UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BERKSHIRE HATHAWAY ENERGY COMPANY, MIDAMERICAN ENERGY COMPANY, AND PACIFICORP,

Petitioners

v.

BIRCHTECH CORP.,

Patent Owner.

IPR2025-00274

U.S. Patent No. 10,343,114

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

JOINT REQUEST TO TREAT FINAL SETTLEMENT AGREEMENT OF PATENT OWNER AND MIDAMERICAN ENERGY COMPANY AS BUSINESS CONFIDENTIAL INFORMATION

On October 28, 2025, Petitioner MidAmerican Energy Company ("MidAmerican") and Patent Owner Birchtech Corp., formerly known as Midwest Energy Emissions Corp. ("Patent Owner" or "ME2C") (collectively, the "Settling Parties") jointly moved to terminate the above-captioned proceeding with respect to MidAmerican in view of the Settling Parties' settlement.

The Settling Parties concurrently file this joint request to treat the Settling Parties' executed written agreement ("MidAmerican Agreement") as business confidential information with the agreement being filed concurrently herewith as "Available Only to the Board" to preserve the confidentiality of the agreement.

Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the Settling Parties jointly request that the Board treat as business confidential information the executed MidAmerican Agreement (Exhibit 1143). The MidAmerican Agreement describes the highly confidential terms of the Settling Parties' settlement, which constitutes confidential commercial information under the Board's rules. *See* 37 C.F.R. § 42.54; Patent Trial and Appeal Board Consolidated Trial Practice Guide, November 2019, 19.

35 U.S.C. § 317(b) provides that:

> *At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to*

Federal Government agencies on written request, or to any person on a showing of good cause.

Likewise, 37 C.F.R. § 42.74(c) provides that:

A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

(1) To a Government agency on written request to the Board; or

(2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.

The present request, which is being filed contemporaneously with the final MidAmerican Agreement, is timely and in accordance with the foregoing authority. Therefore, the Settling Parties request that the MidAmerican Agreement (Exhibit 1143) be (i) treated as business confidential information; (ii) maintained separate from the publicly available file of the involved patent; and (iii) made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Moreover, the terms of the final settlement agreements require the Settling Parties to treat the final settlement agreements as confidential information and limit the Settling

Parties' ability to share the final settlement agreements or disclose their contents to third parties.

The Settling Parties also respectfully request that the Board inform the Settling Parties if anyone seeks production of the final settlement agreements and afford the Settling Parties an opportunity to address whether good cause supports such request.

Respectfully submitted October 28, 2025.

/R. Scott Johnson/
R. Scott Johnson (Reg. No. 45,792)
FREDRIKSON & BYRON, P.A.
111 East Grand Avenue, Suite 301
Des Moines, IA 50309
Tel.: (515) 242-8900
E-mail: rsjohnson@fredlaw.com

Thomas M. Patton (Reg. No. 76,193)
FREDRIKSON & BYRON, P.A.
111 East Grand Avenue, Suite 301
Des Moines, IA 50309
Tel.: (515) 242-8900
E-mail: tpatton@fredlaw.com

Counsel for MidAmerican Energy Company

/Hamad M. Hamad/
Hamad M. Hamad (Reg. No. 64641)
CALDWELL, CASSADY & CURRY P.C.
2121 N. Pearl St., Suite 1200
Dallas, TX 75201
Tel.: (214) 888-4848
E-mail: hhamad@caldwellcc.com

Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on October 28, 2025 a true copy of the foregoing was served upon the below listed counsel by electronic mail:

Hamad M. Hamad -hhamad@caldwellcc.com
Justin T. Nemunaitis jnemunaitis@caldwellcc.com
Richard Cochrane -rcochrane@caldwellcc.com
midwest@caldwellcc.com

/R. Scott Johnson/