

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

**FILED WITH
Executive Secretary
August 23, 2013
IOWA UTILITIES BOARD**

IN RE:	:	
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MIDAMERICAN ENERGY COMPANY	:	Docket No. EEP-2012-0002
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APPLICATION FOR CONFIDENTIAL TREATMENT

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

1. MidAmerican filed its Application For Approval of Energy Efficiency Plan (Plan) on February 1, 2013. The Plan contained confidential schedules, which were filed with the associated testimony. On February 21, 2013, MidAmerican filed an amended public and confidential version of Exhibit___(ODS), Schedules 1-12 to include as confidential, Schedules 10 and 11. On March 19, 2013, MidAmerican also filed a request for confidential treatment regarding its response to the Board request for additional information for Attachments 17a and 17b, which also included avoided capacity costs (collectively, Confidential Information). On March 1, 2013, and March 28, 2013, the Board granted MidAmerican’s confidentiality requests. *See* Order Granting Requests for Confidentiality filed February 1 and February 21, 2013 and Order Granting Request for Confidentiality filed March 19, 2013.

2. MidAmerican also filed a request for confidential treatment on June 26, 2013. The request was for an extension of the protection for Confidential Information in the direct testimony of

Dr. Shi and Mr. Munoz, together with Direct Exhibit MM-1 Sh A testimony filed by the OCA on June 3, 2013. On July 2, 2013, the Board granted MidAmerican's confidentiality requests. *See* Order Granting Request for Confidentiality filed June 6 and June 26, 2013.

3. On July 25, 2013, the Office of Consumer Advocate (OCA) filed its surrebuttal testimony in this matter. The surrebuttal testimony of Mr. Munoz contains avoided cost information previously covered by the protective order from the Board. MidAmerican respectfully requests that the Board extend the protection accorded the Confidential Information to the Surrebuttal testimony of Mr. Munoz filed by the OCA on July 25, 2013.

4. MidAmerican's request is consistent with its previous requests for confidential treatment, which included the avoided capacity costs. If the Confidential Information contained in the surrebuttal testimony of the OCA were publicly available, it would be of significant competitive value to MidAmerican's suppliers of fuel, fuel services and natural gas supply as they would have knowledge of MidAmerican's expectations concerning the avoided electric capacity costs and price of their products. Moreover, suppliers would have the opportunity to use that information in negotiations with MidAmerican concerning the price of their products. The Confidential Information would also be of significant value to MidAmerican's competitors, suppliers and customers in the wholesale markets for electric power, energy, and natural gas. The avoided costs, price of fuel, and natural gas supply comprise a significant component of an energy producer's production costs, and knowledge of MidAmerican's actual and projected fuel and natural gas costs would be of material value to those parties to whom it sells energy, those from whom it buys, and those with whom it competes for sales.

5. The Board has established rules governing the examination of all public records of the Board as set out in 199 IAC 1.9. The request of MidAmerican for the Board to withhold the

Confidential Information from general public inspection would, if granted in the Board's discretion, require the Board to continue to maintain the confidentiality of the Confidential Information as records not routinely available for public inspection subject to such other limitations as the Board may consider appropriate.

6. MidAmerican, by this Request, hereby further states that Confidential Information constitutes a report to this Board which, if released, 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) (2011).

7. MidAmerican, by this Request, hereby states that Confidential Information 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) (2011).

8. In support of its allegations that Confidential Information 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 further that the confidential materials constitute a trade secret pursuant to Code of Iowa §22.7(3), MidAmerican attaches hereto and incorporates herein the Dean A. Crist, Vice President – Regulation.

Statement of Legal Basis for this Request

Trade Secret Section 22.7(3)

9. The Confidential Information 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, which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

10. “Trade secrets” have been defined 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).

11. As stated above, MidAmerican’s competitors will obtain a competitive advantage from their knowledge of the Confidential Information. Release of such information is commercially sensitive.

Report to Agency Section 22.7(6)

12. The Confidential Information also contains information which, if released to the general public, would give an unfair advantage to competitors. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 768 (U.S.C.A. 1974).

13. The release of the Confidential Information would serve no public purpose, and thus the Confidential Information qualifies as an exclusion to the general rule of public access to reports made to governmental agencies under Iowa Code §22.7(6) (2013).

14. Without confidential treatment, the contents of the Confidential Information would be subject to public disclosure. As stated above, this would place MidAmerican at a competitive disadvantage.

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.

DATED this 23rd day of August, 2013.

Respectfully Submitted,

MIDAMERICAN ENERGY COMPANY

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