

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>MIDWEST RENEWABLE ENERGY PROJECTS LLC,</p> <p style="padding-left: 40px;">Petitioner,</p> <p style="text-align:center">v.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. AEP-05-1</p>
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ORDER DENYING REQUEST FOR CONFIDENTIALITY

(Issued February 24, 2006)

On February 14, 2006, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) an application for confidential treatment of Confidential Appendix A. The appendix was part of a filing made by IPL in this docket on the same date, entitled "Disclosure of Change in Evidentiary Facts." The public portion of the filing merely referred to "subsequent developments that change facts in the evidentiary record." The confidential portion of the filing discloses what those evidentiary facts were. The material for which confidentiality was requested was filed in a separate envelope and marked confidential. IPL cited Iowa Code § 22.7(6) (2005) as authority for confidential treatment of the data.

IPL claims the information is a report to a governmental agency that, if released, would give advantage to competitors and serve no public purpose and, therefore, should be held confidential pursuant to section 22.7(6). The accompanying affidavit supporting the request for confidentiality states, in part, that “if the successful bid purchase price, or other bid terms, or significant communications between the IPL and a successful bidder were disclosed to competitors, it would provide competitors an advantage. . .” The affidavit also alleges release of the information would enable its energy suppliers to obtain prices and contract terms and therefore discourage suppliers from submitting a bid below the price contained in the contract. IPL argues the end result will be higher bids in future power solicitations, perhaps fewer bidders, and eventually higher costs to IPL’s customers.

The information in question qualifies as a report to a government agency. However, this is not the end of the inquiry. The information, if released, must also give advantage to competitors and serve no public purpose. The information contained in Appendix A does not meet this test.

The affidavit accompanying the request for confidentiality treats the information as if it contained specific price or contract terms, which it does not. Appendix A does not include any pricing terms or information that would allow energy suppliers to obtain or calculate pricing terms; this type of information has previously been held confidential. While the information contained in Appendix A has not been previously disclosed, it broadly relates to information that not only was part of the

public record in this proceeding but information that has been disclosed in other public forums. Pursuant to 199 IAC 1.9(6)"d," the Board will hold Appendix A confidential for 14 days to allow IPL an opportunity to seek injunctive relief. After the 14 days, the information will be available for public inspection, unless the Board is directed by a court to keep the information confidential.

IT IS THEREFORE ORDERED:

1. The request for confidentiality filed by Interstate Power and Light Company on February 14, 2006, is denied.

2. Pursuant to 199 IAC 1.9(6)"d," confidential Appendix A, containing the new evidentiary facts, will be held from public inspection for 14 days from the date of this order, and after the 14 days will be open for public inspection, unless a court directs the Board to keep the information confidential.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 24th day of February, 2006.