IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ENTERPRISE PRODUCTS OPERATING, LLC, Petitioner, vs. IOWA UTILITIES BOARD, Respondent.	CASE NO. CVCV065780 **ENTERPRISE'S BRIEF IN REPLY TO THE BOARD'S RESISTANCE TO PETITION FOR JUDICIAL REVIEW**

COMES NOW Petitioner, Enterprise Products Operating, LLC, by and through the undersigned counsel, and submits its Brief in Reply to the Iowa Utilities Board's Resistance to Petition for Judicial Review.

INTRODUCTION

Enterprise incorporates and re-alleges its Statement of the Case and Arguments made in its Brief in Support of Judicial Review filed on May 2, 2024. *D0032*. To avoid repetition, Enterprise addresses in its Reply Brief the arguments and inaccurate factual contentions made by the Board in its Brief in Resistance to Petition for Judicial Review. *D0034*. Enterprise asks the court to rely upon its Initial Brief for its complete portrayal of the facts and applicable legal analysis in this case.

ARGUMENT

I. THE BOARD ABUSED ITS AUTHORITY BY ASSESSING A $1.8 MILLION PENALTY TO ENTERPRISE FOR A PERMITTING ERROR

In numerous pages of its Brief, the Board argues it has "clearly vested authority" to levy penalties against Enterprise for permitting errors. *D0034*, Board's Brief in Resistance, at 5. However, no party to this suit claims the Board is not the correct agency or did not have the authority to levy a penalty against Enterprise. Instead, the Board *abused* its authority and violated Iowa Code § 479B.21 in assessing Enterprise a $1,800,000.00 penalty. The penalty is nine times higher than the maximum penalty allowed by Iowa law for a violation or a series of violations of Iowa Code 479B. *See* Iowa Code 479B.21(1) (2024). Further, the Board violated Enterprise's equal protection rights by assessing a penalty substantially higher than other similarly situated entities who committed the same or lesser violations. See U.S. Const. amend XIV; Iowa Const., art. I, §§ 1 and 6. The Board bases this decision on the arbitrary and irrelevant fact that MAPCO obtained nine permits to construct the pipeline from 1961-1973 as the line was constructed in segments, under a now-repealed and federally preempted law.

II. THE BOARD FAILED TO PROPERLY CONSIDER THE FACTORS FOR PENALTY DETERMINATION SET OUT IN IOWA CODE § 479B.21

"An agency decision is considered arbitrary and capricious when the decision was made without regard to the law or facts." *Irland v. Iowa Board of Medicine*, 939 N.W.2d 85 (Iowa 2020) (quoting *Greenwood Manor v. Iowa Dep't of Pub. Health*, 641 N.W.2d 823, 831 (Iowa 2002)). The law in this case is set forth in Iowa Code § 479B.21. Iowa Code § 479B.21(1) states:

> A person who violates this chapter or any rule or order issued pursuant to this chapter shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, *the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations*.

Iowa Code § 479B.21(1) (2024) (emphasis added). The law is clear and unambiguous that the maximum penalty is $200,000 for any violation or series of related violations. *Id*. Further, Iowa Code § 479B.21(2) states:

> In determining the amount of the penalty, or the amount agreed upon in compromise, [**(1)**] the appropriateness of the penalty to the size of the pipeline company charged, [**(2)**] the gravity of the violation, and [**(3)**] the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered.

Iowa Code § 479B.21(2) (2024) (emphasis added). This section is also clear and unambiguous, setting forth three (3) -- and only three -- distinct factors the Board *shall* consider when determining the amount of a penalty to levy. *Id*. However, in its Brief in Resistance, the Board stated that it considered the following seven (7) factors in assessing Enterprise the penal sum of $1,800,000.00:

a) Enterprise's market capitalization of $55.9 billion;

b) Its alleged 21 years of violation;

c) Its efforts to come into compliance;

d) Its filing of a petition for a new permit;

e) Its number of prior permits;

f) An uncapped civil penalty amount of $67.815 million and;

g) The number of miles of pipeline Enterprise owns and operates in Iowa.

D0034, Board's Brief in Resistance, at 6, 7 and 10. Of the seven (7) factors considered by the Board, only (a)-(d) fall within the ambit of what the Board is permitted to consider. *See* Iowa Code § 479B.21(2) (2024).

In subsection (e) of the seven factors, the Board considered the number of "prior permits" held by previous owners of the pipeline under a now invalidated statute. The fact that the original owner of the pipeline obtained several permits for construction as it contructed the pipeline in various phases, has no relevance to the permit required under the existing statute.

In subsection (f) of the seven factors, the Board considered an "uncapped civil penalty amount of $67.815 million." *D0034*, Board's Brief in Resistance, at 6. The Board fails to show how it arrived at this uncapped penalty amount or what Iowa law the Board based its calculation on. Moreover, an "uncapped" penalty is wholly irrelevant to its consideration. The purpose of Iowa Code § 479B.21, as exhibited by its express language, is to place a cap on penalties for which the Board may levy. *See* Iowa Code § 479B.21. By considering a potential penalty amount it could otherwise impose without the restrictions of Iowa Code § 479B.21, the Board has admittedly acted arbitrarily and capriciously by making its decision "without regard to the law or facts." Not only that, but the Board relies on its consideration of the "uncapped penalty" outside the law and facts to suggest that it has graciously lessened the penalty it could levy, which is impermissible under the Code. *Id*. The Board's consideration of this factor violates Enterprise's rights under Iowa law. *Id*.

The Board's consideration subsection (g) of the seven factors, the "number of miles of pipeline Enterprise owns and operates in the state," also is without regard to the law the Board is allowed to consider under Iowa Code § 479B.21(2). Prong one of § 479B.21(2), the appropriateness of the penalty levied to the size of the pipeline company only allows the Board to consider the company's size, not the number of miles of pipeline a company operates. *Id*. The Board compares Enterprise's 750 miles of pipeline relative to Sinclair Transp. Co.'s 11.8 miles to

justify imposing on Enterprise a penalty that is **nine times** higher than what Sinclair was assessed for a similar violation. *D0034*, Board's Brief in Resistance, at 12*; See also In re Sinclair Transp. Co*., Docket No. SPU-2023-0003. The Board's consideration of the number of miles of pipeline Enterprise operates in the state is not a permissible consideration and also violates its rights under Iowa law. *See* Iowa Code § 479B.21.

Iowa Code § 479B.21(2) states that the three prongs contained therein "*shall* be considered" by the Board. Iowa Code § 479B.21(2) (2024) (emphasis added). The "plain meaning of words in a statute govern interpretation." *Wendling Quarries, Inc. v. Prop. Assessment Appeals Bd*., 865 N.W.2d 635, 641 (Iowa Ct. App. 2015). The Iowa Legislature did not include language permitting the Board to consider factors outside the statute when assessing penalties. *See generally* Iowa Code § 479B. The Board's consideration of these extraneous factors contradicts the express language in Iowa Code § 479B.

III. THE BOARD'S METHODOLOGY TO DETERMINE THE NUMBER OF FACILITIES IN VIOLATION IS ARBITRARY AND CAPRICIOUS

The Board's consideration subsection (e) of the seven factors, the “number of prior permits previously held by Enterprise,” is a clear and wholly arbitrary example of an agency decision made without due regard to the law and facts of the case.

MAPCO constructed the pipeline from 1961-1973 and obtained the necessary construction permits under the now-repealed Iowa Code § 479. *See Kinley Corp. v. Iowa Utilities Board*, 999 F.2d 354, 358 (8th Cir. 1993). When the pipeline was constructed, it was built in nine (9) separate phases, which required MAPCO to obtain nine (9) separate permits. These permits, however, were for the pipeline's construction, not its operation.

Further, the **now-repealed** Iowa Code § 479 did not contain a penalty provision. To maximize its penalty levied on Enterprise, the Board seeks to use a combination of the old, federally-preempted law that contained wholly different permitting requirements and under which the nine (9) construction permits were obtained and the new Iowa Code § 479B.21 establishing civil penalties for the first time as made applicable under the new Code Chapter 479B. Not only is this method of penalty determination illogical, given that the previous permits were issued under a statute that dealt with safety regulation and the new statute deals with environmental and economic damages, but it contravenes the court's decision in *Kinley* and the Iowa Legislature's enactment of Iowa Code § 479B.21. *Kinley Corp.*, 999 F.2d 354. Making a penalty determination using portions of repealed law and portions of controlling law is facially arbitrary and capricious as it fails to give due regard to current law and the facts of the case. *See Irland*, 939 N.W.2d 85 (citations omitted).

The Board justifies its arbitrary decision to use this approach by contending it has three methodologies that it can use to determine the number of facilities in violation:

1) The number of permits previously granted (9);

2) Number of facilities identified by Enterprise (20); or

3) The number of permits being sought under current Iowa law [(1)].

D0034, Board's Brief in Resistance, at 9. Not only does Iowa Code § 479B not permit the Board to assess penalties based on a number of facilities, it also does not permit issuing violations based on permits issued under the preempted law. Iowa Code § 479B.21. Regarding methodology two (2), the Board states that Enterprise identified twenty (20) different facilities it operates in Iowa. *D0034*, Board's Brief in Resistance, at 9. This calculation is entirely inaccurate. In response to the Board's Order dated February 6, 2023, Enterprise submitted documents providing the Board with information about its pipeline. Exhibit A, filed on March 6, 2023, described each pipeline segment in terms of its location and length within the pipeline. No rational reading or interpretation of this document could lead someone to believe the eighteen (18) rows of descriptors are separate pipelines or facilities as defined by Iowa Code § 479B. Under Iowa Code § 479B.2, the definitions of "pipeline" and "underground storage" do not refer to segments and or separate facilities for purposes of permitting. The portion of Enterprise's interstate pipeline located in

Iowa is not operated as multiple pipelines. The entire 750 miles of pipe and storage is operated as a single asset that constitutes one complete multi-state propane pipeline.

Enterprise owns and operates **one** interstate propane pipeline, which includes approximately 750 miles in Iowa. To state that one congruent pipeline is twenty (20) separate facilities is **contrary to the law and all common sense.** To follow the Board's justification for methodology two (2), or lack thereof, would impose a penalty on Enterprise of $4,000,000.00. Still, the Board insists this penalty "would have been [] rational, logical, and justifiable." *D0034*, Board's Brief in Resistance, at 8. However, there are no facts justifying such a rationale or speculation. This contention further shows the Board's lack of due regard for the law and the legislature's limitations on its authority to levy penalties.

The Board's imaginative, but legally unsupported creation of the three methodologies to determine *the number of facilities in violation* is unsupported by Iowa law and the facts of this case. The Board chose to base the civil penalties on the number of permits previously issued under a law that was repealed three decades ago and each of those permits were invalidated by the Eighth Circuit in 1993. *See Kinley Corp.*, 999 F.2d 354. This so called "methodology" to determine the number of facilities in violation is without reason, justification, or logic. However, Enterprise

is in violation for failing to attain one permit under Iowa's current law for the one pipeline it owns and operates in Iowa.[1]

Iowa Code § 479B.21(1) states that a person who violates this chapter "shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for *each violation*." Iowa Code § 479B.21(1) (2024) (emphasis added). Further, "the maximum civil penalty shall not exceed two hundred thousand dollars for *any related series of violations*. Iowa Code § 479B.21(2) (2024) (emphasis added). Enterprise committed one violation. To the extent it can be argued Enterprise has committed more than one violation – failure to obtain a new permit under the new law for its existing pipeline -- although scarcely conceivable, the Code expressly states that a series of related violations are still restricted to the $1,000 per day and $200,000 maximum penalty limitation. *Id*. The Board's attempt to circumvent these restrictions by using a combination of a repealed statute and current Iowa law again fails to give due regard to the court's ruling in *Kinley Corp*.,

[1] Enterprise applied for the required hazardous liquid pipeline permit on March 17, 2023 in a single docket to reflect the singular nature of Enterprise's Iowa jurisdictional asset. An amended and restated petition was filed on December 27, 2023 to rectify any deficiencies in Enterprise's initial application and to satisfy the Board Staff's preference to review Enterprise's asset in three parts. The amended petition segmented Enterprise's pipeline into three. On March 26, 2024, the Board ordered Enterprise to divide its current petition across three separate dockets that would result in three individual permits despite the singular nature of Enterprise's asset. On May 24, 2024 Enterprise submitted three petitions in a good faith effort to cooperate with the Board and achieve regulatory compliance. However, Enterprise maintains that Iowa law requires a single permit and does not allow the Board to divide Enterprise's asset into segments for permitting purposes.

the intent of the Iowa legislature, and the express language of Iowa Code § 479B.21. *See Kinley Corp.*, 999 F.2d 354; *See also* Iowa Code § 479B.21 (2024).

IV. THE BOARD'S DECISION IS NOT ENTITLED TO DEFERENCE BY THIS COURT

The Board contends its decision is entitled to deference by this Court "since the application of facts to law falls within the discretionary construct of the statute." *D0034*, Board's Brief in Resistance, at 6. The Board further states that its decision is "subject to review only to determine whether such application is the product of reasoning that is so illogical as to render it wholly irrational." *Id*. (quotations omitted). This contention is incorrect.

"If the legislature vests the authority to interpret the act, we defer to that agency's interpretation and may reverse only if the interpretation is "irrational, illogical, or wholly unjustifiable." *City of Dubuque v. Iowa Utilities Bd.*, 2013 WL 85807 (Iowa Ct. App. 2013) (citing *Renda v. Iowa Civil Rights Comm'n*, 784 N.W.2d 8, 10 (Iowa 2010) (quoting section 17A.19(10)(l)). "But if the legislature has not vested the agency with this authority, we may substitute our judgment de novo for that of the agency." *Id*. (quoting Iowa Code § 17A.19(10)(c)) (citations omitted).

Further, Iowa Code §§ 17A.19(11)(a)-(b) states that in making the determinations required by subsection 10, paragraphs a through n, the court shall do all of the following:

> *Shall not give any deference* to the view of the agency with respect to whether particular matters have been vested by a provision of law in the discretion of the agency [and;] *should not give any deference* to the view of the agency with respect to particular matters that have not been vested by a provision of law in the discretion of the agency.

Iowa Code §§ 17A.19(11)(a)-(b) (2024) (emphasis added). Iowa Code § 479B.21 does not vest the Board the authority to interpret or make discretionary inferences for the act. Thus, because the legislature has not vested the agency with this authority, the Board's decision must be reviewed de novo.

V. THE ALLEGED ABSENCE OF ADJUDICATIVE FACTS DOES NOT RELIEVE THE BOARD OF ITS OBLIGATION TO PROVIDE ENTERPRISE WITH DUE PROCESS

The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Silva v. Employment Appeals Board*, 547 N.W.2d 862, 867 (Iowa Ct. App. 1985). A person subject to potential legal or administrative penalties is entitled to due process under both the Federal and State Constitutions. See U.S. Const. amend. XIV, § 2; Iowa Const., art. I, § 9. The Board argues it was not required to provide Enterprise with due process because "there were not adjudicative facts to be determined," and argues in the alternative, that

Enterprise was afforded due process because it was given "multiple opportunities to provide an explanation of its conduct prior to the issuance of the civil penalties." *D0034*, Board's Brief in Resistance, at 13.

The Show Cause Hearing, held on March 17, 2023, was Enterprise's **first and only** opportunity to explain its actions, even though similarly situated companies were given many opportunities to cure similar oversight prior to even being ordered to show cause. In the Show Cause Hearing, the Board stated that it did not need to put any of Enterprise's representatives under oath. *D0016*, Certified Agency Record (Part 1 of 2) at pp. 31-32 IUB Hr'g Transcript, at pp. 7-8, ¶¶24-1 (March 22, 2023) (Board Chairperson Huser stating she was "not going to put [Enterprise's representative] under oath"). The Board further contends it was Enterprise's duty to request that its representatives be put under oath. However, the Board must ensure due process is afforded, not Enterprise. *DeShaney v. Winnebago County Dept. of Social Services,* 489 U.S. 189, 194 (1989) ("no *state* shall… deprive any person of life, liberty, or property, without due process of law.") (emphasis added).

Further, there are adjudicative facts to be determined. For instance, the Board contends Enterprise operates nine different pipelines or facilities within Iowa. This is factually incorrect, as Enterprise operates one congruent pipeline, and it is undoubtedly a fact that Enterprise disputes and requires adjudication. Additionally, in the Show Cause Order, the Board alleged that Enterprise was required to obtain a

permit from the Board to construct the pipeline. This is factually incorrect, as the pipeline was constructed and operational when Enterprise acquired it. Further, the number of permits required under Iowa Code § 479B is disputed.

VI. THE BOARD VIOLATED ENTERPRISE'S EQUAL PROTECTION RIGHTS BY FAILING TO TREAT ITS GOOD FAITH EFFORTS TO ACHIEVE COMPLIANCE THE SAME AS OTHER SIMILARLY SITUATED ENTITIES

Enterprise cites eight cases where similarly situated entities committed comparable violations, and relatively insubstantial or no penalties were levied. *See D0032,* Enterprise's Brief at 22. The Board summarily dismisses all eight comparable violations because Enterprise did not voluntarily come forward with its violation. The Board conveniently ignores the cases of Magellan Midstream Partners and BP Pipelines, however, in which other pipeline companies (1) did not come forward on their own, (2) ignored multiple informal notices from the Board, (3) were given extensions of time to comply, and (4) were not penalized AT ALL.[2]

In any event, this consideration is contrary to the language of Iowa Code § 479B.21(2), failing to address the inaccurate and deficient "notices" it alleges were

[2] *See In re Magellan Midstream Partners, L.P.*, 2022 WL 16963734, at *1 (Iowa U.B. November 10, 2022). *See* Transcripts and Exhibits from Hearing Held October 26, 2023, *In re B.P. Pipelines (North America) Inc.*, p. 7, ln. 17 - p. 8 ln. 2, Dkt. No. HLP-1996-0015 (Iowa U.B. October 26, 2023).

provided to Enterprise. The third prong of Iowa Code § 479B.21(2) states that the consideration is given to "the good faith of the person charged in attempting to achieve compliance, **after notification of a violation**…" Iowa Code § 479B.21(2) (2024) (emphasis added).

Even if the entities identified by Enterprise had come forward to the Board *before* being notified of a violation, the Code states an entity's good faith shall be considered *after* notification of a violation. *Id*. The Board cannot dismiss Enterprise's comparison of its penalty to the other similarly situated entities based solely on the fact that Enterprise did not know it was noncompliant and thus could not have come forward voluntarily.

Further, Enterprise was first notified its pipeline was in violation on February 26, 2023. *See In re Enterprise Products Operating, LLC,* Order Requiring Response and Setting Show Cause Hearing, Dkt. No. SPU-2023-0002, at p. 1 (Iowa U.B. February 6, 2023). The other communications sent by the Board to Enterprise were not notice of Enterprise's violation, nor were they sufficient to put Enterprise on notice that it should realize it had unpermitted assets that were required to be permitted under Iowa Code § 479B. The two "notices," dated February 14, 2022, and October 5, 2022, were addressed to Quantum Pipeline Company and identified a pipeline not owned or operated by Enterprise. The Board's email sent to Enterprise on October 10, 2022, also identified a pipeline not owned or operated by Enterprise.

Enterprise had no reason to believe the Board was attempting to notify it that the portion of its interstate pipeline located in Iowa was out of compliance. The Board contends Enterprise had a duty to respond to these correspondences, setting forth all pipelines it owns and operates in the state. However, at no time did the Board request Enterprise provide such information, nor did it provide information sufficient to put Enterprise on notice that its **interstate** line was state regulated. Consistent with its continued and ongoing good faith efforts to obtain the necessary permit, Enterprise would have provided the Board with such information if requested.

After being notified of its violation on February 26, 2023, under prong three (3) of Iowa Code § 479B.21(2), Enterprise has taken all steps necessary to obtain a permit and further complied with all requests of the Board to achieve full compliance with Iowa law. The Board repeatedly states that Enterprise's continued noncompliance to date is a factor in the historically high penalty it has imposed. *See generally D0034*, Board's Brief in Resistance. However, Enterprise applied for the required permit on March 17, 2023, and continues to work diligently with the Board to achieve compliance even though the Board's permitting requirements seem to be a moving target. While Enterprise concedes that attaining its permit can be burdensome and time-consuming, this fact cannot be used against Enterprise as it continues its efforts to attain the permit in good faith. Enterprise's efforts demonstrate its good faith and substantial compliance with Iowa laws.

The Board also notes in its Brief that it held a technical conference where information and materials were provided, setting forth the requirements and steps for permitting under current Iowa Code provisions. *D0034*, Board's Brief in Resistance at 11. This is a red herring. A representative of Enterprise attended the conference in good faith to remain up to speed with the Board's regulations because he was charged with updating the permit for Enterprise's **intrastate** natural gas line. At the technical conference, no information or material was provided to Enterprise informing them or leading them to believe their **intrastate** pipeline violated Iowa law. However, the Board disingenuously contends Enterprise's attendance at the technical conference does not represent a good-faith effort to ensure compliance. Although the attendance was unrelated to the interstate pipeline at issue in this dispute, it is clear that Enterprise does endeavor to comply with the Iowa pipeline laws. As would have been the case for other similarly situated entities, Enterprise must be afforded its due consideration under prong three (3) of Iowa Code § 479B.21(2) for each of its good faith attempts to comply with Iowa law and the Board's regulations. See also U.S. Const. amend XIV; Iowa Const., art. I, § 1.

VII. CONCLUSION

This court has the authority and obligation to reverse the Board's decision if it determines that the substantial rights of Enterprise have been prejudiced. See Iowa

Code § 17A.19(10) ("The court *shall* reverse, modify, or grant other appropriate relief from agency action…if it determines that substantial rights of the person seeking judicial relief have been prejudiced…") (emphasis added). The Board's decision in this case was made in violation of the authority granted to it by Iowa Code § 479B.21. See Iowa Code § 17A.19(10)(b). To the extent the Board argues it has attempted to comply with the statute, its interpretation of its restrictions is erroneous based on the amount penalized and the Board's justification. Iowa Code § 17A.19(10)(c). Further, the procedure and decision-making process for penalty determination is plainly set out in Iowa Code § 479B.21. The Board's consideration of factors outside the statute and its imaginings of arbitrary methodologies to determine Enterprise's number of facilities violates the procedure and decision-making processes set forth by Iowa law. Iowa Code § 17A.19(10)(d). Moreover, the Board's penalty is arbitrary and capricious, substantially prejudices the rights afforded to Enterprise under Iowa law, and necessitates the court's reversal of the decision.

WHEREFORE, Petitioner prays for judgment and relief against Respondent as follows:

a. An **order** granting a temporary and permanent injunction regarding the $1.8 million civil penalty imposed by the Board against Enterprise.

b. An **order** according to Iowa Code § 17A.19(10)(b) reversing the imposition of the $1.8 million civil penalty as being incongruent with the Board's administrative powers and exceeding the statutory penalty cap set by Iowa Code §479B.21(1).

c. An **order** under Iowa Code § 17A.19(10)(c) and Iowa Code §17A.19(10)(n) voiding the imposition of the $1.8 million civil penalty as being unreasonable, arbitrary, capricious, and an abuse of the Board's discretion under the circumstances.

d. An **order** granting a temporary and permanent injunction against the Board restraining the Board from enforcing its imposition of the $1.8 million civil penalty against Enterprise under the Due Process Clause of the Iowa State Constitution and Due Process Amendment of the United States Constitution. See U.S. Const. amend. XIV, § 2; Iowa Const., art. I, § 9.

e. An **order** granting a temporary and permanent injunction against the Board restraining the Board from enforcing its imposition of the $1.8 million civil penalty against Enterprise under the Equal Protection Clause of the Iowa State Constitution and the Equal Protection Amendment of the United States Constitution. See Iowa Const., art. I, §§ 1 and 6. See U.S. Const. amend XIV; Iowa Const., art. I, §§ 1 and 6.

f. A **waiver** of any bond related to any request for temporary or permanent injunctive relief sought in this action that may otherwise be required. See Iowa R. Civ. P. 1.1508. See also *Stockslager v. Carroll Elec. Co-op Corp*. 528 F.2d 949, 951

(8th Cir. 1976) (determining injunction bonds rest within the trial court's sound discretion. Accord *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999) (injunction bonds are not mandatory despite the language of the rules of procedure; *Moltan Co. v. Eagle-Picher Indus. Inc.*, 55 F.3d 1171, 1176 (6th Cir. 1995) (a rule of civil procedure requiring an injunction bond does not divest a court from discretionary jurisdiction to waive it in certain circumstances); *Doctor's Associates, Inc. v. Stuart*, 85 F.3d 975, 985 (2d Cir. 1996) (same).

g. Other **further relief** may be required or allowed by the law, equity, and the nature of this case.

DATED this 17th day of June 2024.

Respectfully submitted,

SULLIVAN & WARD, P.C.

By: */s/ Amanda James*
Amanda A. James AT0009824
Dennis L. Puckett AT0011362
6601 Westown Parkway, Suite 200
West Des Moines, Iowa 50266
Telephone: (515) 244-3500
Email: ajames@sullivan-ward.com
Email: dpuckett@sullivan-ward.com

ATTORNEYS FOR PETITIONER

ALL PARTIES SERVED ELECTRONICALLY THROUGH COURT EDMS