

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**Illinois Commerce Commission**

On Its Own Motion

**Revision of 83 Ill. Adm. Code 280**

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**Docket No. 06-0703**

**MidAmerican Energy Company's Verified Reply First Notice Comments**

Prepared by:

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## **I. Introduction**

MidAmerican Energy Company (MidAmerican) respectfully submits its Reply Comments pursuant to the Administrative Law Judge's Ruling issued on March 12, 2014, and the Rules of Practice of the Illinois Commerce Commission (Commission).

MidAmerican's Initial Comments were limited to recommending changes to allow utilities more flexibility to offer customers more options. MidAmerican supports the limited comments filed by Staff and the other utilities. MidAmerican specifically supports Staff's comments in regards to Sections 280.30 and 280.170, and addresses Staff's concern with the enforcement date of the new rules below.

However, the Attorney General of the State of Illinois (AG), the Citizens Utility Board (CUB), the City Chicago (City) and AARP, collectively referred to as the Government and Consumer Interveners (GCI), once again re-argue the same issues raised during the litigated portion of this docket. While MidAmerican has addressed several of these issues in its initial and reply briefs, MidAmerican will briefly address GCI's arguments below.

## **II. SUBPART A: GENERAL**

### **A. Section 280.10 Exemptions**

GCI complains the exemption section in Section 280.10 seemingly allows for perpetual waivers/exemptions, with no requirement for periodic reviews. GCI at 28. To remedy this perceived issue of a "perpetual waiver," GCI contends that a utility should be required to give customer notice if a utility files for a waiver request. Although stated slightly different, this is the same argument GCI has already raised and the Commission rejected. As Staff pointed out in

its brief, the proposed language requires specific facts and reasoning of a utility to minimally meet the Section 280.10 standard. Staff Initial Brief at 6. A utility simply could not meet the requirements of Staff's proposed Section 280.10 without explaining exactly why it was seeking a waiver. *Id.*

Moreover, GCI fails to explain how an "alert" on a utility's website serves as adequate notice to customers of a waiver request. Moreover, it is unclear how this "alert" would correct any "perpetual" waiver a utility may file. GCI is arguing that only a notice requirement can eliminate any risk that the rules be undermined. Commission review and approval, however, is sufficient to ensure the rules are enforced. The Commission has broad discretion and GCI's proposed changes are so prescriptive they undermine the Commission's discretion. Accordingly, the Commission should reject GCI's changes.

#### B. Section 280.15 Compliance

Staff pointed out that the compliance section implies gradually selected implementation for sections that utilities will have at least 18 months to comply with the provisions or 24 months if the Commission modifies the extension based on initial comments. Staff Comments at 3-4. To eliminate any confusion for enforcement, MidAmerican does not object to the Commission establishing a date certain making the rules effective 24 months from the date the Final Order is published in the Illinois Register.

GCI suggests that the Commission require utilities to adopt interim procedures that facilitate prompt compliance with the revised rules. GCI, however, does not explain how the "interim procedures" differ with the Commission's requirement of an Implementation Plan. Accordingly, the First Notice already provides guidance and reporting requirements for the

utilities regarding procedures to implement compliance with the rules and no further changes are needed.

### III. SUBPART B: APPLICATIONS FOR UTILITY SERVICE

#### A. Subsection 280.30 j) – Exemptions

GCI continues to argue that the timeline for service activation in subsections 280.30 j)1) and 2) should be reduced. First and foremost, MidAmerican attempts to connect service as soon as possible and does not receive many customer complaints regarding the issue. As Ameren pointed out in its initial brief, GCI has not presented any credible evidence that service activation is an issue. Ameren Initial Brief at 12.

Second, the restatement of the partial requirements in six other states is still not persuasive evidence for the Commission to modify the rule. MidAmerican continues to agree with Staff that the changes GCI suggests for service activation are unreasonable. Staff Ex. 2.0 at 24-25, lines 544-557, MidAmerican Brief at 19-20, *see also* Ameren Initial Brief at 12, Nicor Initial Brief at 36. Staff correctly recognized that the standards recommended by GCI are unachievable for any activation process that routinely requires a field visit and noted that this is particularly true for natural gas activation where safety requirements dictate an appointment and inside access to customer facilities. *Id.*

Additionally, GCI also proposes modifying Staff's proposed subsection 280.30 j)7). Subsection 280.30 j)7) allows for a temporary exception to the service application timeframes for unforeseen circumstances. GCI argues that its changes are uncontroversial, but as Ameren pointed out in its initial brief, GCI's subjective qualifiers add nothing to the rule and should be rejected. Ameren Initial Brief at 14. GCI fails to recognize that when natural disasters hit, resources must be allocated to restore infrastructure, otherwise all customers suffer. In the past

three years MidAmerican has experienced extensive flooding across its service territory. In the case of a destructive flooding, the priority is to disconnect service to ensure the area is safe. In these instances, it is reasonable to allow service connections to lag a day or two compared to allowing potential dangerous conditions remain in flooded areas. *See also* MidAmerican Ex. 2.0 at 3-4, lines 56-59. It is simply unreasonable to think that utilities have unlimited resources to comply with this provision at all times. MidAmerican Ex. 2.0 at 3-4, lines 56-59. The Commission correctly adopted Staff's proposed language because it strikes a balance, and it is reasonable.

#### **IV. SUBPART C: DEPOSITS**

##### **A. Section 280.40 Deposits**

GCI continues to re-introduce the "two year" provision of the current Part 280 on late payment deposits in Section 280.40 e)1)C). GCI argues that the First Notice changes allow utilities to collect additional deposits from customers who have had service longer than twenty-four months.

GCI, however, assumes that the rules would mandate that utilities collect a deposit from all customers who meet the requirement under the proposed deposit rules. MidAmerican agrees with Staff that tenure alone should not determine whether a customer demonstrates risk. The First Order adopted Staff's proposed language because it strikes a balance between the potential of a utility requiring a deposit from a low risk customer versus a customer whose behavior was once less risky but then becomes high risk. *See* Staff Ex. 2.0, at 30-31, lines 688-706.

Moreover, GCI continues to rely on outdated data in its testimony, and GCI has not offered current data to support its position. It is important to note that GCI merely asked which customers are eligible for a deposit and not how many customers the utility is actually charging a

deposit. Tr. at 310 lines 21-22, 311, lines 1-5. The “dual trigger” in the First Notice allows collection of a deposit only when the customer has repeatedly paid late and is delinquent by 30 days or greater. These triggers ensure that deposits are assessed when appropriate. Staff Ex. 2.0 at 31, Lines 697-705. The First Notice properly balances a customer’s riskiness with a utility’s right to assess a deposit and is reasonable. Once again the Commission should reject GCI’s arguments.

## **V. SUBPART E: PAYMENT**

### **A. Section 280.80 – Budget Billing Plan**

GCI continues to propose language to Section 280.80 h) that requires utilities to review the budget billing payment plan on a quarterly basis. GCI Comments at 5; GCI 5.0 at 79. While GCI applauded MidAmerican for offering operational measures to accommodate customer needs, GCI’s proposed language, however, continues to restrict MidAmerican’s ability to offer semiannual or annual adjustments for budget billing. GCI Brief at 7. The First Notice allows flexibility in administering the budget billing payment plan, and should remain unchanged.

## **VI. SUBPART F: IRREGULAR BILLING**

### **A. Section 280.90 Estimated Bills**

GCI continues to argue that utilities should not be able to adopt a routine estimated bill practice. GCI Comments at 9; GCI Brief at 52. GCI argues that customers are not aware their bills are estimated, or the options available to them to avoid paying large true-up bills, and that it is common utility practice to continually estimate bills – both at beginning and ending of service and for many months or even year in between. GCI Comments at 9-10; GCI Brief at 56. GCI, however, offers no specific data to show that is common practice for a utility to estimate service

for long periods of time, or that estimated bills cause inequities relating to subsidization, or that it contributes to disconnections.

To the contrary, both current and proposed rules require that an attempt to read the meter be made each month, and that when a reading is not obtained, the bill indicate that the meter has been estimated. Additionally, in response to GCI's cross examination, MidAmerican testified that it reads the meter at the beginning and end of service whenever possible. Tr. at 534, lines 20-21. Staff has established that Section 280.90 is reasonable, while GCI raises the same issues without any support. Accordingly, the Commission should uphold the language in Section 280.90 and disregard GCI's proposed changes.

## **VII. SUBPART I: DISCONNECTION**

### **A. Section 280.130 Disconnection of Service**

The AG and AARP continue to raise concerns regarding a field visit prior to disconnection. AG/AARP Comments at 2. The AG and AARP argue to preserve the current Part 280 requirement; a utility must to conduct a field visit before disconnecting service. AG/AARP Comments at 2-3; *See also* GCI Brief at 66. This issue has been thoroughly addressed in testimony and in briefs. The AG and AARP, however, continue to ignore the safety risk that knock on the door requirement poses to utility employees. Staff and many utilities expressed concern regarding the safety of its employees. Staff Ex. 1.0 at 17, lines 1135-1140; Peoples-North Shore Ex. JR-2.0 at 35-36, lines 781-789; Tr. at 488 line 18 to 489, line 2. The AG and AARP have failed to provide any evidence that refutes the utilities' evidence.

The notification process for disconnection includes regular billings, friendly reminders, disconnection notices, phone calls, and, in some cases, door tags prior to disconnection. This notification process eliminates the need for face to face contact with the customer. The

Commission appropriately reviewed the evidence and found that the knock on the door requirement is outdated, and concerns regarding the safety of field personnel while performing the disconnection outweigh the benefits of the knock on the door requirement. First Notice at 187; Staff Ex. 1.0 at 17, lines 379-380; Staff Ex. 2.0 at 76, lines 1746-1749.

A single phone call prior to disconnection provides a fair compromise between no call and multiple calls and allows customers to make last minute payments or payment arrangements. Therefore, the Commission reasonably concluded the knock on the door requirement should be eliminated.

**B. Section 280.140 Disconnection for Lack of Access**

GCI continues to recommend deleting Section 280.140 in its entirety. GCI has not raised any new issues it already argued in its initial and reply briefs. As Staff noted in its initial brief, utilities have always had this same power of disconnection under the current rule when they are unable to gain access and they have issued 4 consecutive estimated bills. Staff Initial Brief at 69. The First Notice rules implements new protections, such as field visits, notification and record keeping requirements, which the current rule lack. First Order at 205; *see also* Staff Ex. 2.0 at 80-81, lines 1845-1851. Since rules outlined in the First Notice are reasonable and contain customer safeguards, it is reasonable for the Commission reject GCI's arguments once again.

**VIII. SUBPART K: RECONNECTION**

**A. Section 280.170 Timely Reconnection of Service**

Similar to the complaints raised in Part 280.30, GCI complains the First Notice rules allow unnecessarily lengthy timelines for reconnecting service. GCI Comments at 16; GCI Brief at 84. Instead of pointing to record evidence, GCI continues to point to language in other states.<sup>1</sup>

The First Notice rules outline timelines that are fair and achievable and should not be modified.

## **IX. SUBPART M: COMPLAINT PROCEDURES**

### **A. Section 280.220 Utility Complaint Process**

The First Order properly declined to adopt GCI's requirement that utilities inform customers that unresolved complaints be escalated to a supervisor. GCI Comments at 21. GCI continues to ignore the fact that this requirement undermines the utility representative's ability to resolve an issue. *See* Nicor Ex. 2.0 at 6, lines 128-132; MidAmerican Initial Brief at 60-61. This requirement also is prescriptive and micromanages a utilities operations. Additionally, this requirement may have the unintended consequence of increasing the number of customers seeking an escalation of the matter, and ultimately frustrate the customer when they receive the same response from the supervisor. *Id.* at 6-7, lines 132-135. Consequently, the First Notice findings are reasonable and the proposed rules should remain unchanged.

## **X. SUBPART N: INFORMATION**

### **A. Section 280.270 – Subpart O**

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<sup>1</sup> Notably, GCI no longer refers to the Iowa Code. As MidAmerican pointed out in briefs, Incongruently, GCI highlighted that the Iowa Code requires gas utilities to reconnect service using all reasonable efforts the same day. The Iowa Code, however, allows for a temporary exception if there is a reasonable, unforeseen circumstance preventing service reconnection the same day. GCI Initial Brief at 88; MidAmerican Reply Brief at 42.

GCI continues to complain that the rules fail because there are no reporting requirements. GCI Comments at 22. Recall that GCI proposed a list of 21 data requirements, with 13 sub-requirements and GCI explained that this information would be valuable in formulating utility service access and bill collection policies. GCI Ex. 1.0 at 16, lines 404-405. GCI, however, has not explained how this specific data would be put to use or how the information requested is relevant to access to utility service. While GCI attempts to back fill the record, questions like “How often does that happen?” are vague and would not provide the Commission with any meaningful metric to drive further changes to the rules.

Despite GCI claims, the record evidence does not support any reasons for data collection. GCI Comments at 25. GCI’s complaints completely ignore the fact that Illinois utilities already work with Staff and the Commission to respond to information requests. As Nicor pointed out in testimony, to the extent any party seeks relevant information in connection with a Commission proceeding, there are procedural processes in place to address the exchange of information. Nicor Ex. 3.0 at 55, lines 1279-1282. Moreover, utilities provide Staff with various data that are rolled up into annual reports and are made available to the public.

GCI’s request is simply unreasonable, overly burdensome and does not provide any customer benefit. Therefore, the Commission properly rejected GCI’s proposed data requirement section.

## **XI. GCI Minor Revisions**

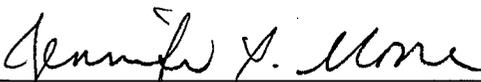
GCI also raises “minor” issues. GCI Comments at 30-32. MidAmerican notes that the changes noted in Section 280.30(e) and 280.50(c)(5)(i) are minor and MidAmerican does not have any objection if the Commission considers and implements the recommended changes.



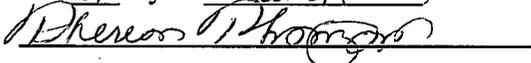
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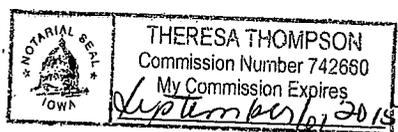
STATE OF IOWA        )  
                                  )  ss.  
COUNTY OF SCOTT    )

I, Jennifer S. Moore, being first duly sworn on oath, depose and state that I am Senior Attorney for MidAmerican Energy Company and that the foregoing Verified Reply First Notice Comments of MidAmerican Energy Company are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Jennifer S. Moore  
Senior Attorney

Subscribed and sworn to before me  
this 24<sup>th</sup> day of March, 2014.

  
\_\_\_\_\_  
Theresa Thompson



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ILLINOIS COMMERCE COMMISSION**

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	:	

**NOTICE OF FILING**

**PLEASE TAKE NOTICE** that on this date MidAmerican Energy Company has filed with the Clerk of the Illinois Commerce Commission, 527 E. Capitol Avenue, Springfield, Illinois 62701, by E-Docket, its Verified Reply First Notice Comments in the above referenced docket.

DATED this 24<sup>th</sup> day of March, 2014.

*/s/ Jennifer S. Moore*

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**CERTIFICATE OF SERVICE**

I, hereby certify that copies of the foregoing was served electronically to all parties of record on this 24<sup>th</sup> day of March, 2014.

*/s/ Jennifer S. Moore*

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Jennifer S. Moore