

**October 10, 2014**

**IOWA UTILITIES BOARD**

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

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**IN RE:**

**APPLICATION OF MIDAMERICAN  
ENERGY COMPANY FOR A  
DETERMINATION OF  
RATEMAKING PRINCIPLES**

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**DOCKET NO. RPU-2014- 0002**

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**APPLICATION FOR CONFIDENTIAL TREATMENT**

COMES NOW, MidAmerican Energy Company (“MidAmerican” or “Company”) and for its Application for Confidential Treatment (“Application”), pursuant to Code of Iowa §22.7 (2013) and 199 Iowa Admin. Code §1.9(5) et seq., submits the following:

1. Concurrent with the filing of this Application, the Company filed its Application of MidAmerican Energy Company for a Determination of Ratemaking Principles (“Ratemaking Principles Application”) concerning MidAmerican’s request for approval of ratemaking principles for its proposed new wind-powered generation project of up to 162 MW (“Wind IX” or “Project”).

2. As set forth in the Ratemaking Principles Application and the testimony of Company witness Adam Wright, MidAmerican is currently engaged in development efforts and negotiations for key contracts for Wind IX. The terms and conditions of the said contracts will be determined by the ongoing negotiations. Moreover, MidAmerican is engaged in the sale of power and energy in the wholesale markets for same, as indicated in the attached Affidavits of Adam L. Wright, Vice President – Wind Generation & Development and Barry Campbell, Vice President – Energy Supply Management.

3. Before proceeding with Wind IX it would be of benefit to the Company and its customers if the Iowa Utilities Board (“Board”) were to first establish the ratemaking principles pertaining to the said Project.

4. MidAmerican will not proceed to execute contracts that would likely result in Project costs in excess of the cost cap as defined by the proposed, related ratemaking principle.

Moreover, MidAmerican is undertaking efforts that it believes will yield Wind IX capital costs at or under the cost cap, as MidAmerican has been able to do in prior wind generation projects.

5. In order not to degrade MidAmerican’s bargaining leverage with potential Project vendors and suppliers, and in order to secure the best prices possible in the wholesale energy markets as well as protect MidAmerican’s competitiveness for the development of wind projects, and to protect critical energy infrastructure, MidAmerican seeks to keep confidential certain avoided cost, sensitive cost and related revenue information, and “critical energy infrastructure information” (i.e., a transmission study) as the latter term is used by the Federal Energy Regulatory Commission. Filing the above-mentioned information publicly would allow: (i) a potential MidAmerican supplier, vendor or competitor to calculate or accurately estimate the various Wind IX cost components and Wind IX cost cap; (ii) a potential competitor to calculate or accurately estimate MidAmerican’s costs of power and energy sold in the wholesale market; or (iii) individuals who desire to do harm to the country’s critical energy infrastructure to gain insight into the operation of the transmission system, which in turn could serve to threaten public safety and convenience. The documents for which MidAmerican seeks confidential treatment (“Confidential Information”) contain information that is similar to that which the Iowa Utilities Board has previously granted confidential status in MidAmerican’s prior wind ratemaking

principles proceedings<sup>1</sup> and a related project update<sup>2</sup> filed with the Board. All Confidential Information is designated as “Confidential” in the electronic file name of each such document and the Confidential Information consists of the following: (i) the unredacted version of pages 3 and 5 of Section 2.1 of the Ratemaking Principles Application; (ii) Tables 2.1-1(a-c) and Table 2.1-2, referenced in the said Section 2.1, which tables are only provided as confidential electronic documents (i.e., there are no redacted versions of these tables in the public part of the Ratemaking Principles Application); (iii) MidAmerican witness Peter Schuster’s Exhibit \_\_\_ (PJS-2), Schedule 2, the transmission study for which confidential treatment is sought—it is only provided as a confidential document, there is no redacted version in the public part of the filing. (Schedule 1 of the same Schuster exhibit was previously made public by the Midcontinent Independent System Operator, Inc.); and (iv) the unredacted version of pages 47 through 50 of Neil Hammer’s testimony.

6. MidAmerican attaches hereto and incorporates herein the Affidavits of Adam L. Wright, Vice President – Wind Generation & Development, and Barry Campbell, Vice President – Energy Supply Management, as required by 199 Iowa Admin. Code 1.9(6)(b), in support of its allegations that the Confidential Information: (i) constitutes trade secrets pursuant to Code of Iowa §22.7(3); (ii) constitutes a report pursuant to Code of Iowa §22.7(6) to the Board which, if released, would give advantage to competitors and serve no public purpose; and/or (iii) pursuant

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<sup>1</sup> The Board has previously issued orders granting MidAmerican’s request for confidentiality in eight similar wind ratemaking proceedings. *MidAmerican Energy Company*, Docket No. RPU-2013-0003, *Order Granting Request for Confidentiality* (May 15, 2013); *MidAmerican Energy Company*, Docket No. RPU-2009-0003, *Order Granting Request for Confidentiality* (April 1, 2009); *MidAmerican Energy Company*, Docket No. RPU-08-4, *Order Granting Request for Confidentiality* (July 30, 2008); *MidAmerican Energy Company*, Docket No. RPU-08-2, *Order Granting Request for Confidentiality* (May 12, 2008); *MidAmerican Energy Company*, Docket No. RPU-07-2, *Order Granting Request for Confidentiality* (April 24, 2007 & June 25, 2007); *MidAmerican Energy Company*, Docket No. RPU-05-4, *Order Granting Request for Confidentiality* (March 29, 2006), *Order Granting Request for Confidentiality* (January 19, 2006), and *Order Granting Request for Confidentiality* (December 22, 2005); *MidAmerican Energy Company*, Docket No. RPU-04-3, *Order Granting Request for Confidentiality* (January 28, 2005); *MidAmerican Energy Company*, Docket No. RPU-03-1, *Order Granting Request for Confidentiality* (September 12, 2003).

<sup>2</sup> *MidAmerican Energy Company* Docket No. RPU-2009-0003, *Order Granting Request for Confidentiality* (February 23, 2012)

to Code of Iowa §22.7(18), constitutes a communication, not required by law, rule, procedure or contract, which if released would threaten the security interests of MidAmerican and its customers as it pertains to the transmission system. Moreover, making such communications public would discourage such communications in the future.

7. The Affidavits of Messrs. Wright and Campbell request that access to the Confidential Information be limited to the review of the Board (including its staff) and the Office of Consumer Advocate without protective order, and that the Confidential Information be withheld from general public inspection to the extent permitted by statute and by the rules of the Board.

8. MidAmerican, by this Application, hereby states that the Confidential Information (minus the transmission study) consists 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).

9. MidAmerican, by this Application, hereby further states that the Confidential Information constitutes a report to this Board which if released would give advantage to suppliers, vendors and competitors and serve no public purpose. This specific request is premised on the statutory authority granted under Code of Iowa §22.7(6) (2013).

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

#### **Trade Secret §22.7(3)**

10. The Confidential Information consists of confidential and proprietary information of MidAmerican—i.e., sensitive cost, avoided cost and revenue information, and wind farm site information, which falls within the purview and protection of the exclusion authorized under

Code of Iowa §22.7(3) (2013), which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

11. The 73rd General Assembly adopted the Uniform Trade Secrets Act, now Code of Iowa Chapter 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)).

12. Potential Wind IX vendors and suppliers, and MidAmerican’s competitors in the wholesale energy markets and for development of wind farms, will obtain a competitive advantage from their knowledge of the information contained in the Confidential Information. Release of such information is commercially sensitive.

**Report to Agency §22.7(6)**

13. The Confidential Information contains information regarding MidAmerican’s acceptable costs (i.e., cost for Wind IX ), related revenues, avoided costs, critical infrastructure information, and a wind farm location, which if released to the general public would give an unfair advantage to potential Wind IX vendors and suppliers seeking to negotiate contracts with MidAmerican, and to MidAmerican’s competitors in the wholesale energy markets and for development of wind farms, as well as adversaries in the effort to maintain the safety of critical energy infrastructure. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 768 (U.S.C.A. 1974).

14. Release of the Confidential Information would also serve no public purpose, and thus the Confidential Information qualifies for an exclusion to the general rule of public access to reports made to governmental agencies, as allowed by Iowa Code § 22.7(6) (2013).

**Communication to Agency §22.7(18)**

15. MidAmerican further states that the Confidential Information constitutes a communication, not required by law, rule, procedure or contract. Moreover, the Confidential Information is information provided to the Board (from persons outside of government) which if released would threaten the security interests and electric utility service and cost interests of MidAmerican's customers, serve no public purpose, and would discourage such communications in the future. Therefore, MidAmerican requests that the same be kept confidential to the full extent permitted by Iowa law. This request is premised on the statutory authority granted under Code of Iowa §22.7(18).

WHEREFORE, MidAmerican Energy Company respectfully requests the Iowa Utilities Board to grant this Application for Confidential Treatment, holding confidential the Confidential Information 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 Information in its entirety be held by the Board as a confidential record not routinely available for public inspection, as a trade secret, and/or as a communication not required by law, rule, procedure or contract (from persons outside of government), which if released would discourage such communications in the future.

Dated this 9<sup>th</sup> day of October, 2014.

Respectfully Submitted,

MIDAMERICAN ENERGY COMPANY

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