

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-2018-0003
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ORDER ADDRESSING MOTION TO MAKE INFORMATION PUBLIC

(Issued September 20, 2019)

BACKGROUND

On September 3, 2019, the Environmental Law & Policy Center (ELPC), Iowa Environmental Council (IEC), and Sierra Club (collectively, the Moving Parties) filed with the Utilities Board (Board) a motion to make public certain pages from the transcript of the confidential session of the October 12, 2018 hearing in Docket No. RPU-2018-0003. Docket No. RPU-2018-0003 is the proceeding in which the Board considered the application filed by MidAmerican Energy Company (MidAmerican) for advance ratemaking principles for its proposed Wind XII Project.

The Moving Parties ask the Board to make public transcript page 196, line 2, through page 198, line 24, without disclosing a specific word. These pages include an exchange between the Board and MidAmerican Witness Thomas B. Specketer. Other than that one specific word, the Moving Parties assert that the transcript pages they ask to be made public do not contain any information that warrants confidential treatment as trade secrets under Iowa Code § 22.7(3) or as a report to a governmental agency, the release of which would serve no public purpose, under Iowa Code § 22.7(6).

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On September 10, 2019, MidAmerican filed a reply urging the Board to deny the motion. MidAmerican argues that other information included in the pages of the transcript subject to the motion deals with the same sensitive information contained in the one word that the Moving Parties do not seek to be disclosed, albeit more generally. MidAmerican argues further that the information the Moving Parties seek to make public is irrelevant to any issues they might want to raise in their brief in a rate case involving a utility other than MidAmerican, and that the Moving Parties can make arguments in the IPL rate case without using MidAmerican's testimony in the confidential portion of the hearing in Docket No. RPU-2018-0003.

DISCUSSION

Iowa Code § 22.1(3)(a) defines a public record as including "all records...stored or preserved in any medium, of or belonging to this state." In this case, the confidential transcript is a public record stored by the Board in both an electronic format and a paper version. The electronic format of the confidential transcript is available on the Board's electronic filing system (EFS) only to the Board and the Office of Consumer Advocate, a division of the Iowa Department of Justice. There also is a public version of the transcript of the hearing in Docket No. RPU-2018-0003 which is available only in paper format.

The Board considers the motion filed by the Moving Parties as a request to inspect records pursuant to the Board's rule at 199 IAC 1.9(8)(b)(3), which specifies the usual procedure for requests for public inspection of materials which are not routinely available for public inspection.

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Pursuant to that rule, the Board will withhold from public inspection the pages from the confidential transcript for 14 days to allow MidAmerican an opportunity to seek injunctive relief. If MidAmerican does not seek injunctive relief within that timeframe, the Board's Customer Service staff will make the information public without removing the redaction of the word for which public disclosure has not been requested.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The Utilities Board will treat the "Motion to Make Public a Portion of Hearing Transcript" filed in Docket No. RPU-2018-0003 on September 3, 2019, by the Environmental Law & Policy Center, Iowa Environmental Council, and Sierra Club as a request for inspection of records pursuant to rule 199 IAC 1.9(8)(b)(3).
2. Pursuant to rule 199 IAC 1.9(8)(b)(3), MidAmerican Energy Company shall have 14 days from the date of this order to seek injunctive relief. If injunctive relief is not sought within 14 days, the requested information will be made available for public inspection.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Kelsie Vanderflute

/s/ Richard W. Lozier, Jr.

Dated at Des Moines, Iowa, this 20th day of September, 2019.