

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:	:	
	:	
WIND POWER PROJECT STATUS	:	DOCKET NOS. RPU-2018-0003
UPDATES FOR THE	:	
IOWA UTILITIES BOARD	:	

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 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 Wind VIII, Wind IX, Wind X, Wind XI, Wind XII and Repowering Project Updates for the Iowa Utilities Board (“Updates”) concerning the Wind VIII, Wind IX, Wind X, Wind XI, Wind XII and Repowering Projects.

2. As a part of the Updates, MidAmerican has provided confidential information (“Confidential Information”) pertaining to the Wind VIII, IX, X, XI, XII and Repowering Projects which Confidential Information is comprised of:

Certain cost and revenue information concerning the Wind VIII, IX, X, XI and XII Projects (i.e., unredacted page 1 of the Wind VIII, IX, X, XI and XII Project Updates, and the 2nd and 3rd columns of Exhibit B attached to the Repowering Project update, all of which is filed contemporaneous with this Application for Confidential Treatment and the associated Affidavit).

3. MidAmerican believes the above-mentioned Confidential Information to be: (i) confidential cost and revenue information that constitutes trade secrets, pursuant to Code of Iowa §22.7(3); and (ii) reports to a governmental agency which are of significant commercial and competitive value to MidAmerican, and which, if released, would give advantage to potential vendors and competitors and serve no public purpose (pursuant to Code of Iowa §22.7(6))—i.e., release of the Confidential Information would serve to give advantage to MidAmerican’s potential wind project vendors, MidAmerican’s competitors for the purchase of wind generation components and for the development of wind projects, and to MidAmerican’s competitors in the wholesale energy markets, and would hurt MidAmerican’s negotiating and competitive position in future efforts to add reasonably priced wind generation to its generation portfolio and in future efforts to market energy.

In support of its allegations MidAmerican is providing, and hereby incorporates herein, the Affidavit of Michael C. Fehr, Vice President – Resource Development, as required by 199 Iowa Admin. Code 1.9(6)(a) and (b).

4. The Confidential Information has been filed separately with the Iowa Utilities Board (“Board”), and has been highlighted and located on pages marked as “Confidential.” The information for which MidAmerican seeks confidential treatment contains information that is similar to that which the Board has previously granted confidential status in MidAmerican’s wind ratemaking principles proceedings,¹ and/or in related project updates² filed with the Board.

¹*MidAmerican Energy Company*, Docket No. 2015-0002, *Order Granting Request for Confidentiality* (June 2, 2015), *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);

5. It is not MidAmerican's intent to withhold the Confidential Information from the Board or the Office of Consumer Advocate ("OCA") who require it to carry out their statutory responsibilities.

6. Mr. Fehr's affidavit requests that access to the Confidential Information be limited to the review of the Board, Board staff, and the OCA, and that the Confidential Information be withheld from general public inspection to the extent permitted by statute, the common law, and by the rules of the Board.

Statement of Legal Basis for this Request

Trade Secret §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(3), which is an exception to the right of the general public to otherwise have unrestricted access to said public records.

8. The 73rd General Assembly adopted the Uniform Trade Secrets Act, now Code of Iowa Chapter 550 (2017). This act, at Iowa Code §550.2, defines "trade secret" broadly and would encompass the information sought to be protected herein (the Confidential Information). 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.

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-2014-0002, *Order Granting Request for Confidentiality* (June 2, 2015),

G.D. Searle, 339 N.W.2d 384, 389 (Iowa 1983). (Citing comment “b” to Restatement of Torts, § 757 (1939)).

9. Potential vendors to MidAmerican wind projects, and MidAmerican’s competitors for the purchase of wind generation components, for the development of wind projects, and for the marketing of energy 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)

10. MidAmerican, by this Application, states that the Confidential Information constitutes a report to this Board which, if released, would threaten the electric rate and cost interests of MidAmerican’s customers and serve no public purpose. 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(6).

11. The foregoing claims are supported by the attached affidavit of Michael C. Fehr, Vice President, Resource Development for MidAmerican.

WHEREFORE, MidAmerican respectfully requests the Board to grant this Application for Confidential Treatment, holding confidential the Confidential Information filed in these Updates, subject only to the established procedures of the Board concerning 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.

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

DATED this 2nd day of March, 2020.

Respectfully Submitted,

MIDAMERICAN ENERGY COMPANY

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