Testimony of David L. Sokol

Chairman, MidAmerican Energy Holdings Company

Subcommittee on Energy and Environment, Committee on Energy and Commerce

U.S. House of Representatives

June 9, 2009

Thank you, Mr. Chairman. I am David Sokol, Chairman of MidAmerican Energy Holdings Company, which has $41 billion in energy assets in 20 states and around the world serving 7 million end-use customers. Our two domestic utilities serve retail electric and natural gas customers in ten states, and our generation capacity mix consists of about 22% renewables (of which about half is wind), 48% coal, 24% natural gas, and the rest nuclear and other assets.

I. Caps, Not Trading

I want to be absolutely clear at the outset: Cap-and-trade is two concepts. The electricity sector can meet the Waxman-Markey interim and ultimate caps of reducing greenhouse gas emissions to 80% below 2005 levels by 2050, but the bill's trading mechanism will impose a huge and unacceptable double cost on customers: first to pay for emission allowances, which will not reduce greenhouse gas emissions by one ounce, and then for the construction of new low- and zero-carbon power plants and other actions that will actually do the job of reducing these emissions. This bill will cost hundreds of billions of dollars, and we think it is wrong to saddle customers with these unnecessary and duplicative costs that provide them with absolutely no benefits. We should work instead on an alternative mechanism that empowers state regulators to work with their utilities to comply with the emission caps but without the trading.

Let me begin by observing that the cost impact of the allowance trading mechanism has been grossly understated for utilities that serve their customers with coal-fueled generation. The bill's supporters say the electricity sector is responsible for 40% of all U.S. greenhouse gas emissions and will receive 35% of the free allowances, so the sector is only taking about a 10% haircut. That is not how the bill works.

We calculate that our 2012 allowance shortfall will be nearly 50% - not 10%. This represents 32.4 million allowances which, at $25 per allowance, would cost our customers over $800 million. That would essentially create a tax of between 12% and 28% in our states. That's just for the first year – and at a very conservative estimate of $25 per allowance; some predict market prices two to four times higher. As the cap tightens and auctions increasingly replace free allocations, annual compliance costs will run into the tens of billions of dollars. Attachments 1 and 2 to my testimony demonstrate this shortfall going out to 2050.

II. Role of the U.S. Environmental Protection Agency

Moreover, the bill delegates broad authority to the U.S. Environmental Protection Agency (EPA) to essentially revise the entire cap and allocation scheme, which effectively undercuts whatever regulatory certainty the bill may otherwise provide. For example:

- Section 721 sets forth the precise number of emission allowances that will be available in each year of the cap-and-trade program, but then also grants EPA the authority to adjust these numbers if certain criteria are met. Changes to the number of allowances issued each year would ripple throughout the implementation of the cap-and-trade program, affecting compliance costs, allowance allocation formulas, and other parts of the program.

- Section 739 gives the EPA substantial authority to review and revise virtually any part of the offsets program as part of its five-year reviews.
- Under Section 783, which provides for the allocation formulas and includes provisions regulating the use of allowances, the EPA is granted significant authority to adjust the allocation formulas and to determine how allocated allowances can be used, which again raises concerns over regulatory certainty, as it is not clear what will and will not be permissible with respect to the use of allowances.

III. Allowance Allocation Formula

As to the allocation allowance formula, I want to explain why I maintain that the electricity sector ends up with a shortfall of much more than 10% of its needed allowances:

- First, the methodology used for allocating electricity industry allowances is not based on total economy-wide U.S. emissions in 2005, which were 7.2 billion tons of CO_2 equivalent. See Section 721(c)(2)(A)(i). Using the 35% allocation figure that the bill's supporters tout, the electric industry should receive approximately 2.5 billion allowances.
- However, the bill uses a different allocation formula and draws electricity sector allowances *from the total pool for capped industries*. That's an important distinction.
- The 7.2 billion tons of CO_2 equivalent plays no role whatsoever in the bill. Instead, the bill, in the first year, creates 4.6 billion allowances and then takes off 1% for strategic reserves (Section 726(b)), leaving the electricity sector with 4.58 billion allowances. (The percentage for strategic reserves increases to 2% in 2020.)
- It then gives the sector an allocation of 43.75% of those 4.58 billion allowances, which amounts to just over 2 billion allowances (the exact number is 2,004,069,375) (See

Section 782(a)). Where that 43.75% allocation figure comes from is not clear from the bill.

- Now, according to the EPA, the electricity sector's total greenhouse gas emissions in 2005 were 2.4 billion tons (and under Section 722(b)(1) of the bill, one ton of greenhouse gas equivalent emissions equals one allowance), so the 2 billion allowances constitute a 16.7% shortfall below the sector's total emissions of 2.4 billion tons (allowances).
- That's not the end of the shortfall, though, because the bill then gives an estimated 300 million allowances to merchant coal generators and others with long-term power purchase agreements, allowances that will not benefit customers. (See Section 783(a)(2) (long-term contract generator) and (2)(3) (merchant coal generator).) We calculate that merchant coal will receive its full 10% maximum distribution from the 2 billion allowances allocated to the sector, which would be 200,406,938, and we estimate that generators with long-term power purchase agreements will receive approximately 100 million allowances, although there appears to be no cap on their allocation.
- Subtracting these 300 million allowances from the 2 billion figure leaves local distribution companies with about 1.7 billion allowances, which represents a 30% cut below the sector's 2.4 billion tons of emissions – not a 10% cut.
- Then Section 783(b)(3) allocates half of the 1.7 billion allowances to local distribution utilities based on retail sales, without regard as to whether the utility had any emissions. As a result, utilities such as ours that did have emissions receive only about half of the allowances we need to meet the 2012 target.

The effect of the bill on an average utility with coal-fueled plants is that it will begin the cap-and-trade program with a significant shortfall of allowances, and this dilemma is

exacerbated by other factors. For example, the underlying assumptions in the bill do not adequately incorporate increased demand for electricity that will have occurred by 2012. In addition, the percentage of allowances allocated to the electricity sector, which starts at 43.75% for 2012 and 2013, then declines – to 38.89% from 2014-2015, 35% from 2016-2025, and so on down to 7% in 2029, and zero thereafter. Moreover, the total number of emission allowances declines once other sectors are covered under the Act. Thus, the cap continues to decrease each year. See Section 721(e)(1).

IV. Penalty for Early Action

The bill makes other cuts in allowances as well. In fact, the allowance allocation formula actually penalizes utilities such as ours that have reduced their carbon emission intensity. For example, our two utilities have added about 2,000 megawatts of wind generation since 2004. We are the largest utility owners of wind generation in the country, and these assets have greatly reduced our carbon intensity. How does the bill treat our customers for this early action to add wind and reduce carbon emissions? It penalizes them. That wind generation lowers our historic emission rates, thus reducing our allowance allocations and forcing us to buy more allowances. Attachment 3 to my testimony demonstrates this shortfall. (The 50-50 formula between historic emissions and deliveries (retail sales) is spelled out in Sections 783(b)(2) (emissions) and (b)(3) (deliveries).) The allowance trading mechanism in this bill thus penalizes our customers for every kilowatt-hour produced by those wind generators. If the goal of the trading program is to incentivize generators to build low- and zero-emission power plants, it makes no sense whatsoever to penalize the customers of early movers who did exactly that – before the bill's enactment.

V. Double Payment by Customers

The billions of dollars we will pay for these allowances in this new market will not reduce our greenhouse gas emissions by one ounce. Only actions to meet emission caps will do that. For regulated utilities, those actions will be not be developed and reviewed at the federal level but rather at the state level. Thus, regulated utilities will still have to work with their state regulators to identify the new measures and replacement generation that will be needed to actually achieve any real reductions. And that's the ultimate flaw of this bill. It will require consumers to pay twice: once for the cost of the federal allowances purchased by their utilities in the new carbon market and again for the cost of actions by utilities at the state level that will actually reduce greenhouse gas emissions.

VI. Market Monitoring

What about market abuses? Under your bill, utilities – the ones that actually need the allowances for compliance – will be forced to compete with Wall Street investment banks, hedge funds and speculators. As Section 724(b) makes absolutely clear, the "privilege of purchasing, holding, selling, exchanging, transferring, and requesting retirement of emission allowances, compensatory allowances, or offset credits shall not be restricted to the owners and operators of covered entities, except as otherwise provided in this title." Those folks do not generate electricity and do not have to cut emissions; they make profits. Let's face it: If we have learned anything from securitized mortgage trading and credit default swaps, it is that market regulation has not prevented abuses, no matter how aggressive the oversight.

VII. Clean Air Act Acid Rain Sulfur Dioxide Cap-and-Trade Program

The bill's supporters also point to the Clean Air Act acid rain SO_2 trading program as a successful template for this bill. Let me draw some sharp distinctions between the two:

- First, the SO_2 program applied only to the utility sector, not economy-wide.
- Second, the potential volume of trading in the carbon market will be at least 300 times greater than the SO_2 market, dwarfing that smaller market. For example, since 2007, the average annual volume of SO_2 allowances traded for spot and future vintages was approximately 15 million allowances per year. This is equivalent to roughly twice the 2008 level of SO_2 emissions under the acid rain program of 7.6 million tons. Compare those annual SO_2 figures to the volume expected under a carbon trading scenario, where the average daily CO_2 emissions are approximately 6.5 million tons from the electricity sector alone, or 2.4 billion tons per year.
- Third, off-the-shelf technology was already available to reduce SO_2 emissions when the program started, so plant owners had choices. They could buy the technology, switch to lower sulfur fuels, or buy allowances. For example, lower sulfur coal, which was readily available from parts of Appalachia, the Illinois Basin, and the Powder River Basin in Wyoming, now helps keep compliance costs at a reasonable level. Conversely, with carbon dioxide, there is no similar "low carbon" fossil fuel to achieve the Waxman-Markey bill's 83% carbon dioxide emission reduction. Even if all of the coal-fueled units are converted to natural gas (a much higher cost fuel), the 83% target would still not be close to being achieved. Sulfur dioxide scrubbing technology was also commercially available at the time the Clean Air Act was promulgated. Today there is no commercially available technology to capture and sequester carbon from coal and natural gas plants,

which produce 70% of our nation's electricity, so buying allowances (or offsets, if available) is the only short-term answer, because carbon capture and sequestration technology is not expected to be commercially available for at least a decade or longer. In short, SO_2 emission reductions did not require replacing the vast majority of existing energy infrastructure with new infrastructure in a relatively short time frame. Addressing climate change will require massive new infrastructure and very significant technological innovation.

- Fourth, the goal of the Clean Air Act acid rain program was a 50% reduction in sulfur dioxide emissions, not an 83% reduction.
- Fifth, 97% of the SO_2 allowances went to the utilities and are freely distributed over the life of the program. That is not the case here.
- Sixth, the proceeds from the auction get redistributed to the utilities with the compliance obligations. That is not the case here.
- Lastly, the SO_2 allowances went to the utilities that needed them. Here, utilities with significant nuclear and hydro resources will receive billions of allowances they don't need for compliance.
- In summary, under the acid rain program, if a utility met its emission reduction target, it held a sufficient quantity of allowances necessary for compliance. Under Waxman-Markey, a utility with coal-fueled resources could meet its emission reduction target and still be required to purchase millions of allowances.

VIII. Allocation of Allowances

As I have said, this bill's trading mechanism will impose an added cost on customers that will not reduce greenhouse gas emissions, so MidAmerican opposes the trading approach in its entirety. However, assuming that the bill only permits allowance trading and not less costly, more efficient alternatives, it should at least allocate allowances in an equitable way that is best designed to provide the incentives needed to reduce greenhouse gas emissions. Allocations based purely on retail sales will create a financial windfall for predominately hydro and nuclear resourced utilities because they will receive a disproportionate free allowance allocation compared to their actual need. For this reason, any retail sales allocation should be limited to retail sales derived from emitting resources. The California Public Utilities Commission (CPUC) and the California Energy Commission (CEC), which have held many hearings and workshops on the implementation of California's own global warming legislation (A.B. 32), have come to the same conclusion, recommending:

> With a fuel-differentiated output-based allocation, allowances would be allocated only to deliverers of electricity from emitting resources, using weighting factors based on fuel type … the use of weighting factors would reduce, and could largely eliminate, wealth transfers from customers of coal-dependent retail providers to customers of natural gas dependent retail providers. This reduction of wealth transfers would be accomplished by providing emitting deliveries with allocations that more closely reflect their emission levels. CPUC-CEC Final Opinion on Greenhouse Gas Regulatory Strategies (October 16, 2008) (CPUC Rulemaking 06-04-009) (CEC Docket 07-OIIP-01) ("CPUC-CEC Final Opinion") at 158. See http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/92591.pdf

Utilities that built hydroelectric dams many decades ago or nuclear plants in the 1960's and 1970's did not do so in order to avoid greenhouse gas emissions. These zero-emitting resources do not bear the burden or the direct costs of effectuating greenhouse gas emissions

reductions. Therefore, there is no reason to provide them with a financial windfall. As the California regulatory staff note, "…nuclear, hydro, and renewable sources…do not need [free allowances]." CPUC-CEC Final Opinion at 159.

To take just one example, according to data voluntarily filed with the California Climate Action Registry, Seattle City Light emitted 77,333 metric tons of CO_2 in 2007 (average emissions rate for retail electricity of 17.77 lbs CO_2 per megawatt hour multiplied by 9,594,301 megawatt hours of retail sales). Under the Waxman-Markey "local distribution company/retail sales" budget, Seattle City Light can expect to receive approximately 2,250,000 free allowances in 2012, which is more than 29 times the number of allowances it will need for compliance. Assuming $25 per allowance, that represents a windfall of over $54 million in 2012 alone. And this is only part of the free allowances Seattle City Light will receive, because it is eligible to receive additional allowances from the "local distribution company/emissions adjusted retail sales" bucket.

While MidAmerican prefers a more traditional, "historical emissions" allowance allocation to generators method, we agree with the CPUC-CEC observation that allowance distributions based on historical emissions would place new utilities and fossil generators "at a competitive disadvantage unless appropriate allowance set-asides were established for them." CPUC-CEC Final Opinion at 203.

To overcome this shortcoming, and to address concerns about windfall profits and wealth transfers among utilities, MidAmerican's subsidiary PacifiCorp supported the California decision to recommend a fuel-differentiated output-based distribution method, specifically because, as the CPUC-CEC's Final Opinion noted:

> Fuel-differentiated output-based distributions to deliverers of electricity from emitting generation resources (including unspecified sources) would

> perform similarly to historical emissions-based distributions to deliverers in terms of minimizing wealth transfers based on the emissions characteristics of the retail providers' portfolios. There would still be distributional variations based on the degree of the retail providers' reliance on market purchases. On the other hand, a pure output-based distribution would provide allowance rents to independent deliverers of zero- and low-emission electricity, including those under contract to retail providers. This would result in wealth transfers from customers of retail providers with relatively high-emitting portfolios to customers of retail providers with relatively low-emitting portfolios. Limiting output-based distributions to only deliverers of electricity from emitting generation resources would moderate the allowance rents and resulting wealth transfers. CPUC-CEC Final Opinion at 200-201.

A more equitable way to achieve the goal of significant greenhouse gas emission reductions is to distribute allowances linked either to a historical emissions or a fuel-differentiated output-based distribution method. If not, hydro- and nuclear-dependent local distribution companies, flush with allowances based upon retail electricity derived from non-emitting resources, will receive allowance windfalls and, when auctioned, allowance revenue windfalls. These utilities will thus have less incentive to cut existing or avoid future greenhouse gas emissions than coal-dependent utilities because with the surplus allowances, they will have the wherewithal to actually increase their emissions at no cost.

The distribution of allowances based upon retail sales and linked to either historical emissions or a fuel-differentiated output-based distribution methodology provides a stronger incentive to reduce carbon emissions, rewards early action once the program starts, and avoids windfall profits and wealth transfers between utilities and from state-to-state As you can see from Attachments 4 and 5 to my testimony, the significant regional differences regarding fuel mixes will essentially result in a wealth transfer from Midwestern and Interior Western states, which rely heavily on coal, to states in the Northeast, Northwest, and California (which generates 1% of its electricity from coal).

IX. MidAmerican's Proposed Alternative Compliance Mechanism

If de-carbonizing the electric power sector is the goal, then Congress should consider an alternative compliance mechanism: Retain the long-term targets but give states the option to bypass the trading by using their existing regulatory framework to determine the most efficient ways to get there. This is a less expensive, more effective enforcement mechanism for regulated utilities that is already in place in the states.

Owners and users of electric generation need clear, certain and predictable rules, regulations and incentives in order to make sound long-term and least-cost decisions to implement legislation to reduce CO_2 emissions. Electric generators should be offered an alternative compliance mechanism that does not involve speculation, trading, and the exchange of billions (or perhaps trillions) of dollars. The focus of electric generation planning should be long-term price stability, not long-term price volatility.

Our proposed optional enforcement mechanism recognizes that this bill does not specify a pathway for achieving emissions reductions. For utilities, that pathway will be developed through the existing state regulatory process. This state regulatory enforcement mechanism is already in place, has worked for more than a century, and does not depend upon the vagaries of a new market. Most importantly, the states will need to use this regulatory mechanism even if Congress creates an allowance trading market. States should be given the option to enforce the caps for utilities by using their existing regulatory mechanisms without being required to involuntarily participate in the trading market.

I have attached draft language for MidAmerican's proposed alternative compliance mechanism as Attachment 6 to my testimony. This alternative compliance plan amendment retains the same greenhouse gas emissions caps for 2020, 2030 and 2050 as the Waxman-

Markey bill, but it eliminates the need for customers to pay twice. It accomplishes this by allowing a state to choose to have its regulated utilities avoid the costs of the trading market and work directly with the state regulators to meet the caps – which the regulated utilities would have to do anyway.

There is nothing novel about the alternative approach in the proposed amendment. In fact, the amendment proposes the same approach for implementing and enforcing the emissions cap that is used in other federal environmental laws and that has been used in utility regulation for more than a century. That is, Congress or state legislatures enact a legal requirement and then state regulators, regulated companies, interested parties, and experts determine the most efficient way to meet the requirement. For example, the Clean Air Act directs states to submit a State Implementation Plan, or SIP, identifying the regulatory action to be undertaken to meet the federal requirement under the Act.

Key aspects of our alternative compliance plan amendment include:

- States, not utilities, determine whether to participate in the trading market or to use the alternative compliance approach; the determination requires legislative action approved by the governor because the entire state will be impacted by this decision.
- To protect consumers, only electric utilities whose rates are regulated by the state can qualify for the alternative compliance approach.
- Utilities must meet the same 2020, 2030 and 2050 caps whether the state chooses the market trading approach or the compliance alternative offered by the amendment.
- The same penalties apply for non-compliance.
- Alternative compliance plans must contain details of the measures that will be undertaken to ensure compliance with the caps.

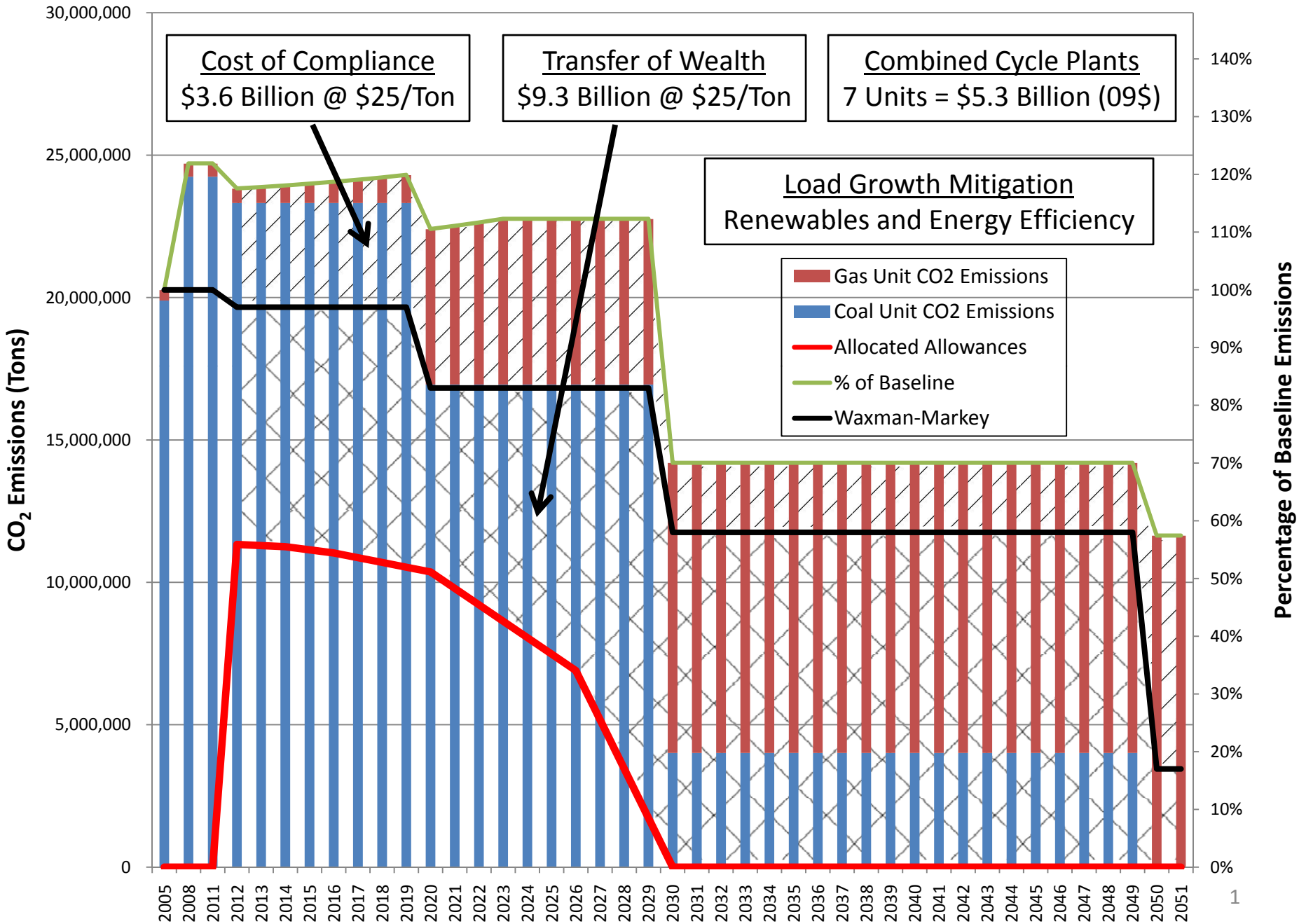
- Alternative compliance plans must be updated at least every four years.
- Alternative compliance plans adopted by the state must be filed with the state and federal environmental agencies that enforce the Clean Air Act amendments.
- Utilities that are subject to alternative compliance plans receive no free allowances.
- Utilities that serve more than one state can be subject to an alternative compliance plan in one state and to the trading market in another state.

MidAmerican's alternative compliance amendment gives states an option to avoid the auctions, speculation, trading, new Wall Street products, and the billions of dollars in government revenue that may end up being spent on other programs. Instead, states can choose to focus upon pursuing the most efficient ways of reducing greenhouse gas emissions to meet the federal caps, while at the same time protecting their citizens. This tackles the real problem – reducing greenhouse gas emissions – but eliminates costly and useless allowance trading. This low-carbon performance standard would affect existing plants as well as well as new ones. Is this going to be expensive? Yes, but let's not make consumers pay twice to reach these goals.

Thank you. I would be pleased to answer any questions.

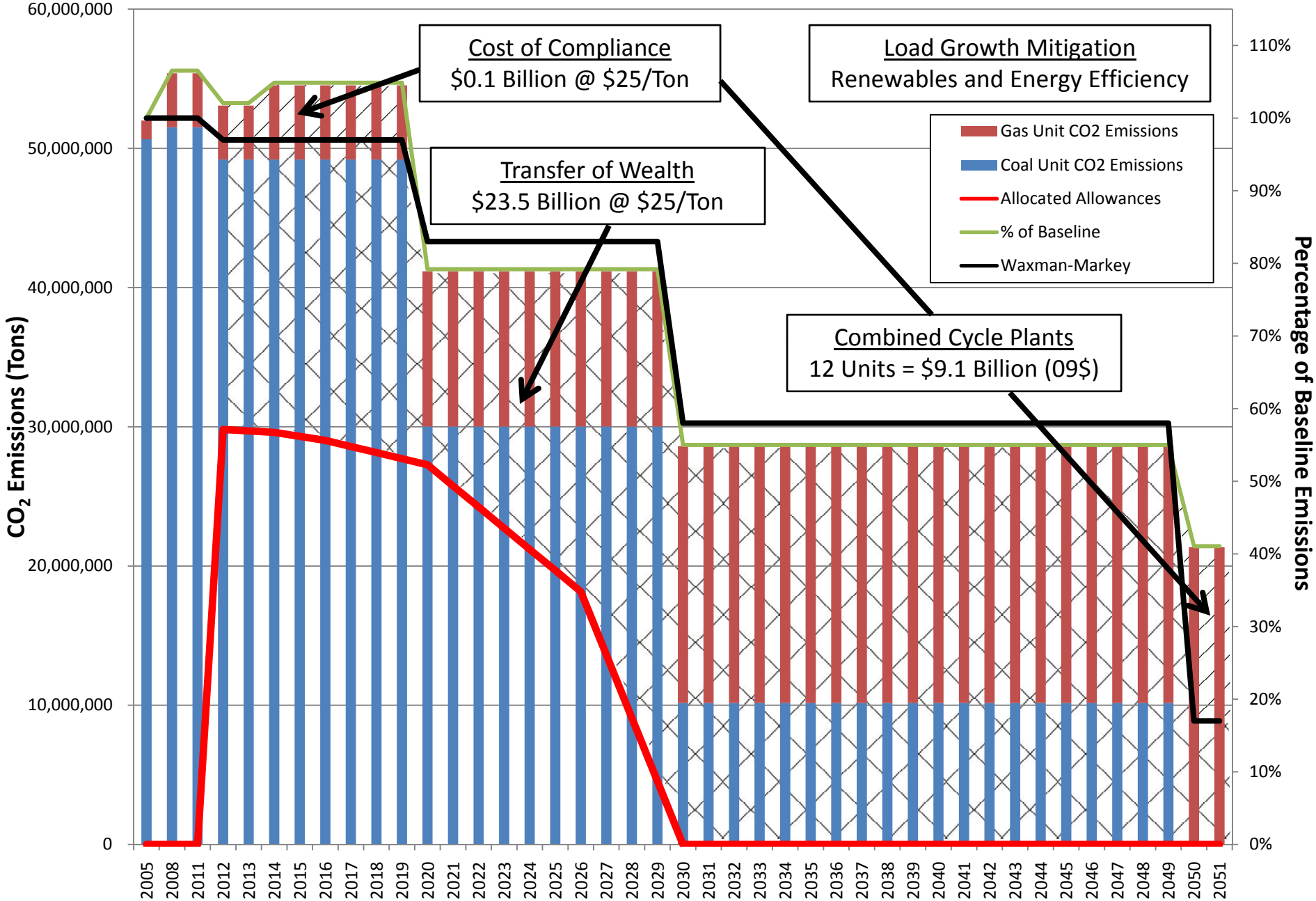
ATTACHMENT 1

MEC CO_2 Emissions Projection



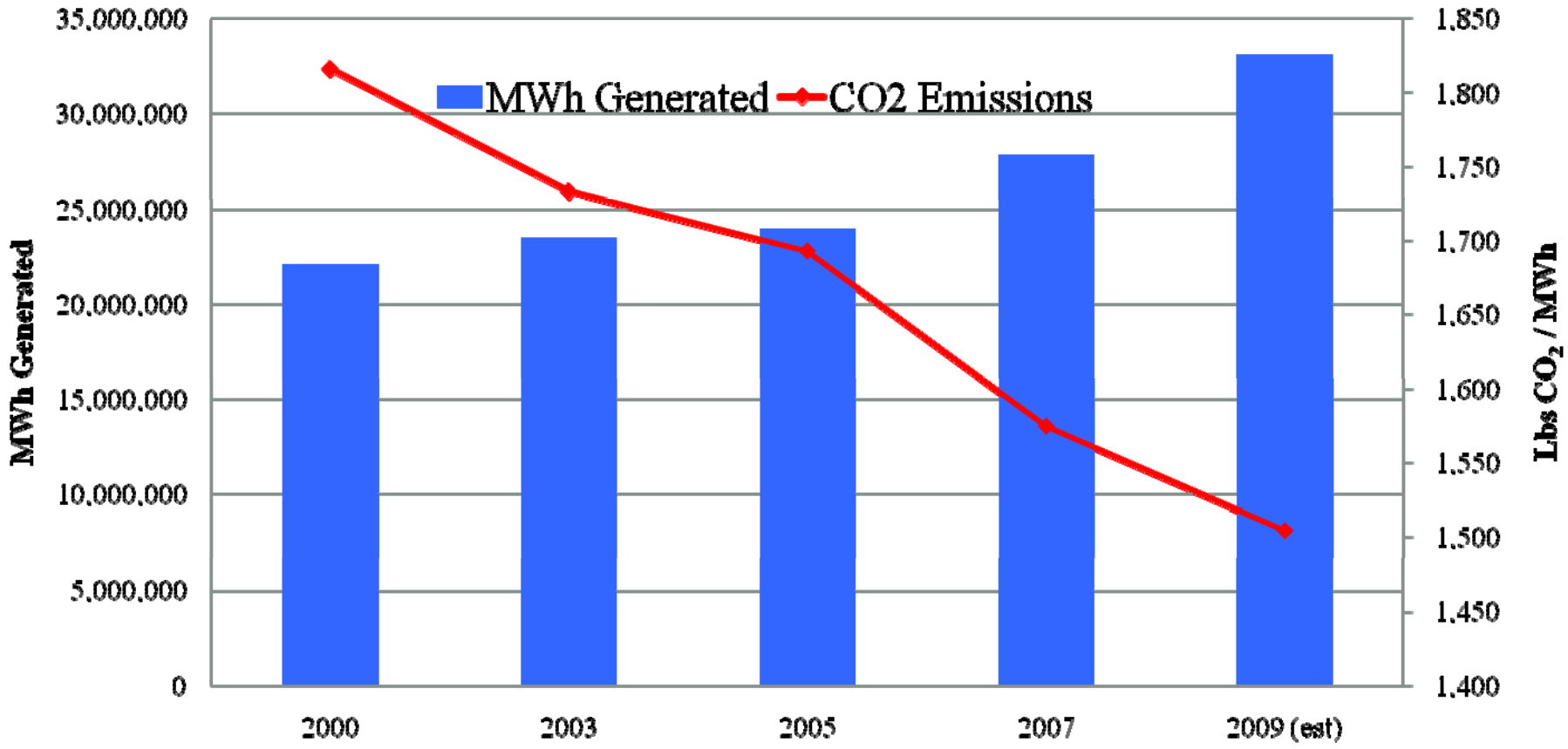
ATTACHMENT 2

PacifiCorp CO_2 Emissions Projection



ATTACHMENT 3

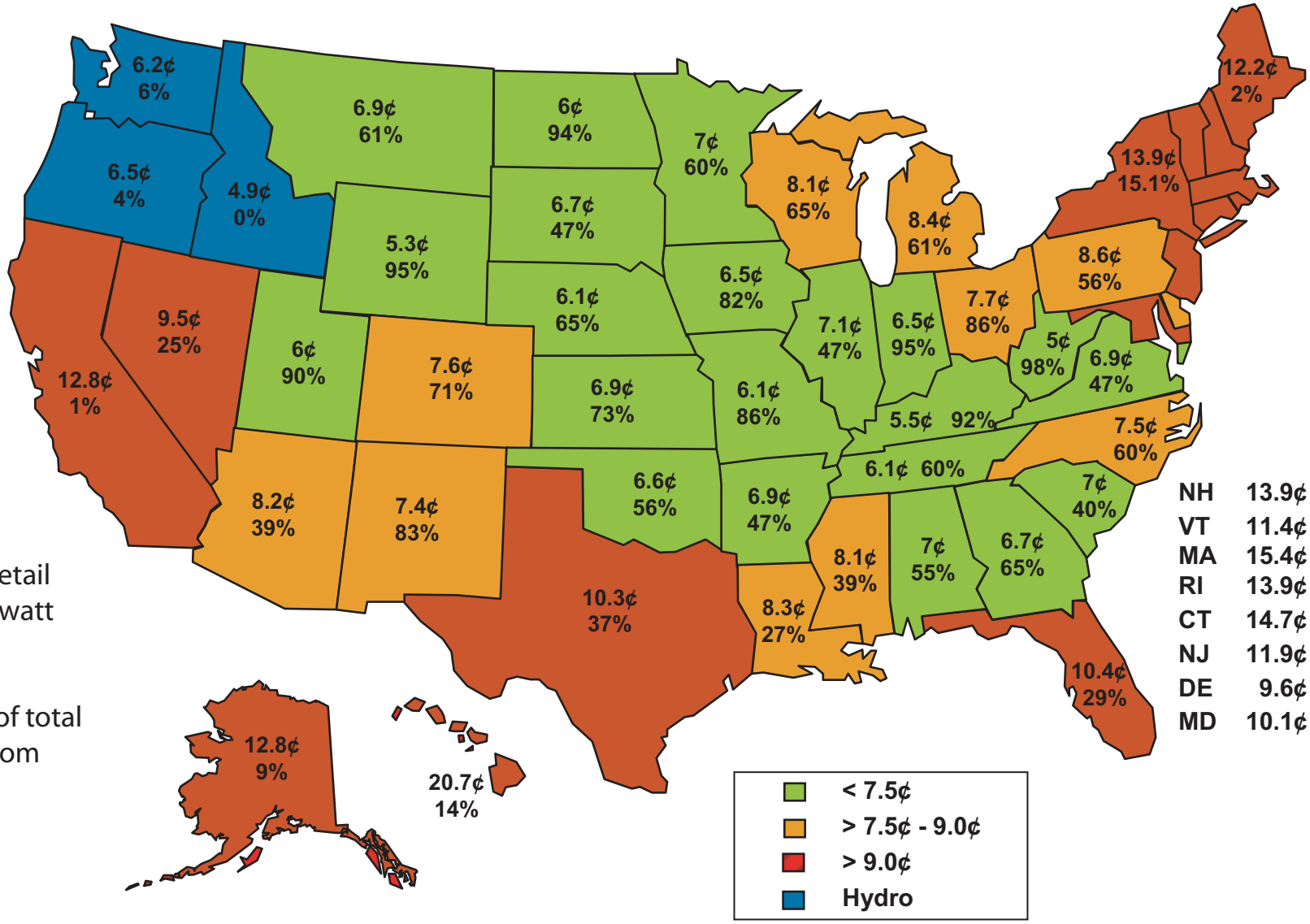
MidAmerican's Wind Benefit Decreasing Carbon Footprint



MidAmerican ENERGY®

ATTACHMENT 4

Cost per kWh and Percent Generated by Coal



NH	13.9¢	17%
VT	11.4¢	0%
MA	15.4¢	25%
RI	13.9¢	0%
CT	14.7¢	12%
NJ	11.9¢	18%
DE	9.6¢	69%
MD	10.1¢	60%

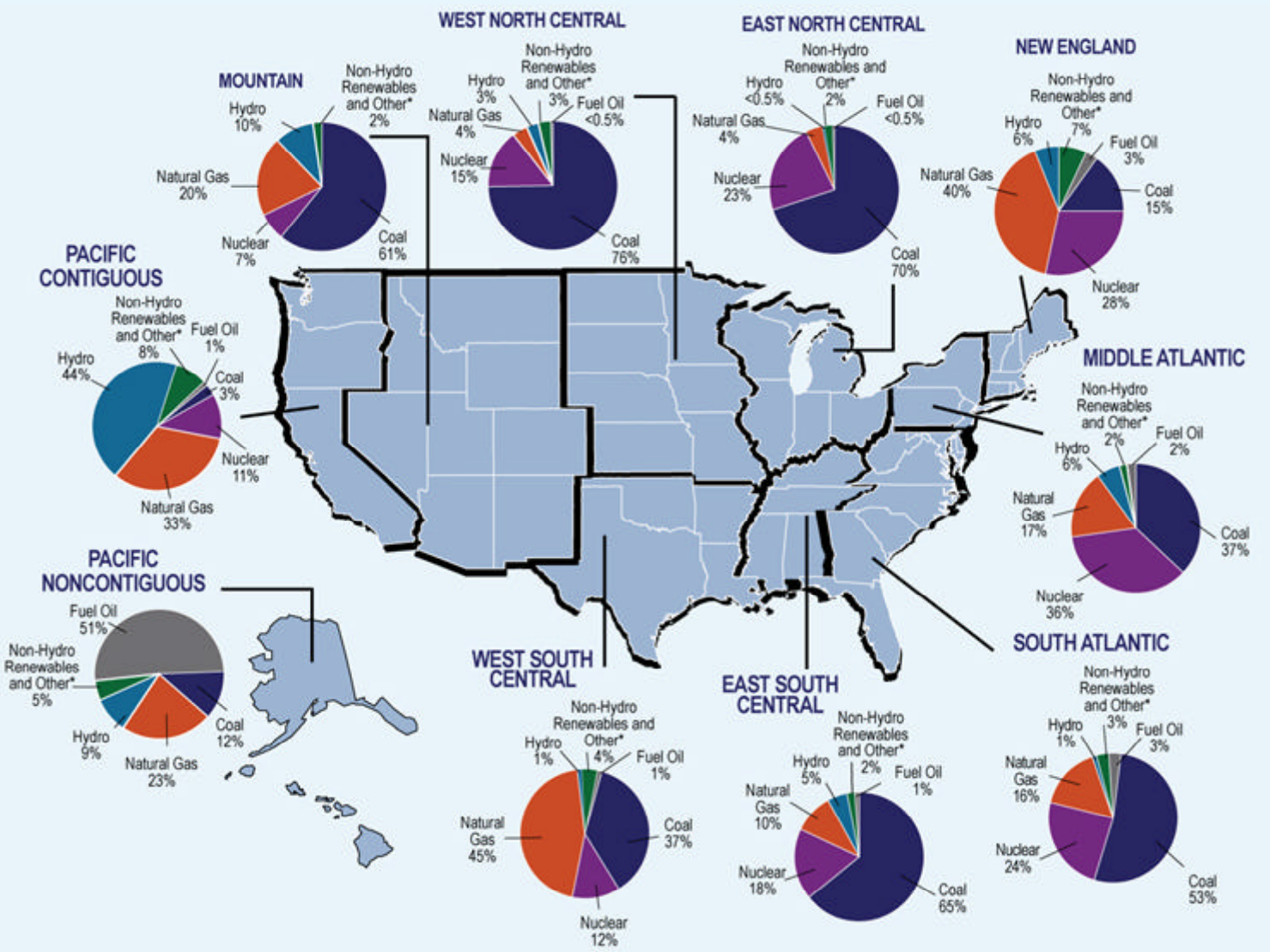
¢ = average retail price per kilowatt hour, 2006.

% = percent of total generation from coal, 2006.

Source: Energy Information Administration, March 2007.

ATTACHMENT 5

Different Regions of the Country Use Different Fuel Mixes to Generate Electricity



Source: U.S. Department of Energy, Energy Information Administration, Power Plant Report (EIA-920), Combined Heat and Power Plant Report (EIA-920), and Electric Power Monthly (2006 Preliminary).

ATTACHMENT 6

"SEC. XXX.—ALTERNATIVE COMPLIANCE MECHANISM.

"(a) IN GENERAL.—Title VII of the Clean Air Act (as added by section 331 of this Act) is amended by adding the following new part after Part F:

"PART G—ALTERNATIVE COMPLIANCE MECHANISM FOR RATE-REGULATED ELECTRIC UTILITIES

"SEC. 871. CERTIFICATION TO CONGRESS.

"(a) DEFINITIONS.—For purposes of this part:

"(1) The term 'rate-regulated retail electric supplier' means an electric utility that sold not less than 4,000,000 megawatt hours of electric energy to electric consumers for purposes other than resale during the calendar year prior to the enactment of this Act pursuant to rates that are subject to review and acceptance by regulatory authorities in one or more states.

"(b) STATE CERTIFICATION.—

"(1) Not later than 1 year after the date of enactment of this Act, each State shall certify to the Administrator of the Environmental Protection Agency, by legislative act effective upon signature of the governor, which of the rate-regulated retail electric suppliers providing retail electric service within that State shall meet the requirements of Title VII of this Act through the program established in Part C of Title VII of this Act and which shall meet the requirements through a state alternative compliance plan developed under section 872.

"(2) If a State certifies that one or more of the rate-regulated retail electric suppliers providing retail electric service within that State will be subject to an alternative compliance plan, the State is authorized to implement and enforce the requirements of Title VII of this Act through a state alternative compliance plan developed under section 872.

"(3) A rate-regulated retail electric supplier that complies with a State's alternative compliance plan developed under section 872 shall be deemed to be in compliance with any requirements under Title VII of this Act, excluding any reporting requirements under section 713.

"(c) PENALTIES FOR NON-COMPLIANCE.—

"The penalty for noncompliance described in section 723 shall apply to a State's failure to comply with its alternative compliance plan; provided that a certifying

State may seek to recover the costs of the penalty for non-compliance described in section 723 from the rate-regulated retail electric supplier covered by the alternative compliance plan if the certifying State determines that the cause of non-compliance was the direct result of an action or inaction by such rate-regulated retail electric supplier.

"SEC. 872. STATE ALTERNATIVE COMPLIANCE PLANS

"(a) REQUIREMENTS.—Within 1 year after the date of submitting the certification under section 871(b)(1) of this Part, the State agency responsible for regulating the electric rates of the rate-regulated retail electric supplier shall adopt an alternative compliance plan for each rate-regulated retail electric supplier which has been identified as being subject to a plan. The State shall promulgate any laws or regulations necessary to provide for the implementation, maintenance, and enforcement of the requirements described in this section.

"(b) CONTENTS OF ALTERNATIVE COMPLIANCE PLANS.— Each alternative compliance plan of a State shall—

"(1) identify the rate-regulated retail electric supplier providing retail electric service within that State that will be subject to the alternative compliance plan;

"(2) determine the quantity of greenhouse gas emissions attributable to the retail electric service provided within the State by the rate-regulated retail electric supplier in 2005;

"(3) require that, if the rate-regulated retail electric supplier owns or operates a covered EGU within the State as defined in section 116 of Title I of this Act, the covered EGU must meet the performance standards established by that section; and

"(4) set forth in detail the measures that will be required to be undertaken by the rate-regulated retail electric supplier to satisfy the emissions reduction targets for 2020, 2030 and 2050 of Sections 703 of Part A of Title VII of this Act for the proportion of its total emissions that are subject to regulation by the State adopting the alternative compliance plan.

"(c) REGIONAL CAP AND TRADE PROGRAMS PROHIBITED -- Participation in a regional cap and trade program or comparable program shall not be deemed a permissible measure under subsection (b)(4).

"(d) UPDATES TO PLANS.-- Alternative compliance plans shall be updated by the State at least every four years.

"(e) FILING OF PLANS.--

"(1) Within thirty days after adoption by the State agency responsible for regulating the electric rates of the rate-regulated retail electric supplier, an alternative compliance plan or update shall be filed with the State environmental agency delegated enforcement authority of U.S. Code Title 42, Chapter 85.

"(2) The State environmental agency delegated enforcement authority of U.S. Code Title 42, Section 7410 shall file the alternative compliance plan or update with Administrator of the Environmental Protection Agency as a State Implementation Plan control measure.

"(f) ALLOCATION OF ALLOWANCES— A rate-regulated retail electric supplier that is subject to a state alternative compliance plan under this section shall not receive allowances under Part C of Title VII this Act for the proportion of its total emissions and retail sales that are subject to regulation by the State adopting the alternative compliance plan. Except as provided in this section, a rate-regulated retail electric supplier subject to an adopted alternative compliance plan shall not be subject to the provisions and rules of Part C.

"(g) OFFSETS -- In addition to other measures to satisfy the emissions reduction requirements under subsection (b)(4), a rate-regulated retail electric supplier that is subject to a state alternative compliance plan under this section shall be authorized to receive offset credits under Part D of Title VII of this Act as follows:

"(1) Offset credits under Section 732 for over-compliance for federal renewable energy credits issued pursuant to Title I of this Act and tendered by the owner of such credits to the extent the credits have not been submitted to comply with the annual compliance obligation under Title I, Section 101(b) of this Act or otherwise retired pursuant to a federal program;

"(2) Offset credits under Section 732 for over-compliance for total annual electricity savings as defined in Title I, Section 101(a) of this Act to the extent the total annual electricity savings have not been submitted to comply with the annual compliance obligation under Title I, Section 101(b) of this Act;

"(3) Offset credits under Section 740 for early action for megawatt hours of renewable energy that would have qualified for issuance of federal renewable electricity credits pursuant to Title I of this Act but for the fact that the energy production occurred after January 1, 2005 but prior to December 31, 2011; and

"(4) Offset credits under Section 740 for early action for megawatt hours of electricity savings between January 1, 2005 and December 31, 2011 that would have qualified as total annual electricity savings as defined in Title I, Section 101(a) of this Act but for the fact that the measures were placed into service prior to the enactment of Title I.

“(h) PUBLIC-PRIVATE COLLABORATION.— A rate-regulated retail electric supplier that is subject to a state alternative compliance plan under this section shall collaborate with the State agency responsible for regulating the electric rates of the rate-regulated retail electric supplier to develop a long-term integrated resource plan designed to ensure compliance with the requirements of this section.

"(i) APPLICABILITY OF CLEAN AIR ACT PROVISIONS --

"(1) A rate-regulated retail electric supplier that is subject to a state alternative compliance plan under this section shall not be subject to the following provisions of the U.S. Code as long as the plants remain in compliance with the state's alternative compliance plan: Title 42, Sections 7411, 7412, 7413, and 7470 through 7479.

"(2) The exemptions in Part C of Title VIII of this Act shall apply to a rate-regulated retail electric supplier that is subject to a state alternative compliance plan under this section.