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MidAmerican Energy
666 Grand Avenue
P.O. Box 657
Des Moines, Iowa 50303-0657

MidAmerican Energy Company (MidAmerican) respectfully submits its comments attached hereto in response to the March 6, 2001, Federal Register Notice Requesting Comments on Retail Electricity Competition Plans.

MidAmerican, and its affiliates, offers a unique and diverse perspective of the electricity industry as a result of their diverse business interests that compete and operate in several different markets within the industry. MidAmerican, through its CalEnergy affiliate, has a significant presence in the independent power production industry. MidAmerican's overseas affiliate, Northern Electric, in the United Kingdom, operates as a regulated distribution business and participates in the competitive electric markets in the United Kingdom. MidAmerican, itself is the State of Iowa's largest utility and operates as a regulated utility in the States of Illinois, Iowa and South Dakota. In addition, MidAmerican operates an unregulated retail division that operates as a competitive retail electric marketer in the States of Illinois and Ohio.

While on the surface, it might appear that operating a regulated utility business and a competitive retail business presents an inherent conflict of interest, MidAmerican believes that all of its customers and its various business interests are best served if a uniform workable electric competitive market model is established throughout the country. A workable competitive electric market model can only be established if consumers are able to experience the tangible benefits of a competitive marketplace and are satisfied with their experiences. To that end, MidAmerican provides its comments to the Federal Trade Commission, comments born out of its experience in the marketplace and its experience with satisfying customers in a competitive retail electric market.

History and Overview

1. **Why did the state implement retail electricity competition? What problems of the previous regulatory regime was it trying to solve?**

   No response.

2. **What were the expected benefits of retail competition? Were price reductions expected in absolute terms or in relation to what price levels would be absent retail competition? Were the benefits of retail competition expected to be available to consumers in urban, suburban, and rural areas? Were the benefits expected to be available for residential, commercial, and industrial customers? Were the benefits expected to be comparable for each group of customers?**

   No response.

3. **What factors or measures should the Commission examine in viewing the success of a state's retail electricity competition program? How should these measures be evaluated?**

   No response.

4. **What are the most successful and least successful elements in the state's retail competition program? Has the state taken steps to modify the least successful elements?**

   No response.

Consumer Protection Issues

1. **What efforts were made to educate consumers about retail competition? How was the success of these efforts measured? Were the programs successful? Who funded these efforts? Who implemented the programs?**

   MidAmerican believes that well-funded consumer communication efforts are essential to the success of retail competition. Advance consumer education is a critical component in setting the stage for the development of a competitive retail market. Such programs should include consumer research to ensure that the message is being received and should be funded through a competitively-neutral mechanism. It is important that the programs be implemented through an independent party, not through the utilities.

2. **Do consumers have enough information to readily make informed choices among competing suppliers? Did the state coordinate its labeling**

requirements about the attributes of a supplier's product, if any, with neighboring states? Is there a need for federal assistance to provide standardized supplier labeling? If so, what would be the most useful federal role?

No response.

3. **Have consumers complained about unauthorized switching of their accounts to alternative suppliers (Aslamming@) or the placement of unauthorized charges on their electric bills (Acramming@)? Were rules adopted to prevent these practices? Has the state taken enforcement action under its new authority against slamming and cramming? Have these actions been effective to curb the alleged abuses? Is there a need for federal assistance with slamming and cramming issues? If so, what would be the most useful federal role?**

   No response.

4. **How did the state facilitate the ability of customers to switch to a new supplier? Have these efforts been successful? Does the state allow consumers to aggregate their electricity demand? If so, has aggregation enabled consumers to benefit from retail electricity competition? If not, why not?**

   No response.

5. **Has the state established licensing or certification requirements for new suppliers to provide electricity to customers? Why? Which licensing provisions are designed to protect consumers? How do they operate? Has the state taken enforcement action against unlicensed firms? Have these actions been effective to curb unlicensed activity? Have these requirements acted as an entry barrier for new suppliers?**

   No response.

6. **Did the state place any restrictions on the ability of a utility's unregulated affiliate(s) to use a similar name and/or logo as its parent utility, in order to avoid consumer confusion when the affiliate offered unregulated generation services? Why or why not? What has been the experience to date with the use of these restrictions? Are consumers knowledgeable about who their suppliers are?**

   MidAmerican strongly disagrees with restrictions on utility affiliate use of name or logo. MidAmerican believes that it is important for consumers to be given as much information about suppliers as possible. A supplier's affiliation with particular corporate entities (whether they are utilities or not) may have significant meaning for a consumer, and the consumer should not be denied such knowledge by information restrictions. MidAmerican believes, however, that it is inappropriate for a utility affiliate to make any claims that it will provide superior service because of its affiliation with a utility, or to advertise its services in conjunction with utility advertising.

7. **Did the state place any restrictions on third-party or affiliate use of a utility's customer information (e.g., customer usage statistics, financial information, etc.)? What were the reasons for enacting the restrictions? What has been the effect of these restrictions on new marketing activity?**

   Allowing nondiscriminatory access to customer information is an important element to level the playing field for all competitors and impacts a competitive retailer's cost of doing business in a particular market. Without access to certain customer information such as usage, it is difficult and risky for competitive retailers to competitively price electric service to customers. The needs to provide access to such information for retailers must be balanced against the customer's rights for privacy and protection of sensitive customer information. Entry into the market is facilitated when marketers have access to as much customer information as possible, given consumer privacy concerns. It is also important to make information access as easy as possible, particularly for information related to smaller customers. Electronic access is preferable with something like a customer number/meter number password being utilized to prevent unauthorized use.

8. **Has the state adopted any other measures intended to protect consumers (e.g., length of consumer contracts, automatic renewal provisions, etc.) as it implemented retail competition? What has been the effect of these measures?**

   No response.

9. **To what extent have suppliers engaged in advertising to sell their product(s)? Do some suppliers claim that their product is differentiated (e.g., that it has environmental benefits)? Has there been any enforcement or attempts to verify these advertising claims? Do any certification organizations, such as Green-e, operate in the state? Are they used by (or at least available to) a substantial portion of consumers?**

   No response.

Retail Supply Issues

1. **What difficulties have suppliers encountered in entering the market? What conditions/incentives attract suppliers to retail markets? Have suppliers exited the market after beginning to provide retail service? If so, why?**

There are several hurdles that have been faced by suppliers in entering markets throughout the country. Probably the most prevalent problem is the continued existence of regulated, below-market rates. This problem is most often referred to as inadequate shopping or back-out credits. MidAmerican believes, however, that it is the mere continued existence of regulated non-market-based rates, not just the administratively-determined shopping credit that distorts the market. Changes in the relationship of market prices to regulated rates have been responsible for suppliers entering the market and exiting shortly thereafter, sometimes permanently.

The lack of liquidity in wholesale markets is also a significant impediment to suppliers coming into regions where they own no generation. Quite often the only significant sources of supply are the incumbent utilities, who are unwilling to sell into the market because of their continuing obligation to stand ready to serve consumers who are either on or may return at any time to regulated rates. In addition, many market exchanges that would facilitate supply trading are either non-existent or still in their infancy.

Transmission constraints also pose a significant problem, because of the inadequacy of the transmission system to perform functions it was not designed to perform, because of lack of region-wide transmission entities, and because of priority given to native load consumers.

Lack of uniformity of both business processes and of descriptions of business rules and practices has increased administrative and transaction costs for suppliers, reducing their potential profit margin.

2. **What are the customer acquisition costs and operational costs to service retail customers? How do acquisition and operational costs compare to profit margins for electric power generation services? Do retail margins affect entry? If so, how? Did the state harmonize the procedures suppliers use to attract and switch customers with other states' procedures, in order to reduce suppliers' costs?**

The fact that substantial acquisition and operational costs either substantially reduce or eliminate profit margins for supply services is probably the most significant impediment to the development of competitive markets. This is a direct result of the continued existence of regulated non-market-based rates. If suppliers anticipate they can make no margin or minimal margins in a market, they simply will not enter it. Also, the risk that their margins could suddenly disappear if the market price for supply increases, whereas the regulated price does not, provides a significant disincentive to enter a market.

3. **Have customers switched to new suppliers? Why or why not? Are there greater incentives for certain customer classes (<u>i.e.</u>, industrial, commercial, residential) than for others to switch suppliers? Why or why not? Are penalties or different rates applied to customers that switch back to the supplier of last resort? Are there other measures to determine whether customers are actively considering switching suppliers? If so, do these indicators show different patterns than the switching rate data?**

No response.

4. **Have suppliers offered new types of products and services (e.g., time of day pricing, interruptible contracts, green power, etc.) in states where retail competition has been implemented? If so, describe the products and what customer response has been.**

   No response.

5. **What are the benefits or drawbacks of the different approaches to handling the supplier of last resort obligation for customers who do not choose a new supplier (e.g., allow incumbent utility to retain the obligation to provide generation services to non-choosing customers, auction the obligation, or assign the obligation to non-utility parties). What has been consumer reaction to these approaches? Is provider of last resort service necessary?**

   MidAmerican believes that supplier of last resort service is desirable for residential and small commercial consumers for a limited time after competition is introduced to make the transition to a competitive market smoother. Such service should be eliminated as soon as possible. However, while such service is in existence, it should be priced at market-based rates.

   MidAmerican supports retention of the obligation to provide generation to non-choosing consumers by the utility during this limited-term transition. MidAmerican believes little is accomplished in making the market more competitive by arbitrarily substituting one supplier for another for non-choosing consumers. In addition, the reaction of non-choosing consumers in gas markets to a similar mandated supplier switch has been relatively unfavorable.

Retail Pricing Issues

1. **How is entry affected by the price for the provider of last resort service (for customers who do not choose) or for default service (for customer whose supplier exits the market)? How does the price for the provider of last resort or default service compare to prices offered by alternative suppliers? Is the price for provider of last resort service or default service capped? If so, for how long?**

   See response to Question C.1. MidAmerican believes that pricing for default service should also be market based to the maximum extent possible.

2. **Has the state required retail rate reductions prior to the start of retail competition? What is the rationale for these reductions? How have state-mandated rate reductions prior to the start of retail competition affected retail competition?**

Mandated price reductions prior to the start of retail competition have had a chilling effect on retail competition. They have exacerbated the problem caused by the continued existence of regulated non-market-based rates, making it difficult, if not impossible, for competitive retailer's to enter and compete in the marketplace.

3. **Do any seasonal fluctuations in the price of wholesale generation cause some suppliers to enter the market only at certain times of the year? How have these suppliers fared?**

   Because of the existence of regulated rates that contain seasonal fluctuations that are different from those seen in the market, many suppliers enter the market only at certain times of the year. This increases operational costs for marketers, reducing their margins and inhibiting market entry.

4. **How has the state addressed public benefit programs (e.g., universal service requirements, low income assistance, conservation education, etc.) as it has implemented retail competition? Which of these programs are necessary as competition is introduced and why? Are public benefits available to all customers or are they restricted to customers of the supplier of last resort? How does this affect retail competition?**

   The desirability of the continuance of particular public benefit programs under competition is something that should be decided on a state-by-state basis. It is important, however, that charges for public benefits be assessed in a way that does not discourage consumers from choosing a competitive supplier.

   One area of public benefits that may merit particular attention in the competitive market is subsidization of service for low income consumers. If low income consumers are to benefit from the competitive market, it is important that they are enabled to participate. This may require direct subsidization to allow them to be attractive to suppliers. Simply including the cost of non-payment by low-income consumers as part the regulated rates for utility-supplied consumers rather than providing a subsidy so low-income consumers can make independent choices will not accomplish this goal. Any additional funding required should be obtained through competitively-neutral charges.

Market Structure Issues

1. **How has the development of Regional Transmission Organizations (RTOs) affected retail competition in the state?**

   Lack of development of RTO's has already harmed retail competition in many areas by making transmission access more difficult, especially in areas that do not have an established tight power pool. Comparable seamless access to transmission and distribution facilities for all parties is essential for a competitive market to function effectively.

2. **Did the state require the divestiture of generation assets (or impose other regulatory conditions on the use of these assets) when retail competition was introduced? To what extent was divestiture of generation assets a component of the state's handling of a utility's stranded costs? Was divestiture used to remedy a high concentration of generation assets serving the state? Was there appreciable voluntary divestiture of generation assets? Has the state examined whether there has been appreciable consolidation of ownership of generation serving the state since the start of retail competition?**

   If independent regional transmission entities are developed with adequate ability to solve transmission congestion problems, market concentration will not likely present a problem. If current transmission problems are not remedied, however, divestiture of generation assets will not solve market concentration problems, and may introduce a host of additional problems.

3. **If a utility no longer owns generation assets to meet its obligations as the supplier of last resort or default service provider, what market mechanism (e.g., spot market purchases, buy back or output contracts, etc.) does it use to obtain generation services to fulfill these obligations? What share of a utility's load is obtained via the different mechanisms? How are these shares trending? Is the market mechanism transparent? Is it necessary to monitor these market mechanisms? Why or why not? If so, what should the monitor examine?**

   No response.

4. **Explain the state's role in overseeing operation of the transmission grid in the state and the extent to which public power or municipal power transmission systems are integrated into this effort. What is the relationship between the state's role and the Federal Energy Regulatory Commission's role in transmission system operation in the state?**

   No response.

5. **Do firms that have provider of last resort or default service obligations (formerly Anative load@ obligations in the regulated environment) receive preferential transmission treatment? If so, how does this affect wholesale electric power competition? How and by whom should retail sales of bundled transmission services (i.e., retail sales of both energy and transmission services) and retail sales of unbundled transmission be regulated? If by more than one entity, how should regulation be coordinated? What should the state's role be in overseeing wholesale transmission reliability?**

MidAmerican firmly believes that all transmission service, both bundled and unbundled, should be regulated at the federal level. This is the only way that truly regional transmission organizations can be formed. MidAmerican supports comparable transmission access for all entities, regardless of which end-use consumers they serve.

6. **To what extent did the state identify transmission constraints affecting access to out-of-state or in-state generation prior to the start of retail competition? Is the state capable of remedying these transmission constraints, or is federal jurisdiction necessary? How do the rationales for federal jurisdiction over electric power transmission siting compare to the reasons underlying federal jurisdiction over the siting of natural gas pipelines?**

   No response.

7. **How have state siting regulations for new generation and transmission facilities been affected by the onset of retail competition? Has new generation siting kept pace with demand growth in the state? If not, why not? Is federal jurisdiction necessary for siting of electric power generation facilities? Has the state actively monitored and reported the relationship between in-state capacity and peak demand in the state? What incentives do suppliers have to maintain adequate reserve capacity? What are the ways to value capacity in competitive markets? Is reserve sharing still important in competitive markets? Do other institutions/market processes provide a reasonable substitute for reserve sharing?**

   State siting of generation facilities is still workable in a competitive market, but it is important that the state requirements not include a requirement that utilities demonstrate that such a facility is needed to meet native load requirements. Federal siting authority for transmission lines is essential, however. If adequate transmission facilities are to be constructed to facilitate the operation of regional markets, it will be necessary for the federal government to have the ability to override state objections to siting of lines that may be necessary to effective operation of the regional system, but not particularly needed by consumers in the states they cross.

8. **Since the start of retail competition, what has been the rate of generation plant outages (scheduled and unscheduled)? To what extent has the state monitored these outages and examined their causes?**

   No response.

Other Issues

1. **What measures has the state taken to make customer demand responsive to changes in available supply? Has the state provided utilities incentives to**

make customers more price responsive? Has the state moved away from average cost pricing? What effect have these measures had on demand and on demand elasticity?

MidAmerican believes that the best way to make consumer demand responsive to changes in available supply is to pass through market prices to consumers. A movement from average cost pricing to marginal cost pricing would be an improvement, but market-based pricing would be best. If the large price spikes seen in electricity markets so far are to be lessened, it is essential that consumer demand (which is a function of price) be responsive to changes in the market price. That can only begin to happen if consumers receive appropriate price signals from the market.

2. **Has the state provided mechanisms and incentives for owners of co-generation capacity to offer power during peak demand periods? Has the state identified, reported, and facilitated development of pumped storage facilities or other approaches to arbitraging between peak and off-peak wholesale electricity prices?**

No response.

3. **What issues have arisen under retail competition that have required cooperation or coordination with other states? What approach was taken to securing this cooperation or coordination? Are there other issues requiring cooperation that have not yet been addressed? Which of these issues are the most significant?**

No response.

4. **How prevalent is the use of distributed resources (e.g., distributed generation) within the state? What barriers do customers face to implementing distributed resources?**

The primary barriers faced by customers in implementing use of distributed resources are overly-complicated regulations and expensive interconnection requirements. It is important that national standards be set at the federal level relating to interconnection of distributed resources be developed to encourage appropriate use of such resources.

5. **Which specific jurisdictional issues prevent state retail competition programs from being as successful as they might be?**

It is important that the wrangling over state versus federal jurisdiction over transmission be resolved and that federal jurisdiction be asserted. If incumbent utilities are allowed to enjoy a "native load priority" for their regulated sales, the market will continued to be inhibited from functioning efficiently. Such native load priority provides disincentives for some customers to choose a competitive retailer and provides incumbent utilities with a competitive advantage in the class and type of service that can be provided.

6. **Which specific technological developments are likely to substantially affect retail or wholesale competition in the electric power industry that may alter the manner in which states structure retail competition plans? Why? What time frame is associated with these developments?**

   No response.

7. **What are the lessons to be learned from the retail electricity competition efforts of other countries? Are there other formerly-regulated industries in the U.S. (e.g., natural gas) that allow customer choice and provide useful comparisons to retail electricity competition? If so, what are the relevant insights or lessons to be learned?**

   No response.