

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

LS POWER MIDCONTINENT, LLC and  
SOUTHWEST TRANSMISSION, LLC,

Plaintiffs,

v.

THE STATE OF IOWA, IOWA UTILITIES  
BOARD, GERI D. HUSER, GLEN  
DICKINSON and LESLIE HICKEY,

Defendants.

Case No. CVCV060840

**MIDAMERICAN ENERGY  
COMPANY'S REPLY TO  
PLAINTIFFS' RESISTANCE TO  
JOINER IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS**

COMES NOW Applicant, MidAmerican Energy Company, who, in support of its Reply to Plaintiffs' resistance to joinder in in support of Defendants' motion to dismiss, states as follows:

1. Plaintiffs claim that the joinder in the motion to dismiss was ineffectual because the answer was filed simultaneously. That is not so.
2. Iowa Rule of Civil Procedure 1.407(3) requires an application to intervene shall be accompanied by a "pleading."
3. An answer is an allowable pleading; a motion to dismiss is not a pleading. See Iowa Rule of Civil Procedure 1.401; *Berger v. General United Group, Inc.*, 268 N.W.2d 630, 634 (Iowa 1978).
4. Because a motion to dismiss is not a pleading, MEC could not attach its joinder to the application to intervene.

5. At this juncture, the motion to intervene has not been granted and, consequently, the court has not authorized the filing of the answer attached to the application to intervene either.

6. Because the answer has not yet been filed, MEC did not waive its ability to joinder in the motion to dismiss.

WHEREFORE, Intervenor-MidAmerican Energy Company requests that the court allow it to join the Defendants' motion to dismiss.

/s/Stanley J. Thompson  
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Original E-filed.

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**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on December 10, 2020 by:

- FAX  
 Hand Delivered                      X Email  
 Federal Express                      X Other: ECF Filing

Signature: /s/ Stanley J. Thompson