

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

IN RE: :
: **DOCKET NO. RPU-2014-0002**
APPLICATION OF MIDAMERICAN :
ENERGY COMPANY FOR A :
DETERMINATION OF :
RATEMAKING PRINCIPLES :

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 (2015) and 199 Iowa Admin. Code §1.9(5) et seq., submits the following:

1. On January 20, 2015, the Iowa Utilities Board (“Board”) issued its *Order Approving Settlement with Modifications*, in Docket No. RPU-2014-0002, requiring that MidAmerican semi-annually file status updates with the Board concerning the Company’s Wind IX Iowa Project (“Wind IX” or “Project”). Contemporaneous with this Application, MidAmerican has filed its first such status update.

2. As set forth in the attached Affidavit of Adam L. Wright, Vice President – Gas Delivery, and until recently Vice President - Wind Generation & Development, MidAmerican’s status update contains certain information which MidAmerican believes is qualified for confidential treatment.

3. 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, MidAmerican seeks to keep confidential certain information pertaining to MidAmerican’s

(i) trade secrets; (ii) information pertaining to contract terms, ongoing vendor negotiations, project costs, and MidAmerican's processes and methodologies for developing wind projects pertaining to Wind IX and reported to a government agency (the Iowa Utilities Board), which are of significant commercial value to MidAmerican and its customers; and (iii) information that would give advantage to MidAmerican's vendors, suppliers, and those who compete with MidAmerican for the purchase of wind project components, for the sale of energy in wholesale markets, and for development of wind farms. Moreover, MidAmerican seeks to keep confidential, information that constitutes a report and a communication made to a government body that is not required by law, rule or procedure, and is information that MidAmerican would be discouraged from providing were it available for public inspection.

The Confidential Information could provide competitively advantageous insight, directly or indirectly, into MidAmerican's contract terms, ongoing vendor negotiations, project costs, and MidAmerican's processes and methodologies for developing wind projects, which would give competitors/vendors insight into MidAmerican's costs and processes/methodologies for developing wind projects.

The Confidential Information for which MidAmerican seeks confidential treatment ("Confidential Information") is information that is similar to that which the Iowa Utilities Board has previously granted confidential status in MidAmerican's prior wind ratemaking principles

proceedings,¹ a related project update² filed with the Board, and in submissions of many of the same types of information in response to Board questions in the Wind IX ratemaking principles docket (Docket No. RPU-2014-0002).³ 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 highlighted text in the unredacted first page of the said status update.

4. MidAmerican attaches hereto and incorporates herein the Affidavit of Adam L. Wright, Vice President – Gas Delivery, and until recently Vice President - Wind Generation & Development, 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 to Code of Iowa §22.7(18), constitutes a communication, not required by law, rule, procedure or contract, which if released would threaten the economic interests of MidAmerican and its customers as it relates to the development of wind farms. Moreover, making such communications public would discourage such communications in the future.

5. The Affidavit of Mr. Wright requests that access to the Confidential Information be limited to the review of the Board (including its staff) and the Office of Consumer Advocate

¹ The Board has previously issued orders granting MidAmerican’s request for confidentiality in nine similar wind ratemaking proceedings. MidAmerican Energy Company, Docket No. 2014-0002, *Order Granting Request for Confidentiality* (October 22, 2014); 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).
² MidAmerican Energy Company Docket No. RPU-2009-0003, *Order Granting Request for Confidentiality* (February 23, 2012)
³ MidAmerican Energy Company, Docket No. 2014-0002, *Order Granting Request for Confidentiality* (November 25, 2014), MidAmerican Energy Company, Docket No. RPU-2014-0002, *Order Granting Request for Confidentiality* (December 12, 2014), MidAmerican Energy Company, Docket No. RPU-2014-0002, *Order Granting Request for Confidentiality* (December 16, 2014).

without a confidentiality agreement, and that the Confidential Information be withheld from general public inspection to the extent permitted by statute and by the rules of the Board.

6. MidAmerican, by this Application, hereby states that the Confidential Information consists of trade secrets, 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) (2015).

7. 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) (2015).

8. MidAmerican, by this Application also states that the Confidential Information constitutes a communication, not required by law, rule, procedure or contract, which if released would threaten the economic interests of MidAmerican and its customers, and discourage such communications in the future. This specific request is premised on the statutory authority granted under Code of Iowa §22.7(18) (2015).

Statement of Legal Basis for this Request

Trade Secret §22.7(3)

9. The Confidential Information consists of confidential and proprietary information of MidAmerican, as explained above, which information falls within the purview and protection of the exclusion authorized under Code of Iowa §22.7(3) (2015), which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

10. The 73rd General Assembly adopted the Uniform Trade Secrets Act, now Code of Iowa Chapter 550 (2015). 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)).

11. Potential Wind IX and other wind project 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)

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

13. 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) (2015).

Communication to Agency §22.7(18)

14. 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 economic interests of MidAmerican and its 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 confidential information that if released to the general public would give an unfair competitive advantage to MidAmerican vendors, suppliers and competitors as described above (and serve no public purpose), 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 29th day of May, 2015.

Respectfully Submitted,

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