

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

MIDAMERICAN ENERGY COMPANY

05771 CVCV063014

VS.

ORDER

IOWA UTILITIES BOARD

BE IT REMEMBERED this matter was previously before the Court on Respondent's Pre-Answer Motion to Recast Petition and Motion to Enlarge Time to Transmit Certified Record (Pre-Answer Motion). Counsel of record for Petitioner and Respondent as well as Intervenors appeared via GoToMeeting. The Court, having considered the written and oral arguments advanced on behalf of the parties FINDS as follows:

1. Respondent's request for Petitioner to recast its Petition for Interlocutory Review is DENIED. On December 16, 2021, Respondent issued an order directing Petitioner to turn over certain purportedly privileged information and stating "[i]f MidAmerican believes neither a presiding officer employed by the Board nor Board members should make the privilege determination, MidAmerican's only option is to take the issue to the district court and have a judge, or a master appointed by a judge, review the documents to determine if MidAmerican's privilege claim is justified." Based on this statement, it appears undisputed that Petitioner has exhausted its administrative remedies. Accordingly, the main issue presented by Respondent's request is whether Petitioner's Petition improperly seeks to join a petition for judicial review with an original action. Based on the facts of this case, the Court concludes Petitioner's Petition does not improperly combine two separate requests for relief. Instead, the Court concludes Petitioner's request for relief appropriately stems from the directive issued by Respondent on December 16, 2021 and, as stated by Petitioner, is "one and the same."

Here, in the event Petitioner was unwilling to turn over the purportedly privileged information, Respondent directed Petitioner to seek review with the district court. Petitioner should not now be precluded from exercising the proposed remedy offered by Respondent. Pursuant to 17A.19(10), the district court shall reverse, modify, or grant other appropriate relief from agency action, equitable or legal and including declaratory relief, if it determines that substantial rights of the person seeking judicial review have been prejudiced. While one possible outcome of this proceeding could be the Court's review of the purportedly privileged information (assuming a request is made for the Court to consider evidence outside the record) another possible outcome could be a determination that Respondent should have adopted Petitioner's proposal related to a third party independent review of the information and the case is remanded. At this stage of the proceeding and, again, based on the facts of this case, the Court concludes Petitioner's Petition is properly before the Court for judicial review and Respondent's Pre-Answer Motion to recast must be DENIED.

2. Respondent's request to extend the deadline to transmit the certified record is GRANTED.
Respondent shall transmit the certified record within thirty days of today's date.

IT IS SO ORDERED ON THIS DAY 04/05/22.

Copies to:

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State of Iowa Courts

Case Number
CVCV063014

Case Title
MIDAMERICAN ENERGY COMPANY VS IOWA UTILITIES
BOARD
OTHER ORDER

Type:

So Ordered

Samantha Gronewald, District Court Judge
Fifth Judicial District of Iowa

Electronically signed on 2022-04-05 16:13:50