

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LINDA K. JUCKETTE, Petitioner, v. IOWA UTILITIES BOARD, Respondent.	Case No. CVCV061580 MOTION FOR STAY AND LIMITED REMAND
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Intervenor MidAmerican Energy Company (“MidAmerican”), through its representative, states the following:

1. On March 24, 2021, Petitioner Juckette (“Juckette”) requested relief from the Court and, among other claims, stated that MidAmerican must use eminent domain rather than rely on the right of way statute to place a transmission line on her property. Juckette requested a remand to the Iowa Utilities Board (“Board”) as a remedy in her Prayer for Relief in her March 24, 2021 Petition, as amended on April 5, 2021.

2. On May 7, 2021, MidAmerican filed a request for eminent domain authority with the Iowa Utilities Board (“IUB Action”)¹. *See also*, Attachment A – MidAmerican’s Request for Eminent Domain submitted with this filing. MidAmerican does not concede that it must seek eminent domain rather than rely on Iowa Code § 306.46(1), but seeks an expeditious resolution to this proceeding.

3. On May 26, 2021, Juckette filed an objection to MidAmerican’s request for eminent domain in the IUB Action. *See* Attachment B – Juckette’s Objection to Request for Eminent Domain submitted with this filing.

¹ *See* Iowa Utilities Board Docket No. E-22417, available at <https://efs.iowa.gov/efs/SearchDocumentSearch.do?searchType=document&sortColumn=xDateFiled&sortBy=Desc&numOfResults=25&docketNumber=E-22417&fromDocketSummary=true>

4. On June 3, 2021, the Court granted MidAmerican's request to intervene in this appeal proceeding.

5. On June 8, 2021, MidAmerican filed a response to Juckette's objection in the IUB Action. *See* Attachment C – MidAmerican's Request to Juckette's Objection submitted with this filing.

6. On June 15, 2021, Juckette filed a reply in the IUB Action, ultimately requesting that the Board seek a remand from this Court. *See* Attachment D – Juckette's Reply to MidAmerican Response submitted with this filing. Although MidAmerican agrees with the request for a remand, MidAmerican disagrees with Juckette's request to the extent it requests a second reconsideration of the Board's February 1, 2021 order.

7. Filing of a petition for judicial review divests an agency with jurisdiction over the case until the district court remands for further proceedings. *Christiansen v. Iowa Bd. of Educ. Exam 'rs*, 831 N.W.2d 179, 190 (Iowa 2013). MidAmerican requests that this Court remand to the Board to restore jurisdiction to the agency for consideration and ruling on MidAmerican's request for eminent domain authority. *Id.*

8. By way of a remand to address MidAmerican's request for eminent domain, Juckette can obtain the relief she requests without the need for this judicial review proceeding.

9. MidAmerican requests that this Court grant a stay and limited remand of this appeal pursuant to Iowa Code § 17A.19(5)(d) and Iowa R. App. P. 6.1004 so that the Board can conduct the appropriate review of MidAmerican's request for eminent domain authority and otherwise stay this matter pending such review.

10. Judicial economy would be served because, upon limited remand, the Board could address MidAmerican's request for eminent domain authority and any decision by the Board could

later be joined with the stayed portion of this matter that this Court could address in one ruling. A remand to address MidAmerican's request for eminent domain authority has the potential to narrow, if not fully resolve, the issues on appeal to this Court.

MidAmerican Energy Company respectfully requests that the Court grant this Motion for Stay and Limited Remand to permit the Board to address MidAmerican's pending request for eminent domain authority.

MIDAMERICAN ENERGY COMPANY

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