

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>ENVIRONMENTAL LAW AND POLICY CENTER, IOWA ENVIRONMENTAL COUNCIL, AND SIERRA CLUB,</p> <p>Petitioners,</p> <p>v.</p> <p>IOWA UTILITIES BOARD,</p> <p>Respondent,</p> <p>and</p> <p>OFFICE OF CONSUMER ADVOCATE AND MIDAMERICAN ENERGY COMPANY,</p> <p>Intervenors.</p>	<p>Case No. CVCV061992</p> <p><b>RESPONDENT’S RESISTANCE TO INTERVENOR OFFICE OF CONSUMER ADVOCATE’S MOTION TO RECONSIDER, AMEND, AND ENLARGE THE COURT’S DECEMBER 7, 2021, RULING</b></p>
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COMES NOW, the Respondent, Iowa Utilities Board (IUB), by and through its undersigned counsel, and hereby submits its resistance to Intervenor Office of Consumer Advocate’s (OCA), a division of the Iowa Department of Justice, Motion to Reconsider, Amend and Enlarge the Court’s December 7, 2021 Ruling filed on December 21, 2021, and states as follows:

1. In response to paragraphs 1 and 2 of Intervenor OCA’s Motion to Reconsider, Amend and Enlarge the Court’s December 7, 2021 Ruling, Respondent does not dispute the statements contained within the paragraphs.

2. In response to paragraphs 3 and 4 of Intervenor OCA’s Motion to Reconsider, Amend and Enlarge the Court’s December 7, 2021 Ruling, Respondent does not dispute that OCA previously made the arguments contained within the paragraphs but denies OCA’s identified assertions and arguments.

3. In response to paragraph 5 of Intervenor’s Motion to Reconsider, Amend and Enlarge the Court’s December 7, 2021 Ruling, Respondent denies the identified assertions contained within paragraph 5. OCA is incorrect in its statement that the Ruling lacks any contemplation that an Emissions Plan and Budget (EPB), required by Iowa Code § 476.6(19), be a collaborative effort and conducted as a contested case proceeding. The Ruling identifies the non-unanimous settlement agreement between MidAmerican and OCA, describes why the IUB did not approve the settlement agreement, and identifies that the IUB opened Docket No. SPU-2021-0003 in order to analyze the issues of least-cost alternatives and coal plant retirements raised by the Petitioners as well as Intervenor OCA. Ruling at 4-5, 13.

Additionally, the Ruling correctly identifies that the plain language of Iowa Code § 476.6(19) does not contain references to either “reasonable alternatives,” “least cost options,” or a “cost benefit analysis” or any statutory requirement that MidAmerican discuss alternative methods of complying with emissions regulations and retiring coal-fueled generating units for least-cost alternative options in its EPB filings. As such, the Court confirms the IUB’s conclusions that evidence regarding least-cost options for emissions controls was outside the scope of an EPB proceeding and there were no remaining material facts about MidAmerican’s EPB that were in dispute. Ruling at 9-11.

4. In response to paragraph 6 of Intervenor’s Motion to Reconsider, Amend and Enlarge the Court’s December 7, 2021 Ruling, Respondent denies the identified assertions contained within paragraph 6 although it supports the caselaw citations and their corresponding legal propositions.

Furthermore, OCA incorrectly asserts that the Court’s interpretation of the statute results in excluding OCA from the EPB process. As a party to the EPB proceedings, OCA can and did

present evidence, challenge the evidence and assertions of the utility, engage in discovery and otherwise fully participate in the contested case. The Court simply finds that OCA cannot expand the statutory requirements to mandate a utility to review other compliance options not proposed in its EPB. Ruling at 9-11.

5. In response to paragraph 7 of Intervenor's Motion to Reconsider, Amend and Enlarge the Court's December 7, 2021 Ruling, Respondent requests the Court deny OCA's request to reconsider, amend and enlarge its December 7, 2021 ruling.

### CONCLUSION

The Respondent requests that this Court deny Intervenor Office of Consumer Advocate's Motion to Reconsider, Amend and Enlarge the Court's December 7, 2021 Ruling.

Dated this 30th day of December, 2021.

Respectfully submitted,

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ATTORNEYS FOR THE IOWA  
UTILITIES BOARD

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was automatically served electronically on all parties registered with the Electronic Filing System for this matter on December 30, 2021.

Signature:       /s/ Ariana Nikic