

**July 09, 2014**

**IOWA UTILITIES BOARD**

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA STATE UTILITIES BOARD**

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**IN RE: AVOIDED COSTS**

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**DOCKET NO. INU-2014-0001**

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**APPLICATION FOR CONFIDENTIAL ORDER**

COMES NOW, MidAmerican Energy Company ("MidAmerican") and for its Application for Confidential Order ("Application") pursuant to Code of Iowa § 22.7 (2013), submits as follows:

1. MidAmerican is filing with the Iowa Utilities Board ("Board") responses to the follow-up questions from the Avoided Cost Workshop, held June 5-6, 2014. A portion of MidAmerican's response relates to avoided costs which MidAmerican claims to be confidential ("Confidential Materials").

2. The Board has established rules governing the examination of documents filed with the Board as set out in 199 Iowa Admin. Code §1.9. The request of MidAmerican for the Board to withhold the confidential materials from general public inspection would, if granted in the Board's discretion, require the Board to continue to maintain the confidentiality of the confidential materials as records not routinely available for public inspection subject to such other limitations as the Board may consider appropriate.

3. MidAmerican, by this Request, hereby states that the Confidential Materials consist of trade secrets of MidAmerican, which are recognized and protected as such by law, and requests that the same be kept confidential to the full extent permitted by Iowa law. This specific request is premised on the statutory authority granted under Code of Iowa § 22.7(3) (2013).

4. MidAmerican, by this Request, hereby further states that the Confidential Materials constitute a report to this Board, the public release of which would give advantage to competitors and serve no public purpose. This specific request is premised on the statutory authority granted under Code of Iowa § 22.7(6) (2013).

5. In support of its allegations that the Confidential Materials constitute a trade secret pursuant to Code of Iowa § 22.7(3), and further that the Confidential Materials constitute a report to a government agency pursuant to Code of Iowa § 22.7(6) to the Board which, if released, would give advantage to competitors and serve no public purpose, MidAmerican attaches hereto and incorporates herein the Affidavit of Dean A Crist, Vice President-Regulation for MidAmerican.

### **Statement of Legal Basis for this Request**

#### **Trade Secret Section 22.7(3)**

6. A portion of the Confidential Materials consists of confidential and proprietary information of MidAmerican which falls within the purview and protection of the exclusion authorized under Code of Iowa § 22.7 (2013), which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

7. The 73rd General Assembly adopted the Uniform Trade Secrets Act, Code of Iowa § 550 (2013). This act defines “trade secret” broadly and would encompass the information sought to be protected herein. The Iowa courts have also consistently given common law protection to trade secrets. They define trade secrets as "...information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it." Farnum v. G.D. Searle, 339 N.W.2d 384, 389 (Iowa 1983); citing comment b to Restatement of Torts, § 757 (1939).

8. To the extent that other electric generators and suppliers have knowledge as to MidAmerican's cost and service characteristics, such information is sensitive information that may benefit competitors. In order to operate in a cost effective manner, MidAmerican maintains the Confidential Materials constitute a trade secret.

**Report to Agency, Section 22.7(6)**

9. The Confidential Materials contain information regarding MidAmerican costs of production which, if released to the general public, would give an unfair advantage to existing and potential electric generators and suppliers. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 768 (U.S.C.A. 1974).

10. Because maintaining confidentiality of such information maximizes MidAmerican's ability to operate safely and at the lowest reasonable cost, substantial public benefits result from confidential treatment and no tangible public benefits would result from release.

WHEREFORE, MidAmerican Energy Company respectfully requests the Iowa Utilities Board to grant this Application for Confidential Order, holding confidential the Confidential Materials filed in this proceeding, subject only to the established procedures of the Board in the retention of and public access to such confidential materials. Accordingly, MidAmerican respectfully requests that the Confidential Materials, in their entirety, be held by the Board as a confidential record not routinely available for public inspection.

