

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>ENTERPRISE PRODUCTS OPERATING, LLC, <i>Petitioner,</i></p> <p>v.</p> <p>IOWA UTILITIES BOARD, <i>Respondent.</i></p>	<p>CASE NO. CVCV065780</p> <p>MOTION FOR PROTECTIVE ORDER REGARDING CERTAIN IOWA UTILITIES BOARD FILING INFORMATION</p>
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COMES NOW, Enterprise Products Operating, LLC ("Enterprise") with this Motion for a Protective Order Regarding Certain Iowa Utilities Board Filing Information (this "Motion") in the above-captioned matter:

1. This matter involves a dispute between Enterprise and the Iowa Utilities Board (the "IUB") concerning a civil penalty and the potential release of confidential information. *See In re Enterprise Products Operating, LLC*, Dkt. No. SPU-2023-0002 (Iowa U.B. Apr. 21, 2023).¹

2. During the administrative proceedings below, Enterprise requested confidential treatment of certain information related to Enterprise's operations that had been previously filed with the IUB. *See Application for Confidential Treatment*, Dkt. No. SPU-2023-0002 (Iowa U.B. Mar. 17, 2023). Specifically, Enterprise sought confidential treatment of exhibits labeled as confidential versions of A-1, A-2, A-3, A-4, A-5, A-6, A-8, Exhibit B, Exhibit C, and Exhibit F. *See id.*

3. Unfortunately, Enterprise and IUB could not agree on resolving this matter at the administrative level. As a result, Enterprise was compelled to file a Petition for Review of Agency

¹ This Motion deals only with the confidentiality of certain documents. It does not address the judicial review of the civil penalty imposed by the IUB on Enterprise. Enterprise reserves its right to continue to argue for the overturning of that civil penalty going forward.

Action on July 7, 2023 (the "Petition"). That initiated the above-captioned matter here (along with the imposition of a civil penalty).

4. In proceedings below, Enterprise requested, among other things, that the specified confidential documents remain confidential under IOWA CODE §§ 22.7(3) (trade secrets); 22.7(6) (records, if released, would destroy competitive advantage); 22.7(50) (protections to critical infrastructure information); 22.7(71) (prevention of critical infrastructure vulnerability); and 49 C.F.R. § 190.343 (federal protections for certain confidential commercial information).

5. As part of the judicial review process, IUB was required to transmit certain records to the Court for examination within a certain period. *See* IOWA CODE § 17A.19(6). However, by joint stipulation of the Parties, Enterprise and IUB informally agreed to extend the time for filing such record materials for the convenience of IUB, given certain logistical issues. The Court raised no objection to this stipulation.

6. Now, the IUB is currently preparing to file the certified record materials with the Court in furtherance of these proceedings. Portions of this certified record will contain some — if not all — of the confidential information Enterprise seeks to keep protected from disclosure. If the certified record is fully disclosed, it risks stripping such information of its legally protected confidentiality and exposing Enterprise to significant legal, commercial, proprietary, operational, and security risks.

7. To date, the Court has not yet ruled on the original Petition requesting injunctive relief on the confidentiality question of this information. As a result, there is a particular exigency for Enterprise to seek this Protective Order to ensure continued confidentiality of the identified information if the IUB files its certified record and for any time thereafter until the Court makes its ultimate ruling on the Petition.

8. Pursuant to IOWA R. CIV. P. 1.504(3), the Parties certify that Enterprise and the IUB have, in good faith, personally communicated with one another on October 11, 2023, at or about 3:00 p.m. to resolve this dispute without this Court's action or intervention.

9. Upon information and belief, the IUB does not resist this motion to keep certain specified portions of the soon-to-be-filed certified record confidential after it has been filed with the Court at this time.

10. Allowing such specified information to remain confidential and under seal while the Court determines the merits of the Petition would protect Enterprise from potentially irreparable harm, not injure the IUB or its interests in this action, and not harm the public. Still, it would promote judicial efficiency and economy in these proceedings.

11. Additionally, Enterprise requests an order to restrict access to confidential information that would be appropriately covered by IOWA R. ELEC. P. 16.405(2) so that access would be aptly concealed from public disclosure.

12. For the foregoing reasons, Enterprise respectfully requests this Court enter a protective order regarding the specific parts of the upcoming certified record mentioned above to secure its continued confidentiality during the pendency of these proceedings.

DATED: October 12, 2023.

Respectfully submitted,

/s/ Colin C. Smith

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