

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. SPU-2021-0003
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**PROPOSED ORDER ADDRESSING REQUEST FOR CONFIDENTIAL TREATMENT
AND MOTIONS TO COMPEL**

PROCEDURAL HISTORY

On May 13, 2021, the Utilities Board (Board) opened Docket No. SPU-2021-0003, as required by the final order in Docket No. EPB-2020-0156, to review MidAmerican Energy Company's (MidAmerican) resource needs, including its generating fleet and potential retirement of coal plants, and to consider matters identified in the joint statement of issues in Docket No. EPB-2020-0156 and any other issues as provided in Iowa Code §§ 476.6(12) and 476.6(16). In the May 13, 2021 order, the Board requested MidAmerican file the following additional information:

1. Any current documents that provide details about its long-term resource requirements.
2. An overview of its current generating fleet and how it meets the needs of MidAmerican Companies.
3. A least-cost analysis addressing options considered to meet its long-term resource needs, including potential effects on reliability and economic development potential.
4. An analysis of the issues identified in Docket No. EPB-2020-0156 that have been deferred to this docket. The analysis should include consideration of fuel switching, generating unit retirement, modified dispatch, addition of new generation sources, wholesale market transactions, and the costs of alternative compliance options, as well as any economic development potential for those options.

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The Board allowed MidAmerican 60 days to file information described in the order, and allowed interested persons 90 days to file responses to the information provided by MidAmerican. On July 7, 2021, the Board issued an order granting MidAmerican additional time to file the information described in the May 13, 2021 order, and additional time for interested persons to respond to the information filed by MidAmerican.

On August 12, 2021, MidAmerican made its initial filings along with a request for confidential treatment of certain information. MidAmerican indicated in its request for confidential treatment that it also retained certain documents that were responsive to the Board's request for information, but that MidAmerican considered not subject to disclosure even to the Board, based upon attorney-client privilege or attorney work product. In its filing, MidAmerican also made a request for clarification from the Board as to whether Docket No. SPU-2021-0003 is an information-gathering docket or a contested case proceeding.

On August 31, 2021, Facebook, Inc., and Google LLC (Tech Companies) filed a motion to compel production of the information considered confidential by MidAmerican and to extend the response deadline. The Tech Companies state they are already parties to non-disclosure agreements (NDA) with MidAmerican that require confidentiality and limit the use of information they obtain from MidAmerican. The Tech Companies state MidAmerican has refused to provide access to filings in this docket. Because they have been unable to view the confidential information, the Tech Companies state they cannot verify the completeness of MidAmerican's response or

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prepare their own response. The Tech Companies requested an additional 45 days beyond the September 27, 2021 deadline to file their response.

On September 2, 2021, the Iowa Business Energy Coalition (IBEC) filed a pleading stating that it joined in the motion to compel and to extend the response date filed by the Tech Companies. IBEC states the confidential information is being withheld by MidAmerican despite IBEC having executed an NDA with MidAmerican.

Also on September 2, 2021, the Environmental Law & Policy Center (ELPC), Iowa Environmental Council (IEC), and Sierra Club (collectively, Environmental Organizations) filed a motion to compel and extend the response deadline, making arguments similar to those made by the Tech Companies.

On September 3, 2021, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a response. OCA states the proposed settlement agreement in Docket No. EPB-2020-0156 between OCA and MidAmerican would have allowed parties in that docket who executed an NDA to receive and participate in the discussion of the confidential information filed by MidAmerican in this docket regarding MidAmerican's generating fleet and generation planning process. OCA supports the relief requested by the other participants in the pending motions to compel and requests for additional time.

On September 14, 2021, MidAmerican filed a resistance to the motions to compel. On September 17, 2021, the Tech Companies filed a reply to MidAmerican's resistance to motions to compel.

On September 24, 2021, the Board issued an order that, among other things, assigned review of the request for confidentiality and the motions to compel to a

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presiding officer. The September 24, 2021 order stated the assigned presiding officer would address the claim of attorney-client privilege and attorney work product, in addition to the issue of whether the participants in the docket could view the information claimed to be confidential. The order scheduled oral argument for MidAmerican and participants to address the issues regarding confidentiality.

The oral argument was held as scheduled on October 4, 2021. At the conclusion of the oral argument, the presiding officer requested MidAmerican file the NDAs entered into with the Tech Companies, IBEC, and the Environmental Organizations. In addition, the presiding officer directed that MidAmerican provide to the presiding officer a sealed paper copy of the documents that are subject to the claims of attorney-client privilege or attorney work product, to be reviewed by the presiding officer *in camera*. MidAmerican agreed to provide the information to the presiding officer and to file a privilege log of the documents provided for *in camera* review.

On October 12, 2021, MidAmerican filed a pleading, with the NDAs entered into with participants attached, and a request that the Board assign an administrative law judge (ALJ) to review the documents subject to the privilege claims.

On October 20, 2021, the Tech Companies filed a pleading stating the Tech Companies take no position on the issue of appointment of an ALJ to review the information claimed to be privileged.

Also on October 20, 2021, the presiding officer issued an order recommending the Board remove the presiding officer from the review of the attorney-client and attorney work product material, deny the request for appointment of an ALJ, and for the Board Members to review the information claimed to be subject to attorney-client

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privilege or attorney work product privilege.

On October 29, 2021, MidAmerican filed a response to the October 20, 2021 order issued by the presiding officer. In the October 29, 2021 response, MidAmerican reiterates its request that the Board appoint an ALJ to review the information for which privilege is claimed. This matter is now before the Board.

REQUEST FOR CONFIDENTIAL TREATMENT

In the August 12, 2021 request for confidential treatment, MidAmerican identifies certain documents in its responses that MidAmerican claims should be held as confidential in their entirety. In addition, MidAmerican identified portions of other documents that were redacted and for which confidential treatment of the redacted information is requested. Finally, MidAmerican also identified certain information that MidAmerican alleges is already subject to confidential treatment, including ARC-2015-0156 16-1216 Resource Plan, GE Repower, Siemens 80 pct Repower, Renewable Subscription Program Tranche 1 Wind and Solar Farms, and Wind XII (Docket No. RPU-2018-0003). MidAmerican states that this information should continue to be held as confidential by the Board.

MidAmerican requests confidential treatment of some of the documents because the documents include or comprise detailed generation dispatch information, customer load data, and revenue relating to MidAmerican's generating assets and proprietary forecast methodology. MidAmerican states release of this information to the public could give insight to MidAmerican's competitors about MidAmerican's costs, processes, and methodologies for offering generation, including insight to offer costs, which would

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provide advantage to MidAmerican's competitors without public benefit. MidAmerican states release of the information would threaten MidAmerican's economic interest because it could reveal proprietary information about MidAmerican's generation dispatch efforts and compromise MidAmerican's participation in regional electric markets. In addition, information about MidAmerican's proprietary forecasting methodology would permit competitors, such as other renewable project developers or other participants in regional markets, to gain a competitive advantage over MidAmerican. MidAmerican requests that this specific information be held confidential pursuant to 199 Iowa Administrative Code (IAC) 1.9(5)(c).

MidAmerican also requests confidential treatment of certain documents because revealing the information would provide information to MidAmerican's competitors and potential vendors, which could damage MidAmerican's ability to obtain any necessary rights related to the identified projects at a reasonable cost. MidAmerican points out some of the documents for which confidential treatment is requested are subject to confidentiality agreements between MidAmerican and third-party contractors that MidAmerican worked with in developing analyses, summaries, recommendations, and conclusions. MidAmerican asserts this information is proprietary to the third-party contractors. MidAmerican states it purchases the third-party services under confidentiality agreements to prevent the information from being provided to competitors. MidAmerican asserts release of the information could jeopardize MidAmerican's ability to procure similar services in the future.

MidAmerican provided the affidavit of its general counsel in support of the allegations that the information for which confidential treatment is requested falls within

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one or more of the following statutory exceptions: 1) constitutes trade secrets under Iowa Code § 22.7(3); 2) constitutes a report pursuant to Iowa Code § 22.7(6); and 3) pursuant to Iowa Code § 22.7(18), constitutes a communication not required by law, rule, procedure or contract that, if released, would threaten the economic interests of MidAmerican and its Companies as it relates to MidAmerican's generation dispatch and offering strategy. In addition, MidAmerican asserts making some of the information public would discourage MidAmerican from providing similar information to the Board in the future.

MidAmerican requests access to the information be limited to the Board and OCA without a protective order, and that the information be withheld from general public inspection, as permitted by statute and Board rules.

MOTIONS TO COMPEL

A. Tech Companies and IBEC

On August 31, 2021, the Tech Companies filed a motion to compel MidAmerican to provide the information claimed to be confidential to the Tech Companies pursuant to appropriate NDAs. The information that the Tech Companies are requesting is included in the request for confidential treatment filed by MidAmerican on August 12, 2021. The Tech Companies state they are not seeking public disclosure of the information claimed to be confidential, but that they are asking the Board to order MidAmerican to provide the Tech Companies access to the information pursuant to the terms of existing NDAs between MidAmerican and the Tech Companies. In the alternative, the Tech

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Companies request the Board to enter protective orders that will allow the Tech Companies to view the confidential information.

The Tech Companies state they already have NDAs with MidAmerican that require the Tech Companies to maintain the confidentiality of information claimed to be confidential by MidAmerican. The Tech Companies state the NDAs provide that MidAmerican will disclose to the Tech Companies “highly sensitive business information that, if disclosed, could have significant and negative impacts on [MidAmerican’s] business.” The Tech Companies state the purpose of the NDAs is to allow the Tech Companies to remain informed about strategic decisions made by MidAmerican.

According to the Tech Companies, the information covered by the NDAs is the same type of information being withheld by MidAmerican. The Tech Companies state they have made a good-faith attempt to resolve this issue, but they have been unsuccessful. The Tech Companies request the Board require MidAmerican to provide them access to the information.

The Tech Companies point out that the current docket was opened by the Board to review MidAmerican’s generation fleet, including potential retirements of coal plants, and to explore MidAmerican’s long-term resource needs. The Tech Companies argue the information withheld by MidAmerican goes to the heart of the purpose of the docket because the information concerns MidAmerican’s current generation fleet and future plans. The Tech Companies state this is the type of information that they need to make business decisions about their own operations. The Tech Companies state the concerns about public disclosure have no bearing on their requests. The Tech Companies state they are bound by the current NDAs, which prevent public disclosure.

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In its September 2, 2021 pleading, IBEC states it joins in the Tech Companies' motion to compel. IBEC states it is in a similar position to the Tech Companies and has an NDA with MidAmerican for matters filed with the Board. According to IBEC, access to the information is necessary so it can meaningfully participate in this docket.

B. ELPC, IEC, Sierra Club

In their September 2, 2021 motion, the Environmental Organizations request that the Board issue an order compelling MidAmerican to provide the Environmental Organizations with the information claimed to be confidential. These organizations point out the Board's May 13, 2021 order denying reconsideration in Docket No. EPB-2020-0156 opened this docket to evaluate the reasonableness and prudence of MidAmerican's procurement contracting practices related to the acquisition of fuel for use in generating electricity and to address a forecast for future requirements or electric generating needs. The Environmental Organizations state the Board's order "allows interested persons to analyze MidAmerican's long-term resource needs, including least-cost options for generation, environmental requirements, reliability, baseload generation, and economic development potential."

The Environmental Organizations state the Board's order opening this docket provided that the Board is taking official notice of the filings in Docket No. EPB-2020-0156, and the filings in that docket included confidential filings provided to the Environmental Organizations pursuant to an NDA. The Environmental Organizations state there were no objections to the Board taking official notice of the filings in Docket No. EPB-2020-0156.

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The Environmental Organizations support the motion to compel filed by the Tech Companies and request the same access to the information. The Environmental Organizations state ELPC and IEC are parties to NDAs in Docket No. EPB-2020-0156 and that the NDAs provide access to some of the information in this docket. The Environmental Organizations state they have attempted to resolve this issue with MidAmerican but have been unsuccessful. The Environmental Organizations state they cannot fully analyze the issues in this docket without access to the confidential information. The Environmental Organizations state this docket should be treated as a contested case and access to the information is essential to allow for full participation.

C. OCA

In its September 3, 2021 response, OCA states that it is responding to the motion to compel filed by the Tech Companies, IBEC's joinder in that motion to compel, and the motion to compel filed by the Environmental Organizations. In its response, OCA points out the non-unanimous settlement in Docket No. EPB-2020-0156 would have allowed the Tech Companies, IBEC, and the Environmental Organizations access to the confidential information to be filed in that docket once those entities entered into an NDA.

OCA points out the Board rejected the non-unanimous settlement and opened this docket to consider MidAmerican's generating fleet and the generation planning process. OCA states that it supports the ability of the entities in this docket to have access to the confidential information and to participate in discussions regarding that information pursuant to NDAs entered into with MidAmerican.

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D. MidAmerican Resistance to Motions

MidAmerican resists the two motions to compel “because this proceeding is limited to the Board’s informational review and, as such, is not a contested case proceeding where discovery is available to groups other than the Board and OCA, and because the EPB proceeding provides no separate basis to grant the motions.”

MidAmerican argues the Board’s authority to conduct this proceeding is limited to a review of MidAmerican’s management practices, as permitted by Iowa Code § 476.2(4). MidAmerican argues that neither Iowa Code § 476.6(12) nor Iowa Code § 476.6(16) apply or provide authority for a contested case proceeding addressing MidAmerican’s generation planning processes. MidAmerican suggests that different procedures apply to contested case proceedings. MidAmerican argues 199 IAC 7.15(1), which provides that discovery methods available in civil proceedings are available in contested case proceedings, limits discovery to contested case proceedings, and this docket is not a contested case proceeding.

MidAmerican contends that the EPB proceeding is not a basis for compelling discovery. MidAmerican states it provided certain confidential information to the Tech Companies, the Environmental Organizations, and IBEC in the EPB proceeding pursuant to NDAs, but this docket is separate and distinct from the EPB proceeding and there are no “parties” to this docket.

In addition, MidAmerican states the Board opened this proceeding to issues found to be outside of the EPB proceeding. MidAmerican asserts the proposed settlement and information sharing in the EPB docket are not relevant in this proceeding. MidAmerican states, because the dockets are separate, any decisions or

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information sharing in the EPB docket are not applicable to this docket, do not support the motions to compel, and do not make this proceeding a contested case proceeding.

E. Tech Companies Reply to Resistance

In their September 17, 2021 reply, the Tech Companies sum up the status of the dispute and MidAmerican's resistance to the motions to compel. The Tech Companies state MidAmerican resists the motion on the basis this proceeding is an informational review proceeding and not a contested case where discovery is available. The Tech Companies point out that MidAmerican argues this proceeding is conducted pursuant to Iowa Code § 476.2(4) as an inquiry into MidAmerican's management practices. The Tech Companies point out MidAmerican also requests that the Board clarify that this is an information review proceeding, which, according to the Tech Companies, is inconsistent with MidAmerican's assertion that Iowa Code § 476.2(4) governs this docket.

The Tech Companies point out the Board cited to Iowa Code §§ 476.6(12) and 476.6(16) as support for opening the docket. The Tech Companies state Iowa Code § 17A.2(5) provides a broad definition of a "contested case," and Iowa Code § 476.6(12) requires a contested case proceeding because it refers to chapter 17A. The Tech Companies argue that a Board decision made pursuant to Iowa Code § 476.6(16) could result in an order affecting MidAmerican's legal rights, duties, and privileges, which requires a contested case proceeding.

The Tech Companies assert Board rules require MidAmerican to provide the confidential information to them, IBEC, and the Environmental Organizations, even if this docket is not considered a contested case proceeding. The Tech Companies point

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to Board rules at 199 IAC chapter 7 that establish procedural rules for proceedings before the Board. The Tech Companies point out specifically that subrule 7.1(1) applies the procedural rules to contested cases, investigations, and other proceedings conducted by the Board or a presiding officer, and, if there are no other applicable procedural rules, chapter 7 applies to other types of agency action. The Tech Companies state the Board has not ordered otherwise so rule 7.15 discovery rules apply to this docket. The Tech Companies contend, regardless of whether this docket is a contested case, rule 7.15 rules of discovery are applicable.

The Tech Companies then argue the issue raised by MidAmerican is not the correct issue. According to the Tech Companies, the issue before the Board is a service issue and not a discovery issue. The Tech Companies point out they did not send a data request to MidAmerican, but informally contacted MidAmerican to determine if MidAmerican would provide the information pursuant to existing NDAs. The Tech Companies point out that rule 199 IAC 14.16(2) requires MidAmerican to file a paper copy of confidential information, which cannot be filed electronically, on all persons on the service list in a docket, and subparagraph 7.4(6)(c)(3) requires service of documents containing confidential information where an NDA has been executed.

The Tech Companies state the Board recognized their interest, and the interest of IBEC and the Environmental Organizations, in this docket by including the list of issues in the Statement of Issues in Docket No EPB-2020-0156. According to the Tech Companies, by including the list of issues from Docket No. EPB-2020-0156, they are entitled to the confidential information withheld by MidAmerican. The Tech Companies cite to a Board decision in Docket No. TF-97-229 where the Board required

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MidAmerican to provide information claimed to be confidential if the person entered into an NDA established by the Board. *In Re: MidAmerican Energy Company*, Docket No. TF-97-229, "Order Regarding Discovery" (issued January 22, 1998).

The Tech Companies state the public interest requires the Board to have input from the Tech Companies and other interested persons addressing the issues described by the Board. The Tech Companies state MidAmerican's position denies the Tech Companies a meaningful opportunity to participate in the docket and denies the Board input from the Tech Companies on the issues being addressed in the docket. The Tech Companies point out they were granted intervention in Docket No. EPB-2020-0156 and documents at issue are considered relevant by MidAmerican; therefore, the Tech Companies should have access to the documents pursuant to the existing NDAs.

F. MidAmerican Additional Information

On October 12, 2021, MidAmerican filed additional information, in addition to the request for the Board to appoint an ALJ. The additional information discusses the differences between the proposed non-unanimous settlement in Docket No. EPB-2020-0156 and the information requested by the Board in the order opening Docket No. SPU-2021-0003. MidAmerican explains the Board, in its order, requested substantially more information than was contemplated being provided under the terms of the proposed non-unanimous settlement. MidAmerican states the proposed non-unanimous settlement had considerations and parameters that are not present in Docket No. SPU-2021-0003.

MidAmerican describes the information contemplated being provided to interested persons as part of the proposed non-unanimous settlement and explains that

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the information was to be provided in MidAmerican's energy efficiency plan.

MidAmerican points out that the Board did not request an electric generating needs forecast in this docket, but did request items that overlap with the information contemplated to be provided in the proposed non-unanimous settlement. MidAmerican states the specific overlapped information consists of: 1) fuel switching, 2) generating unit retirement, 3) modified dispatch, 4) addition of new generation sources, and 5) wholesale market transactions. MidAmerican lists the additional information requested by the Board as: 1) the costs of alternative compliance options, as well as any economic development potential for those options, 2) any current documents that provide details about MidAmerican's long term resource needs, 3) an overview of MidAmerican's current generating fleet and how the generating fleet meets the needs of MidAmerican's customers, and 4) a least-cost analysis addressing options considered to meet its long-term resource needs.

MidAmerican argues by rejecting the proposed non-unanimous settlement, the Board made its terms moot because the proposed non-unanimous settlement resolved contested issues. MidAmerican recognizes the Board's right to the information requested pursuant to Iowa Code § 476.2(4). MidAmerican asserts the information the non-unanimous settlement required of MidAmerican is substantially different than what the Board is requesting in this docket.

Included with the October 12, 2021 filing, MidAmerican provided the NDAs it had entered into in previous dockets with the Tech Companies, IBEC, ELPC and IEC. Sierra Club did not enter into an NDA in Docket No. EPB-2020-0156. MidAmerican states that it has blanket NDAs with the Tech Companies and IBEC for the exchange of

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confidential information. MidAmerican points out that the NDAs do not compel the production of confidential information.

MidAmerican also provided the NDAs entered into with ELPC and IEC in the EPB docket. MidAmerican states that these NDAs apply specifically to information provided in Docket No. EPB-2020-0156. MidAmerican points out that new NDAs would have been required if the proposed non-unanimous settlement had been approved by the Board. MidAmerican states it did not have an NDA with the Sierra Club in the EPB docket.

G. Arguments at the Oral Argument

1. MidAmerican Energy

MidAmerican made many of the same arguments at the oral argument that it made in its pleadings. MidAmerican argued that this docket is not a continuation of Docket No. EPB-2020-0156, and, even if the questions originated in the EPB docket, the questions presented in this docket must be addressed according to procedures in this docket. (Tr. 8.) According to MidAmerican, the ultimate question regarding treatment of the confidential information issue is whether it is a contested case proceeding or an informational proceeding, and this docket, SPU-2021-0003, is not a contested case proceeding. (Tr. 15.) MidAmerican pointed out that the Board issued a final decision finding all of the issues being addressed in this docket are outside of the EPB docket. (Tr. 9.)

MidAmerican argued that two of the three statutes stated by the Board as the bases for this docket, Iowa Code §§ 476.6(12) and 476.6(16), are not proper bases for a contested case proceeding. According to MidAmerican, the nature and purpose of

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the docket, exploring MidAmerican's long-term resource needs, does not allow any specific standard or outcome to be contested. (Tr. 10.) MidAmerican states the only proper legal basis for the docket is Iowa Code § 476.2(4), which establishes the general investigatory powers of the Board. Under that statute, this docket is not a contested case and, therefore, intervention is not appropriate and discovery is not available. (Tr. 11-12.)

MidAmerican argued Iowa Code § 476.6(12) is not proper for a contested case proceeding as the Board has promulgated rules for contested case proceedings under that statute, and the 199 IAC 20.9(4) procedural requirements were not met in this docket. (Tr. 13.) MidAmerican argued that Iowa Code § 476.6(16) does not require a contested case proceeding, or permit the Board to initiate one, as the role of the Board is purely to evaluate the provided materials and not any form of approval or decision by the Board to be contested. (Tr. 14-15.)

According to MidAmerican, because this docket is not a contested case proceeding and the participants in this proceeding have not been made parties, the provisions of the confidentiality and NDAs do not compel disclosure. MidAmerican argues it cannot be forced to disclose the information claimed to be confidential. (Tr. 16.) MidAmerican argued that the Board is not an appropriate arbiter of the existing confidentiality agreements as those agreements exist outside the Board's regulatory scope. (Tr. 16.) MidAmerican argued that until a person is granted intervention in a contested case proceeding as a party, the person should not be allowed to view confidential information because this would allow any member of the public to file an appearance and then receive the information. (Tr. 17-18.) Therefore, MidAmerican

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asserts that other persons, except the Board and OCA, should not be allowed to view the confidential information, regardless of the prior confidentiality agreements between these parties and MidAmerican. (*Id.*)

MidAmerican argued participants have mentioned the need for the documents to resolve controversies in front of the Board, but there is no specific controversy in this situation, as the nature of the docket is just a review. (Tr. 30.) According to MidAmerican, because there are no controversies before the Board in this docket, other interested persons have no reason to provide their opinions to the Board, as the Board is not planning to make any decisions in the docket. (Tr. 30-31.) MidAmerican contended that public policy dictates that the 199 IAC chapter 7 discovery rules should not apply in non-contested case proceedings because anybody could file an appearance and have access to information if those discovery rules are extended to any proceeding. (Tr. 62.)

2. IBEC

IBEC argued that MidAmerican's arguments limiting the participation of IBEC and other participants are unfounded. IBEC points out it filed a petition to intervene in Docket No. SPU-2021-0003 and laid out its unique interests that meet the grounds for intervention as required in 199 IAC 7.13(3). (Tr. 19-20.) IBEC argued the Board does not state this is an informational matter such that outside participation is prohibited. (Tr. 20). IBEC argued that in the May 13, 2021 order the Board implied that Docket No. SPU-2021-0003 is a contested matter by citing to Iowa Code § 476.6(12), which permits contested proceedings. (Tr. 20.)

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IBEC argued no statute, rule, or other authority is cited by MidAmerican stating an informational proceeding cannot be a contested proceeding or that outside participation is prevented in an informational proceeding. (Tr. 20.) According to IBEC, Iowa Code § 476.2(4) allows the Board to inquire about the management of the business of all public utilities, but does not state this authority prohibits other interested persons from participating, commenting, and filing in the matter. (Tr. 20-21.)

IBEC pointed out that 199 IAC 7.1(1) states the procedural rules apply to contested case proceedings, investigations, and other proceedings conducted by the Board or a presiding officer unless the proceedings have specific procedures established in the Board rules. Therefore, IBEC argued that participation by outside persons according to chapter 7 would be permitted regardless of the determination of the current proceeding. (Tr. 21.) IBEC argued that the Board, in its May 13, 2021 order, stated this proceeding allows interested persons to analyze MidAmerican's long-term resource needs, including consideration of least-cost options for generation, environmental requirements, reliability, base-load generation, and economic development potential. IBEC argued 199 IAC 7.4(6)(c) states confidential materials submitted should be provided to persons that have protective agreements with the other parties in a case. (Tr. 22.)

3. ELPC

ELPC argued MidAmerican is trying to limit Board authority in a way not found in the statutes or rules by saying the Board cannot allow other persons to participate in an inquiry under Iowa Code § 476.2(4). (Tr. 24.) ELPC pointed out that the Board stated Docket No. SPU-2021-0003 was to allow interested persons to analyze MidAmerican's

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long-term resource needs, which cannot be completed without other persons' participation and allowing those persons to view confidential information. (Tr. 25.)

ELPC pointed out the Board opened Docket No. SPU-2021-0003 to remedy any prejudice that parties to Docket No. EPB-2020-0156 experienced because the Board did not address the issues regarding MidAmerican's resource needs in that docket. (Tr. 26.) ELPC argued the EPB docket was a contested case proceeding and, by stating the Board is intending to create similar rights to remedy previous issues in the EPB docket, a contested case proceeding and the rights associated are needed in this docket. (Tr. 26.) According to ELPC, subrule 199 IAC 7.1(6) states the rules are to facilitate the transaction of business before the Board and the access to confidential information filed by MidAmerican is required for proper business to be conducted in the docket. (Tr. 27.) ELPC proposed that it might be useful for the Board to standardize confidentiality agreements so parties can avoid separate litigation or separate negotiation for every docket going forward and avoid different treatment of persons that enter into an agreement in a docket. (Tr. 26-27.)

ELPC argued the confidential information provided in the EPB docket and viewed by ELPC and others in that docket, pursuant to confidentiality agreements, was made a part of this docket through the Board taking official notice, which MidAmerican did not contest. (Tr. 37-38.) ELPC argued that the claim made by MidAmerican to deny access to the confidential information in this docket, when part of the confidential information has already been viewed, weighs against MidAmerican's argument. (Tr. 38.)

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4. IEC

IEC agreed with the arguments made by ELPC.

5. Tech Companies

The Tech Companies argued that this docket came from the EPB docket, a contested case proceeding in which they were granted intervention, and therefore the Tech Companies are parties to this docket. (Tr. 28-29.) The Tech Companies argued that by invoking Iowa Code § 476.6(12), the Board created a contested case proceeding, as it is not optional but required by that statute, and, regardless of the statute, the Board can utilize its authority to declare the matters in the docket deserving of contested case treatment. (Tr. 29.) The Tech Companies cited to rule 199 IAC 7.1 that provides discovery for any type of action or proceeding, regardless of the determination whether the current docket is a contested case. (Tr. 29.) The Tech Companies argued they have previously entered into protective agreements with MidAmerican and, under those agreements, the confidential documents should be provided. (Tr. 29.) The Tech Companies argued that allowing review of the confidential information will allow full participation by all interested persons in the review before the Board and is in the public interest. (Tr. 29-30.)

6. OCA

OCA states it agreed with the Tech Companies' point that it's in public interest for participants in this docket to have access to the confidential information in this current case. (Tr. 30.) OCA stated that participants and other interested stakeholders should have access to the information when there is an appropriate NDA in place, regardless of whether the docket is determined to be a contested case. (Tr. 30.)

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PROPOSED DECISION

The Board's September 24, 2021 order assigned the presiding officer to address the motions filed by the Tech Companies, IBEC, and the Environmental Organizations regarding the denial of access to information claimed to be confidential by MidAmerican. Docket No. SPU-2021-0003, *In re: MidAmerican Energy Company*, "Order Addressing Long-Term Resource Plans and Scheduling Oral Argument on Confidentiality Issues," p. 5 (issued September 24, 2021). In the September 24, 2021 order, the Board scheduled an oral argument to provide MidAmerican and interested persons the opportunity to address the confidentiality issues. In addition, the Board stated it was deferring the decision on whether this docket is a contested case proceeding or an informational docket until after the oral argument is held and an order is issued by the presiding officer.

The primary issue delegated to the presiding officer is whether MidAmerican can deny the Tech Companies, IBEC, and the Environmental Organizations access to the information claimed to be confidential and filed by MidAmerican in response to the Board's May 13, 2021 order. Prior to addressing that issue, the question to be addressed first is whether any of the information claimed to be confidential is information that should be provided to the public at large. Any information determined to be subject to public disclosure would then be made available to those persons seeking disclosure through the motions to compel.

A. Review of Information Claimed to be Confidential

In the August 12, 2021 request for confidential treatment, MidAmerican categorized the information in separate paragraphs. MidAmerican provided support for

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its confidentiality claim for the documents listed in the paragraph; however, some of the information is listed in more than one paragraph. The information claimed to be confidential is listed below in the paragraphs in MidAmerican's request.

1. Paragraph 2 of the request for confidential treatment addresses the following documents, which MidAmerican claims are confidential in their entirety: Knoxville Battery AFE Deck, Quidnet Geomechanical Pumped Storage, Gregory Pumped Hydro Storage, Walter Scott CO2 Capture Study, Louisa CO2 Capture Study, DAEC Financial Modeling, Alliant MEC Generation Swap Review, Riverside Solar, Johnson County Triangle 150-MW Solar Opportunity, Wind XI-Alternate Plan, Alternate Wind XI Plan, Wind XII Recommended Plan, and MidAmerican Seasonal Coal.

2. Paragraph 3 of the request for confidential treatment addresses the following documents, which MidAmerican claims are either confidential in their entirety or contain certain redacted information that is confidential: Pocahontas Prairie Battery Storage, Riverside Generation Station Solar, 2020 Solar Safe Harbor Equipment Considerations, 50 MW Solar, Arbor Hill Solar Project, 10 MW Solar, 7 MW Small Scale Additional Opportunity, Holliday Creek Solar Summary, Plymouth Summary, Contrail Summary, RHEC Air Inlet Replacement Overview, GDMEC Draft Update, 2021.01.07 Electric Results-min, GenOp Fuel Conversion Slide Deck, LC_10-16-2020_2021 Plan_Budget Forecast Key Assumptions, Pocahontas Prairie Summary, and Pocahontas Prairie Repower Summary_11.15.2020.

3. Also in Paragraph 3, MidAmerican states that it has provided information that is subject to confidential treatment in another docket or covered in a separate request for confidential treatment. The information in this category is as follows: ARC-

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2015-0156 16-1216 Resource Plan, GE Repower, Siemens 80 pct Repower, Renewable Subscription Program Tranche I Wind and Solar Farm, and Wind XII (Docket No. RPU-2018-0003).

4. Paragraph 4 of the request for confidential treatment addresses the following documents: DAEC Financial Modeling 02-01-2020, Alliance MEC Generation Swap Review, RHEC Air Inlet Replacement Overview-DRAFT-03.27.2019.R1, GDMEC Draft Update 10-16-2018, 2021.01.07 Electric Results-min, GenOp Fuel Conversion Slide Deck, ARC-2015-0156 16-1216 Resource Plan, LC_10-16-2020_2021 Plan_Budget Forecast Key Assumptions, GE Repower, Siemens 80 pct Repower, Renewable Subscription Program Tranche 1 Wind and Solar Farm, 02 2020 Global AFE slide deck, Wind XI-Alternate Plan, Alternate Wind XI Plan, Wind XII Sept 27 2017, Wind XII Recommended Plan-11_18_2018, and MidAmerican Seasonal Coal. MidAmerican states in Paragraph 4 that these documents include or comprise detailed generation dispatch information, customer load data, and revenue relating to MidAmerican's electric generating assets and proprietary forecasting methodology. MidAmerican states this information could give insight to MidAmerican's competitors about MidAmerican's costs, processes, and methodologies for offering generation, including insight into offer costs, which would provide an advantage to MidAmerican's competitors without public benefit.

5. In Paragraph 5, MidAmerican asserts that information in the following documents is confidential because the information would allow competitors to gain a competitive advantage over MidAmerican: GenOp Fuel Conversion Slide Deck, LC 10-16-2020_2021 Plan Budget Forecast Key Assumptions, and MidAmerican Seasonal

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Coal 04-30-2020. MidAmerican asserts that the information in these documents should be protected pursuant to 199 IAC 1.9(5)(c).

6. Information in the Alliant MEC Generation Swap Review, Wind XI-Alternative Plan, Alternate Wind XI Plan, Wind XII Recommended Plan, and MidAmerican Seasonal Coal are listed in paragraphs 2 and 4. RHEC Air Inlet Replacement Overview-DRAFT-03.27.2019.R1, GDMEC Draft Uprate 10-16-2018, 2021.01.07 Electric Results-min, GenOp Fuel Conversion Slide Deck 9-7-16_R2, ARC-2015-0156 16-1216 Resource Plan, and LC_10-16-2020_2021 Plan_Budget Forecast Key Assumptions are listed in Paragraphs 3 and 4.

7. A review of the documents listed by MidAmerican in the August 12, 2021 application for confidential treatment finds some documents listed in Paragraph 4 do not appear to be filed in Docket No. SPU-2021-0003. Those documents are: GE Repower, Siemens 80 pct Repower, Renewable Subscription Program Tranche I Wind and Solar Farms, and Wind XII Sept 27 2017. MidAmerican will be required to file these documents in Docket No. SPU-2021-0003, regardless of whether the documents are granted confidential treatment in another docket.

MidAmerican also filed a document titled NIAC – Critical Infrastructure Emergency Power_R3, but only discusses the document in Paragraph 7, in which MidAmerican requests confidential treatment of the document based upon an agreement between MidAmerican and a third-party contractor.

B. Review of Public Release of Claimed Confidential Information

1. MidAmerican cites three statutory provisions that establish exceptions to the open records requirements in Iowa Code § 22.2 for information filed with the Board,

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Iowa Code §§ 22.7(3), 22.7(6), and 22.7(18): 1) Iowa Code § 22.7(3) provides that trade secrets that are recognized and protected by law shall be kept confidential; 2) Iowa Code § 22.7(6) provides that reports to a governmental agency which, if released, would give advantage to competitors and serve no public purpose shall be kept confidential; and 3) Iowa Code § 22.7(18) provides that communications not required by law, rule, procedure, or contract that are made to a governmental body or any of the governmental body's employees by identified persons outside of government to the extent that the governmental body could reasonably believe those persons would be discouraged from making them to the governmental body if the information is available for general public examination.

When the Board grants confidentiality, it is usually granted pursuant to Iowa Code § 22.7(6) because most information filed with the Board is filed because of a request from the Board. The Board sometimes grants confidentiality pursuant to Iowa Code § 22.7(3) because of specific support that the information consists of trade secrets protected by law. Iowa Code § 22.7(18) does not appear to apply to information filed by a rate-regulated utility because the utility is required to provide any information requested by the Board pursuant to the Board's authority under Iowa Code chapter 476. Whether or not there is potential that the Board could make information provided by a rate-regulated utility public, the utility is obligated to provide the information to the Board. The Board has rules in place addressing how to proceed if the utility disagrees with a Board decision to make certain information public.

In Paragraph 5, MidAmerican asserts that the information listed should be held confidential pursuant to 199 IAC 1.9(5)(c). The list of information protected by Board

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rule in 199 IAC 1.9(5)(c) does not include information as described by MidAmerican in Paragraph 5 of its request. The only information listed in paragraph 199 IAC 1.9(5)(c) that could be arguably covered by the paragraph is subparagraph (18), which includes “the financial information regarding affiliate transactions required for rate-regulated utilities.” It does not appear that any information in the documents described meet this requirement, and MidAmerican did not provide any discussion of how the information in Paragraph 5 meets this requirement. The information listed in Paragraph 5 should not be granted confidential treatment pursuant to 199 IAC 1.9(5)(c).

2. The inquiry regarding the information for which MidAmerican requests confidential treatment begins with the requirements of Iowa Code § 22.7(6). In its request, MidAmerican has explained how the information claimed to be confidential would give advantage to competitors of MidAmerican with regard to the generation and transportation of electric energy and would serve no public purpose. This includes information provided by third-party contractors that are subject to NDAs with MidAmerican.

A review of the information in each of the documents listed by MidAmerican in its application for confidential treatment confirms that the information redacted from public review is information which, if released, would give advantage to competitors and serve no public purpose. Most of the information is either dollar amounts showing costs of various generation projects being reviewed by MidAmerican or analyses prepared by MidAmerican or third parties with cost information, required purchases, or risk assessment. The information for which confidential treatment is requested by MidAmerican should be held from public disclosure pursuant to Iowa Code § 22.7(6) as

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a report to a governmental agency which, if released, would give advantage to competitors, and serve no public purpose, with one exception. The exception is the ARC-2015-0156 16-1216 Resource Plan.

The ARC-2015-0156 16-1216 Resource Plan document does not contain any cost or risk analysis and is not prepared by a third party. The document provides a general description of MidAmerican's plans for resource development in 2016. This document is listed in Paragraph 3 as a document that was granted confidential treatment in a previous docket. The 2016 resource plan may have qualified for confidential treatment in a previous docket; however, any support for holding the document from public disclosure has passed and the document should no longer be withheld from public inspection.

C. Release of Information Pursuant to NDAs

MidAmerican filed the separate NDAs entered into with the ELPC, IEC, IBEC, and the Tech Companies. As stated above, no NDA was entered into with Sierra Club. The NDAs are discussed below:

1. The ELPC and IEC NDAs contain the same provisions. The NDAs provide that ELPC and IEC will receive from MidAmerican documents, data, studies, analyses, and written and potentially verbal communications that have been claimed to be confidential by MidAmerican. The NDAs state to the extent MidAmerican makes any filings with the Board or in a court related to the proposed projects, the NDAs are intended to allow for the exchange of the confidential information as part of those proceedings. The purpose of the NDAs is stated to "facilitate the exchange of

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Confidential Information regarding MidAmerican's Emissions Plan and Budget Update filed in Docket No. EPB-2020-0156 at the Iowa Utilities Board ("Board")."

The NDAs provide that the confidential information will be exchanged to allow ELPC and IEC to review MidAmerican's Emissions Plan and Budget Update and to participate in the Emissions Plan and Budget Update proceeding. The NDAs provided ELPC and IEC access to the confidential information developed by MidAmerican to analyze and support the Emissions Plan and Budget Update. The NDAs provided that, "The Confidential Information may be subject to discovery in conjunction with proceedings." The NDAs provide that the confidential information shall not be used outside of purposes authorized by the NDAs, and ELPC and IEC are only authorized to use the information for participation in Docket No. EPB-2020-0156. The NDAs provide that upon completion of proceedings related to the Emissions Plan and Budget Update, including judicial review, the confidential information, and all notes and records concerning the confidential information, shall be destroyed.

2. The NDA entered into between IBEC and MidAmerican provides that they will furnish each other information that is non-public, confidential, or proprietary. The purpose of the NDA is to provide an exchange of confidential information, "which may be exchanged from time to time to allow the Parties to discuss and analyze potential regulatory filings that may be made with the Iowa Utilities Board or other regulatory agencies or courts." The NDA provides that the exchange of the confidential information will allow IBEC and MidAmerican to remain informed of strategic directions and is to encourage active discussions on proposals and possible issues.

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The NDA provides that the agreement does not require either IBEC or MidAmerican to furnish the confidential information to each other. The NDA states, “There may be instances in certain regulatory proceedings where a more specific protective agreement is necessary,” and entering into a more specific agreement is at the sole discretion of the entity that has the confidential information. The NDA provides that the agreement shall be perpetual; however, IBEC or MidAmerican retains the right to terminate the agreement at any time. If the agreement is terminated, IBEC and MidAmerican shall make their best efforts to destroy the confidential information obtained from each other.

3. The NDAs between the Tech Companies and MidAmerican contain the same provisions as those in the NDA with IBEC. The NDAs provide for the exchange of confidential information, but do not require the exchange of confidential information. The NDAs state that there may be instances when a more specific NDA is required for certain regulatory proceedings. The NDAs are perpetual, but can be terminated by either signatory. Confidential information is to be destroyed if the NDA is terminated.

4. The NDAs between MidAmerican and ELPC and IEC are limited to Docket No. EPB-2020-0156 and are not applicable in this docket. Even though this docket was opened pursuant to an order in Docket No. EPB-2020-0156, the specific language in the NDA does not include agreement to release information that is claimed to be confidential in a subsequent docket that does not relate specifically to the Emissions and Budget Plan Update in Docket No. EPB-2020-0156.

The NDAs between MidAmerican and IBEC and the Tech Companies provide that the agreement does not require the release of information claimed to be

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confidential. MidAmerican has refused to release the information filed as confidential on August 12, 2021, and the NDAs do not require MidAmerican to release the information.

Although the NDAs do not provide for the release of the information filed on August 12, 2021, that is claimed to be confidential, that does not conclude the issue. The NDAs entered into with IBEC and the Tech Companies recognize that specific NDAs may be required for certain dockets, and the specific NDAs entered into with ELPC and IEC show that MidAmerican has entered into specific NDAs for certain dockets under other circumstances.

In the May 13, 2021 order opening this docket, the Board stated that this docket will explore MidAmerican's long-term resource needs, including consideration of least-cost options for generation, environmental requirements, reliability, and economic development potential. In the order, the Board took official notice of the filings in Docket No. EPB-2020-0156 and stated that it would consider the matters identified in the joint statement of issues in that docket. IBEC, the Tech Companies, and the Environmental Organizations were parties to Docket No. EPB-2020-0156. It is evident from the requirement by the Board to open this docket in the Board's final order in Docket No. EPB-2020-0156 and the taking of official notice of the filings in that docket, that the Board expected the parties from Docket No. EPB-2020-0156 to participate in this docket. To have meaningful participation in the review of MidAmerican's resource needs, participants in this docket need access to information filed by MidAmerican regarding its resource needs.

MidAmerican argues because Docket No. SPU-2021-0003 is not a contested case proceeding, discovery is not allowed for participants in the docket and is not

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allowed by Board rules. MidAmerican's interpretation of the authority of the Board under Iowa Code chapter 476 and Board procedural rules in 199 IAC chapter 7 is more restrictive than the provisions of chapter 476 and is inconsistent with the language in the procedural rules in 199 IAC chapter 7.

MidAmerican makes the argument that the Board's inquiry in this docket is an informational inquiry and the Board cannot therefore require MidAmerican to allow review of confidential information by other participants. MidAmerican argues that as an informational docket, and not a contested case, sharing information with other participants is not required. MidAmerican interprets Iowa Code § 476.2(4), which authorizes the Board to inquire into MidAmerican's business management, to allow only the Board and OCA to look at information provided in this docket. MidAmerican also cites to subrule 199 IAC 7.15(1), which provides that discovery procedures applicable to civil actions are available to all parties in contested cases, and for support of its argument that discovery is limited in this docket.

Adoption of MidAmerican's interpretation of the Board's authority under Iowa Code chapter 476 and the procedural rules in 199 IAC chapter 7 would severely limit the Board's authority to inquire into the management of a rate-regulated utility and would prevent the Board from receiving meaningful and necessary analyses and comments from other participants in dockets that are not contested case proceedings. Iowa Code § 476.2(4) does not include the limitation placed on that statute by MidAmerican. That section authorizes the Board to review a rate-regulated utility's business management, but does not limit the Board's ability to allow other stakeholders such as IBEC, the Tech Companies, and the Environmental Organizations an

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opportunity to review the information about a rate-regulated utility's business and to provide analyses and comments. If information in a docket is held to be confidential by the Board, other participants can review that information subject to NDAs or, if necessary, under a protective order established by the Board.

Iowa Code § 476.2 provides that the Board has the general authority to effect the purposes of chapter 476 notwithstanding that specific powers are set forth in Iowa Code § 476.2. That general authority means that the specific authority in Iowa Code § 476.2(4) to review MidAmerican's business management does not limit how the Board goes about that review. In addition, the general authority is not limited by the purpose of the docket opened by the Board or whether the docket is informational or a contested case. Contested case proceedings have specific requirements described in Iowa Code chapter 17A and Board rules at 199 IAC 7.15. The existence of the statutory and rule requirements for discovery in contested case proceedings does not limit the Board's authority to allow discovery in other proceedings.

In addition to the general powers given the Board in Iowa Code § 476.2(1), the Board also has the statutory responsibility to ensure that a rate-regulated utility furnishes reasonably adequate service and facilities, and that the charges for utility service are just and reasonable. Iowa Code § 476.8. The fact that the Board did not cite this authority, or cited certain specific statutory sections such as Iowa Code §§ 476.6(12) and 476.6(16), does not limit the Board's authority to review a rate-regulated utility's operations, and to allow interested stakeholders the opportunity to review information to provide meaningful input into the Board's review.

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The Board's general authority and its procedural requirements for dockets are set out in 199 IAC chapter 7. Again, MidAmerican would take a strict interpretation of the language in that chapter to limit the Board's authority to require MidAmerican to provide information in a docket to other participants. Subrule 199 IAC 7.1(1) states that chapter 7 applies to "contested case proceedings, investigations, and other proceedings conducted by the Board or a presiding officer, unless the proceedings have specific procedures in other Board rules." There are no other specific rules that establish distinct procedural requirements for a proceeding that is opened to review MidAmerican's resource needs.

Subrule 199 IAC 7.4(6) provides that confidential information shall be served on persons who have executed an NDA or, if an NDA is not executed and an agreement cannot be reached to execute an NDA, the Board may issue an appropriate order providing for discovery. Based upon the review of the NDAs above, no NDAs are executed that allow access to the information claimed to be confidential in this docket, so any sharing of confidential information would only occur either by agreement of MidAmerican or by Board, or presiding officer, order.

MidAmerican interprets subrule 199 IAC 7.15(1) to limit discovery by participants in proceedings before the Board to contested case proceedings, and, therefore, discovery is not allowed in other proceedings. A more reasonable interpretation of subrule 199 IAC 7.15(1) is that discovery is specifically allowed in contested case proceedings and any discovery or requirements for release of information in other dockets is subject to the decision of the Board or a presiding officer. Specifically,

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referencing contested cases in rule 7.15 does not limit access to information through discovery or by Board, or presiding officer, order in other proceedings.

MidAmerican's argument that allowing discovery and release of information to the participants in a non-contested case proceeding will allow any member of the public to participate in a docket and then that person will be able to review the information is not persuasive. If information has been found to be confidential by the Board, and therefore not subject to public disclosure, release of the information to a participant in a proceeding would only be by an NDA or by a Board order. If no NDA is executed with a participant, the Board then has control over which participants in a docket may review confidential information.

In this docket, IBEC, the Tech Companies, and the Environmental Organizations already have access to some of the information pursuant to the NDAs executed in Docket No. EPB-2020-0156. These participants also have interests in this proceeding because of their status as parties in the EPB docket, and IBEC and the Tech Companies as customers. In addition, it is important for the Board to have the input from these participants as part of the review of MidAmerican's resource needs.

On that basis, MidAmerican will be directed to enter into NDAs in this docket with IBEC, the Tech Companies, ELPC, and IEC that include the same provisions that are included in the specific NDAs entered into with ELPC and IEC in Docket No. EPB-2020-0156. An NDA with Sierra Club is not being required because Sierra Club did not enter into an NDA in Docket No. EPB-2020-0156. The NDAs should be specifically limited to the proceedings in Docket No. SPU-2021-0003, or any court proceedings that result from this docket. If MidAmerican contends that the Board cannot require it to enter into

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NDAs, as it did in Docket No. TF-97-229, the Board can then issue a protective order that allows IBEC, the Tech Companies, ELPC, and IEC to review the information found to be confidential by the Board in this docket. (See *In re: MidAmerican Energy Company*, “Order Granting, In Part, Motion to Compel” (issued December 17, 1997); *In re: MidAmerican Energy Company*, “Order Regarding Discovery” (issued January 22, 1998).) The NDAs will be required to be executed within 10 days of this order becoming the final order of the Board, or when a final order is issued by the Board on appeal to the Board.

Based upon the decision to require MidAmerican to enter into NDAs with IBEC, the Tech Companies, ELPC, and IEC, the motions to compel will be granted.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The application for confidential treatment filed by MidAmerican Energy Company on August 12, 2021, is granted pursuant to Iowa Code § 22.7(6), except for the document identified as “MidAmerican Energy Resource Plan, December 16, 2016,” ARC-2015-0156 16-1216 Resource Plan, which does not meet the requirements for confidential treatment.

2. The motions to compel filed by the Iowa Business Energy Coalition; Google LLC; Facebook, Inc.; the Environmental Law & Policy Center; and the Iowa Environmental Council, are granted. If this proposed order becomes the final order of the Utilities Board, MidAmerican Energy Company shall, within 10 days of the date of

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this order, enter into non-disclosure agreements, as described in this order, that allow these entities to review the information found to be confidential in this docket.

3. MidAmerican Energy Company shall file the following documents in Docket No. SPU-2021-0003: GE Repower, Siemens 80 pct Repower, Renewable Subscription Program Tranche I Wind and Solar Farms, and Wind XII Sept 27 2017.

4. This proposed order shall become the final order of the Utilities Board unless an appeal is filed within 15 days of the date of this proposed order, or the Utilities Board reviews the proposed order on its own motion.

UTILITIES BOARD

Cecil I. Wright 2021.11.23 10:55:41 -06'00'

Presiding Officer

ATTEST:

Louis Vander Streek Louis Vander Streek
2021.11.23 15:24:28
-06'00'

Dated at Des Moines, Iowa, this 23rd day of November, 2021.