to meet the needs of MidAmerican customers

Staff frames the second prong of Mr. Rockrohr's test as whether MidAmerican proved GDMEC was "the least cost alternative to obtain additional electric generating capacity." [Staff Init. Br. at 4]. More than just an RFP can be used to meet this prong. Staff describes the ways to achieve this showing as follows:

Staff's position is that an RFP for wholesale purchases would be the most straight forward way for MEC to demonstrate that its proposed capacity additions will be the least cost means to meet the needs of its customers. If an RFP is not conducted, MEC would need to demonstrate through some other method that the capacity additions would be the least cost means to meet the needs of its customers.

⁴ MEC Exh. 5.2, Direct testimony of Joseph S. Graves submitted before the Iowa State Utilities Board in Docket No. RPU-01-9, page 22, lines 5-18.

[Staff Init. Br. at 5]. Staff's stated preference for an RFP inappropriately fails to consider the need for comity for a multistate utility. Other methods of demonstrating need are appropriately considered in response to Staff's test.

a. An alternative to an RFP must be considered because H.F. 577 made RFP results suspect

MidAmerican needed generation to serve load in 2003 and it also needed generation to be located in the Des Moines area, as discussed by Mr. Crist. [MEC Exh. 1.1 at p. 4; MEC Exh. 5.0 at ll.265-277; MEC Exh. 5.1]. A combined-cycle gas unit like GDMEC satisfied both needs. A power purchase might have satisfied the former, but not the latter. Thus, an RFP open to all generating options could not have satisfied MidAmerican's needs.

Moreover the results of an RFP would have been of questionable value. HF 577 provided clear incentives for utility-built generation, and for utility-built generation only. The summer of 2001 was a time of strong demand for electric generation plant [Tr. at 88; MEC Exh. 4.0 at l. 31], and developing a response to an RFP is time-consuming. Clearly, an RFP in the face of the Iowa law did not appear to be a viable option to fulfill customer needs.

b. A comparison of the prices of Interstate's Power Iowa Energy Center and GDMEC demonstrates that a MidAmerican RFP would have resulted in a generating unit with similar cost characteristics

In order to demonstrate that MidAmerican's choice of GDMEC was comparable to the alternative resulting from Interstate RFP, Mr. Crist contrasted the costs of Interstate's proposed Power Iowa Energy Center gas-fired unit with the costs of GDMEC. [MEC Exh. 5.0 at ll. 517-544]. Mr. Crist's comparison

shows very similar costs of the two units. The per kW price difference of the two units is approximately two percent. [MEC Exh. 5.0 at ll. 539-541].

Staff suggests the costs of the two units are not comparable because the Interstate construction included “site specific” costs not reflected in GDMEC. [Staff Exh. 3.0 at 236-249]. Both utilities had valid reasons for selecting their sites. Excluding costs associated with one generator leads Staff down a slippery slope and makes its comparison suspect. Mr. Crist’s analysis of all costs of both units showing a 2 percent difference in per kW price in the one valid comparison that has been presented in this proceeding.

c. MidAmerican’s analysis prepared by Dr. Graves supports the conclusion that GDMEC was its least cost option

Even Staff concurs that an RFP is only one method to be used in the determination of whether a generator was a least cost option to meet needs. If an RFP was not available, Staff indicates that a utility could “demonstrate through **some other method** that the capacity additions would be the least cost means to meet the needs of its customers”. [Emphasis supplied; Staff Init. Br. at 5]. For MidAmerican, this demonstration came in the form of Dr. Graves’ analysis. While Dr. Graves’ charge was to ensure that GDMEC met the new Iowa standards by being a reasonable way to meet capacity needs while fulfilling Iowa’s interests in economic development [MEC Exh. 5.2, Testimony of Joseph Graves at pp. 3-4], the conclusions of his study certainly demonstrate that GDMEC was the least cost option. Dr. Graves considered many alternatives, including a proxy purchased power contract. GDMEC was found to be the superior option for MidAmerican. [MEC Exh. 5.0 at ll. 383-392; MEC Exh. 5.2 at Data Request ENG 2.6, Testimony of Dr. Graves at pp. 8-9, 20-231]. Given the high potential

for unreliable results from an RFP, this analysis fulfills Staff's stated need for an alternative analysis of least cost. Further, Mr. Rockrohr has not challenged the results of Dr. Graves study, suggesting that his analytical technique meets the requirements of prong 2 of his test.

d. There is no evidence in the record of this proceeding of influence from affiliated interests

Within its discussion of the least cost standard, Staff also suggests the Commission consider that some of the same individuals involved in decision making for GDMEC held positions for more than one affiliate of MidAmerican. As support for this consideration, Staff cites *Northern Illinois Gas Company*, Docket No. 01-0635, a case in which the Commission carefully considered whether a decision to acquire property from Dekalb Genetics Corporation ("Dekalb") could have been influenced by an interlocking directorate of Northern Illinois Gas Company ("Nicor") and Dekalb.

There are two major differences between the two affiliated interest transactions. First, there was an interlocking directorate relationship between Nicor and Dekalb. In contrast, there is no interlocking directorate or other dual relationship of MidAmerican Holdings and Mr. Crist, the key MidAmerican decision maker. In 2001 and 2003, Mr. Crist was Vice President of MidAmerican. [Staff Exh. 3.1 at pp. 2-3]. During that period, Mr. Crist was not a director or officer of MidAmerican Energy Holdings Company or any other affiliated interest. Mr. Crist's credentials contained in his direct testimony indicate that he has never, at any time in his career, held a position with any company in the MidAmerican Energy Holdings Company family except with MidAmerican or its public utility predecessors. [MEC Exh. 1.0 at ll. 6-24, 34-51, 68-71]. Mr. Crist was, and is, responsible only to act in the best interests of MidAmerican Energy

Company and its utility customers. There is no evidence in the record⁵ to suggest that his interest extended beyond what was best to meet MidAmerican's statutory obligation to provide reliable utility service for its regulated retail customers in the states of Iowa, Illinois and South Dakota.

Finally there is a second major difference between the two transactions. The Commission was the only regulatory authority to review the Nicor-Dekalb transaction. In the instant case, the Commission is not the first regulatory authority to review the need for GDMEC. The Iowa Utilities Board has thoroughly reviewed GDMEC and issued a ruling finding the unit to be a reasonable way to meet MidAmerican's need for electric capacity, and authorizing its construction in the public interest. [MidAmerican Energy Company, Docket No. 01-9 (Iowa U.D. 2002)]. The Commission should consider this approval as well as Staff's analysis.

3. The third prong of Staff's test is satisfied. The Parties agree the price paid for the turbines was at or below market prices

The third prong of Staff's test is whether the price paid for the turbines was at or below market. There is no dispute that this prong is satisfied. Two independent experts support Mr. Crist's testimony that MidAmerican acquired the turbines from its affiliated interest at a reasonable price. [MEC Exh. 3.0 and 4.0].

II. Staff's concern about accounting for allowance of AFUDC for GDMEC is irrelevant. MidAmerican has removed GDMEC from its Illinois rate base

The testimonies of Staff and MidAmerican contain differences of opinion regarding accrual of allowance for funds used during construction ("AFUDC") related to the Turbine Assignment. However, these differences are academic. As reported in

⁵ Staff's evidence of dual interests consists of organization charts only. These charts do not show that Mr. Crist held a position with any company other than MidAmerican.

MidAmerican Energy Company, Docket No. SPU-05-9 (SPU-05-12), “Order,” (Iowa Utilities Board, July 29, 2005) the Iowa Utilities Board has approved the allocation of all rate base associated with GDMEC to MidAmerican’s Iowa jurisdiction:

MidAmerican will reallocate to Iowa electric customers all of the New Generation [GDMEC and other new Iowa-based generation] capital costs and expenses that had been allocated to Illinois customers. MidAmerican will accrue allowance for funds used in construction (AFUDC) in Iowa that would have been allocated in Illinois.

[*MidAmerican Energy Company* “Order”, Docket No. SPU-05-9 (Iowa U.B., July 29, 2005 at pp. 4-5)]. The Order states that this reallocation will permit MidAmerican to provide electric service to a new customer, IPSCO Steel, Inc., beginning October 1, 2005. [*Id.* at pp. 4-6].

III. Even though Staff’s interpretation of the Uniform System of Accounts will not be used in addressing ADUDC for GDMEC, Staff’s interpretation is flawed and should not be applied to any other out-of-state capital investment

Staff’s interpretation of the Uniform System of Accounts provisions relating to accrual of AFUDC will not be applied to GDMEC as the unit has been removed from Illinois rate base. However, MidAmerican believes it is important to respond to Staff’s construction of these provisions because they could be inappropriately applied to accrual of AFUDC on future plant investments. MidAmerican does not want to be considered to have acquiesced in Staff’s interpretation.

Staff interprets the Illinois Uniform System of Accounts as requiring Commission approval to accrue AFUDC. This position would preclude a multi-state utility from recovering AFUDC on the allocated portion of an investment in another jurisdiction and should be rejected by the Commission. In its direct testimony, Staff cited to FERC Accounting Release AR-5 that provides that AFUDC **for natural gas plant and**

hydroelectric projects does not begin prior to the issuance of a permit **by the Federal Energy Regulatory Commission**. [Staff Exh. 2.00 at ll. 134-144]. Staff argues that even though the references in the Illinois Uniform System of Accounts have never been modified to refer to Illinois approvals, they should be so interpreted and the references to approvals in Accounting Release AR-5 should be equated to a general requirement for AFUDC to commence only when “approvals” are received. [Staff Exh. 2.0 at ll. 145-148].

However, many capital projects will not require preapprovals, either from the Commission or any other regulatory authority. In fact, GDMEC, an out-of-state investment, would not have required Illinois approval if the Commission had decided to waive its consent requirement under Section 7-101(3). Reading AR-5 to require some type of Commission approval is meaningless in these circumstances. The approval requirements of the Accounting Release should be limited to circumstances where the specific FERC approvals for hydroelectric facilities and gas plants must be obtained.

The Commission recently had the opportunity to modify the approval requirement to add Illinois-specific approvals, but chose not to. Only two years ago the Commission amended its Uniform System of Accounts in Docket No. 03-0429. At that time it could have amended Accounting Release AR-5 to reflect the type of approvals issued by the Commission. Staff’s interpretation is inconsistent with this recent Commission action and should be rejected.⁶

⁶ In *Interstate*, Staff recommended that certain AFUDC-like interest payments to AER, the affiliated interest, associated with a contract assignment for generation equipment be accounted for below-the-line. Staff contended Commission approval was required for the contract assignments prior to accrual of AFUDC. No exception was taken to this recommendation. *Interstate* at pp. 8-9. Because of the agreement, the Commission did not explicitly address AFUDC in its Order in *Interstate*. The order in *Interstate* was issued on March 18, 2003, more than six months prior to the changes to the Uniform System of Accounts cited by Staff. If, after *Interstate*, the Commission wanted to put utilities on notice that

In its Initial Brief at page 13, Staff, perhaps recognizing the flaw in its reliance on AR-5, cites to another provision of the Illinois Uniform System of Accounts, one that also references approval of the Commission. Staff's reliance on this reference to approval is also misplaced. "Electric Plant Instructions, Components of Construction Costs" (3)(17) cited by Staff has nothing to do with Commission approval for accrual of AFUDC. This instruction sets a maximum allowance for AFUDC that cannot be exceeded without prior Commission consent. Consent pursuant to this instruction would only be required if MidAmerican sought to exceed the allowance for AFUDC that would be accrued based on the formula contained in the Illinois Uniform System of Accounts. There is no evidence in the record that the amount of AFUDC recorded for GDMEC exceeds any threshold. This argument should be rejected as well.

CONCLUSION

Staff in its Initial Brief provides no reason why the Commission should not waive its consent to the Turbine Assignment. The turbines were acquired by MidAmerican from MidAmerican Energy Holdings Company in the ordinary course of business and the Turbine Assignment price was lower than if MidAmerican had acquired the turbines on the open market in 2001. If the Commission does not waive its consent, there are abundant reasons supporting approval of the Turbine Assignment. Even when Staff's own analytical methodology is reasonably applied to the Turbine Assignment, it is clear that the affiliated interest transaction should be approved.

AFUDC could not be accrued prior to approval of a generator, it could also have taken that opportunity to make a specific amendment to AR-5 to replace the list of FERC approvals with a list of specific Commission approvals. Since it did not, it can only be concluded that AR-5 should not be interpreted to prevent accrual of AFUDC prior to any specific Commission action such as on an affiliated interest transaction.

Even though MidAmerican believes compelling reasons support Commission consent to the Turbine Assignment, MidAmerican has removed GDMEC and all of its other new generation investments from the Illinois jurisdiction. The proposals for accounting for AFUDC made by Staff in this docket are flawed and should not be applied to other out-of-state capital investment.

DATED this 7th day of October 2005.

Respectfully Submitted,

MIDAMERICAN ENERGY COMPANY

s/n

Suzan M. Stewart
Managing Senior Attorney
P.O. Box 778
Sioux City, IA 51102
smstewart@midamerican.com
Voice: (712) 277-7587
Fax: (712) 252-7396