

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  THE AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009	DOCKET NO. NOI-2009-0002
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**ORDER INITIATING INQUIRY**

(Issued July 16, 2009)

**BACKGROUND**

On May 15, 2009, the U.S. House of Representatives released the American Clean Energy and Security Act of 2009 (H.R. 2454, the Waxman-Markey bill), consisting of national climate change legislation. The bill was amended and passed by the U.S. House of Representatives on June 26, 2009, by a vote of 219 to 213 and has now moved to the U.S. Senate. The U.S. Senate may debate the Waxman-Markey bill in its current form or it may introduce its own version.

The authors of the Waxman-Markey bill anticipate that the bill will help create clean energy jobs, achieve energy independence, reduce greenhouse gas emissions, and transition the U.S. to a clean energy economy. Some of the provisions are less controversial, while others, such as the sections dealing with the cap on carbon emissions, how allowances are allocated, and the trading of carbon allowances (the cap and trade system), have generated more discussion.

Utilities Board (Board) staff have participated in various informal discussions with Iowa utilities, the Consumer Advocate Division of the Department of Justice

(Consumer Advocate), and Iowa Department of Natural Resources staff, among others. It appears that Iowa utilities generally support the concept of a declining cap on greenhouse gas emissions. However, they have a number of concerns with how allowances are allocated in the bill.

Since the bill allocates 50 percent of allowances to the electric utility sector based on retail sales and 50 percent based on historic emissions, Iowa utilities believe they will have a shortfall of allowances allocated to them when compared to projected emissions. Their initial estimates of the allocations they will receive range from approximately 45 to 70 percent of projected need in 2012. This will mean that they will need to implement some combination of (1) purchasing additional allowances from others to make up the difference between their assumed "cap" for emissions in that year and what they were allocated and (2) reducing emissions below their assumed "cap" down to the level of allowances they were allocated.

At the same time, Iowa utilities argue that some utilities outside of Iowa are likely to receive allowances in excess of their need. This dynamic is a major concern for Iowa utilities. It is not clear that the revision to Section 783, "Prohibition Against Excess Distributions," alleviates the concern because the language in the bill states that allocations are to offset cost increases as opposed to simply capping the allocation at the utility's emissions need.

Similarly, it appears that Iowa utilities generally oppose the allocation of free allowances to merchant coal generators and note that projected load and emissions growth from 2005 to 2012 causes a growing deficit between the allowances received

and those needed. Additionally, Iowa utilities are concerned about the creation of a carbon market and the uncertainty in price and potential for market abuses in such a market. Lastly, MidAmerican has some other issues that have potentially significant impacts for it, primarily related to its early incorporation of large amounts of wind into its portfolio and its large wholesale sales business (not merchant) that would not receive any free allocations.

Meanwhile, other entities support the intent of the bill, citing its benefits to the environment and potential benefits to other sectors of the Iowa economy (such as renewable development and manufacturing) and the programs that can be funded from the federal auction or distribution of some allowances.

### **NOTICE OF INQUIRY**

The Board is initiating this inquiry to gather information from a broad cross-section of Iowa stakeholders on how the provisions of the Waxman-Markey bill could affect Iowa. The Board invites other state agencies with jurisdiction and knowledge of these issues to participate in this inquiry.

The Board asks participants to answer the following initial questions. The questions are intended to stimulate responses and discussion and respondents do not need to answer all of the questions. When answering many of the questions, respondents will need to provide the Board with their calculations and assumptions.

The Board will provide participants with the opportunity to file reply comments if they wish to respond to other participants' comments. Following receipt of the initial

and reply comments, the Board will hold a workshop to receive oral comments, ask questions, and discuss the issues. The workshop is intended to be informal and no sworn testimony will be taken, although the workshop will be recorded by a court reporter. Board members and staff will participate in the workshop.

It is possible that some respondents may provide confidential information in answering the questions or providing reply comments and, if that is the case, the respondents must comply with Iowa Code chapter 22 and the Board's confidentiality rule at 199 IAC 1.9 when submitting the information.

Participants must submit their responses electronically through the Board's Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the Board's EFS Web site at <https://efs.iowa.gov>.

The Board is appointing Amy Christensen and Jeff Kaman as the Inquiry Managers for this docket. Questions regarding this docket should be addressed to Ms. Christensen, (515) 281-6326, or via e-mail at [Amy.Christensen@iub.state.ia.us](mailto:Amy.Christensen@iub.state.ia.us), or to Mr. Kaman, (515) 281-3279, or via e-mail at [Jeff.Kaman@iub.state.ia.us](mailto:Jeff.Kaman@iub.state.ia.us).

## **INQUIRY QUESTIONS**

### **Questions on Greenhouse Gas emissions limits**

Q1. The Waxman-Markey bill sets a declining cap on greenhouse gas emissions.

Q1a. Do you support a declining cap on greenhouse gas emissions?

Q1b. Please explain your view of the greenhouse gas emissions limits in the bill, with particular attention to the amounts of the limits and the required

dates of compliance for Iowa utilities. How are the limits achievable? Please explain your answer.

Q1c. What programs, resources, and technologies are most likely to be used by Iowa utilities to meet required emissions limits?

Q1d. What are the likely costs to Iowa utilities and their customers for programs, resources, and technologies to meet the emissions limits? If possible, estimate these costs on a per metric ton of CO<sub>2</sub> and per kWh basis and provide estimated impacts on rates for Iowa customers by customer class.

Q1e. Please provide any specific suggestions to change the bill and explain your suggestions.

### **Questions on CO<sub>2</sub> allowance allocation to electric utilities**

Q2. The bill allocates allowances to "local electric distribution companies, whose rates are regulated by states, to protect consumers from electricity price increases." Some public discussion suggests that electric local distribution companies will initially receive 90 percent of allowances required to cover their emissions.

Q2a. Please describe the anticipated amount of allowances Iowa utilities expect to receive in 2012.

Q2b. How do these allowances compare to projected emissions?

Q2c. How does the number of allowances received change over time in comparison to projected emissions? Please provide projections of the number of allowances received and projected emissions for the years following 2012.

Q2d. For years 2012 and following, how will Iowa utilities acquire sufficient allowances or otherwise comply?

Q2e. If a utility is significantly short of allowances, please describe the estimated costs and any penalties. For years 2012 and following, if possible, please explain these costs on a per metric ton of CO<sub>2</sub> and per kWh basis and provide estimated impacts on rates for Iowa customers by customer class.

Q2f. Does the allowance allocation system in the bill advantage/disadvantage Iowa utilities and customers? Please explain your answer.

Q2g. The bill includes a paragraph titled "Prohibition Against Excess Distributions." What does the addition of this provision do with regard to allowances? Will this provision mean that Iowa utilities will receive additional allowances? Please explain your answer.

Q2h. Please provide any specific suggestions you think are needed in the allowance allocation system in the bill and explain your suggestions.

### **Questions on other allowance allocation provisions**

Q3. In addition to the allowance allocations to electric utilities, the bill allocates allowances to benefit a variety of entities and public purposes, such as natural gas utilities and high-energy-using industries, automobile technology development, and carbon capture and sequestration. The bill also makes allocations to states for purposes such as alleviating the impact of increased rates on low-income customers, for heating oil and propane users, and for renewable energy, energy efficiency, and adaptation. Sections of the bill address State Energy and Environment Development (SEED) Accounts to "serve as a state-level repository for managing and accounting for all emission allowances designated primarily for renewable energy and energy efficiency purposes."

Q3a. Please describe whether these provisions provide allowances, or revenue from the sale of allowances, to Iowa or the state of Iowa.

Q3b. What does the bill require regarding the manner in which the state of Iowa or the other entities receiving these allowances may use them?

Q3c. Please provide your best estimate of the number of allowances (or revenue from the sale of allowances) from these other sections of the bill that will benefit Iowa.

Q3d. How will these provisions of the bill affect Iowa utilities and their customers? Will these provisions help alleviate any shortfall of allowances which may occur?

Q3e. How does Iowa's share of allowances or revenue from these other sections of the bill compare with other states? Please explain your answer.

Q3f. Please provide any specific suggestions to change these provisions in the bill and explain your suggestions.

**Questions on CO<sub>2</sub> allowance trading**

Q4. The Waxman-Markey bill would create a carbon allowance market and sections of the bill provide for oversight of the market.

Q4a. What are your views on these sections of the bill?

Q4b. For years 2012 and following, what are estimates of the cost or value of an allowance and what are the sources of the estimates? What are the underlying assumptions (such as year, nominal or real dollars, assumed inflation rate) for these estimates? Please indicate whether any estimates are more reasonable than others, and the reasons for this belief.

Q4c. What types of entities will participate in the market? Will participation by entities other than utilities with compliance obligations affect the market? If so, how?

Q4d. Please provide any specific suggestions to change the allowance market and market oversight provisions of the bill and explain your suggestions.

**Questions on Offsets, Banking and Borrowing of allowances**

Q5. The Waxman-Markey bill includes provisions regarding the use of offsets and banking and borrowing of allowances.

Q5a. How will these provisions impact Iowa utilities and their customers?

**Questions on comparing Waxman-Markey with the existing Clean Air Act emissions Cap and Trade system**

Q6. Some entities have stated that the cap and trade system in the Waxman-Markey bill are identical to, or very similar to, the existing cap and trade system established in the acid rain provisions of the Clean Air Act.

Q6a. Please describe the similarities and differences between the two cap and trade systems.

Q6b. Do these similarities or differences affect your views regarding the Waxman-Markey bill? Please explain your answer.

**Questions on "Clean Energy" standards, carbon capture and sequestration, clean transportation, smart grid, and transmission planning provisions**

Q7. The Waxman-Markey bill includes a Combined Efficiency and Renewable Electricity Standard (CERES).

Q7a. The bill requires retail electric suppliers to submit federal renewable electricity credits and demonstrated electricity savings each year equal to the combined target for that year times the supplier's retail sales. Alternatively, electric suppliers may submit a payment initially equal to \$25 per credit (2.5 cents per kWh). Please explain how these sections of the bill will impact your utility and its customers.

Q7b. Some sections of the Waxman-Markey bill address carbon capture and sequestration. Is CO<sub>2</sub> capture and sequestration ready for commercialization? If not, when might it be expected and at what capital and operating costs? What are some of the potential engineering and public impact consequences of capturing and storing large amounts of CO<sub>2</sub>?

Q7c. The Waxman-Markey bill addresses the use of electric vehicles. Will these provisions affect efforts to reduce CO<sub>2</sub> emissions in Iowa? If so, how?

Q7d. The Waxman-Markey bill addresses "Smart Grid" features. Will smart grid developments advance the goal of reducing CO<sub>2</sub> emissions? If so, how? What implementation costs would be associated with your assumed smart grid scenario?

Q7e. The Waxman-Markey bill addresses transmission planning that "recognizes the need for new transmission capacity to deploy renewable energy as well as the potential for more efficient operation of the current grid through new technology, demand-side management, and storage capacity." Will such transmission planning help to advance the goal of reducing CO<sub>2</sub> emissions? If so, how?

**Questions on Energy Efficiency**

Q8. The Waxman-Markey bill provides for efforts on the part of the Department of Energy to establish more stringent building code requirements, standards for building retrofit, rebates for efficient manufactured homes, building performance labeling, and standards plus incentives for lighting and appliances.



Q8a. What will be the impact of these provisions to reduce CO<sub>2</sub> emissions? Do you have an estimate of the amounts of emissions reductions that will be achieved by these provisions?

Q8b. How much will these programs cost?

Q8c. If the energy savings of these mandatory programs are substantial, should the CO<sub>2</sub> savings from these reductions be credited to the states or utilities where the savings occur as offsets against the CO<sub>2</sub> reduction requirements? Please explain your answer.

### **General Questions**

Q9. The Waxman-Markey bill establishes a cap and trade system as a way to reduce greenhouse gas emissions and spur additional investments in energy efficiency and renewable electric generation.

Q9a. Should federal legislation include a price cap or collar on the cost of allowances?

Q9b. Is there an impact by the Waxman-Markey bill on sectors of Iowa's economy other than electric utilities?

Q9c. Are there benefits of the Waxman-Markey bill for Iowa?

Q9d. Are there any other aspects of the Waxman-Markey bill not covered in the above questions that you think will impact Iowa?

### **IT IS THEREFORE ORDERED:**

1. An inquiry identified as Docket No. NOI-2009-0002 is initiated to gather information on the potential effects of the American Clean Energy and Security Act of 2009, on Iowa.

2. The following inquiry schedule is established:

a. Initial comments are due on or before August 14, 2009.

b. Replies to initial comments are due on or before August 28,

2009.

c. A workshop is scheduled for 10 a.m. on Tuesday, September 8, 2009, in the Board's Hearing Room, 350 Maple Street, Des Moines, Iowa.

3. Amy Christensen and Jeff Kaman are appointed as inquiry co-managers and may modify the schedule as necessary.

**UTILITIES BOARD**

/s/ Robert B. Berntsen

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 16<sup>th</sup> day of July, 2009.