

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

FILED WITH
Executive Secretary
September 28, 2012
IOWA UTILITIES BOARD

MIDAMERICAN ENERGY COMPANY

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DOCKET NO. RPU-2012-0001

APPLICATION FOR CONFIDENTIAL TREATMENT

COMES NOW, MidAmerican Energy Company ("MidAmerican") and for its Application for Confidential Order ("Application") pursuant to Code of Iowa §22.7 (2011) and 199 IAC § 1.9(5), submits as follows:

1. MidAmerican is filing an update to its Response to the the Iowa Utilities Board's ("Board") May 22, 2012, Order Requiring Filing of Contracts. In response to the Board's order, MidAmerican is filing additional confidential information and respectfully requests the Board issue a Confidential Order pursuant to Code of Iowa §22.7 (2011) and 199 IAC § 1.9(5).

2. Specifically, MidAmerican is filing Confidential Attachment 35 ("Confidential Materials"), which adds an additional contract to the Confidential A filed on June 1, 2012. The Confidential Materials contain the name of the vendor, contract terms and contract prices. Confidential Attachment 35 is an amendment relating to Confidential Attachment 5, filed on June 1, 2012. The vendors that submitted the proposals to supply coal, freight and other coal delivery products and services to MidAmerican did so pursuant to the proposal or contract information being held confidential. The Board issued an Order Granting the Request for Confidentiality on February 23, 2012, May 30, 2012, June 7, 2012, June 15, 2012, July 16, 2012, August 22, 2012, September 13, 2012, and September 21, 2012 to protect similar information relating to MidAmerican's strategy

for negotiating and evaluating coal transportation rate proposals. As stated in its February 21, 2012, Application for Confidentiality, the release of this information could adversely affect the competitive positions of MidAmerican, joint plant owners, and MidAmerican customers as MidAmerican works to maintain competition between these potential vendors. Furthermore, some contract negotiations remain ongoing and could be harmed by the public disclosure.

3. 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 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.

4. MidAmerican, by this Request, 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. Negotiation strategy and assessment including pricing and terms and conditions of contracts are treated as proprietary information within MidAmerican and is not otherwise made publicly available. The public availability of such information may decrease MidAmerican's negotiating leverage as competitors would gain insights into MidAmerican's strategy and the strategy of a transportation competitor. This specific request is premised on the statutory authority granted under Code of Iowa §2.7(3) (2011).

5. For the reasons expressed above, MidAmerican, by this Request, hereby further states that the Confidential Materials constitute 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) (2001).

6. 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 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)

7. 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 (2011), which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

8. “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 now know or use it." *Farnum v. G.D. Searle*, 339 N.W.2d 384, 389 (Iowa 1983).

Report to Agency, Section 22.7(6)

9. The Confidential Materials contain cost and strategy information which, if released to the general public, would give an unfair advantage to existing and potential raid service providers, coal suppliers and competitors of MidAmerican. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 768 (U.S.C.A. 1974). Additionally, they contain information subject to separate confidentiality requirements by the transportation companies.

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, with the redactions as proposed by MidAmerican, be held by the Board as a confidential record not routinely available for public inspection.

DATED this 28th day of September, 2012.

Respectfully Submitted,

MIDAMERICAN ENERGY COMPANY

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