

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BERKSHIRE HATHAWAY ENERGY COMPANY,
INTERSTATE POWER & LIGHT COMPANY,
MIDAMERICAN ENERGY COMPANY,
PACIFICORP,
WEC ENERGY GROUP, INC., AND
WISCONSIN POWER & LIGHT COMPANY,

Petitioners,

v.

BIRCHTECH CORP.,

Patent Owner.

Case No. IPR2025-00424
U.S. Patent No. 10,589,225

**JOINT REQUEST TO TREAT FINAL SETTLEMENT AGREEMENTS OF
PATENT OWNER AND INTERSTATE POWER & LIGHT COMPANY
AND WISCONSIN POWER & LIGHT COMPANY AS
BUSINESS CONFIDENTIAL INFORMATION**

On August 20, 2025, Petitioners Interstate Power and Light Company (“IPL”), Wisconsin Power and Light Company (“WPL”), 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 in view of the Settling Parties’ settlement. Paper 22.

The Settling Parties concurrently file this joint request to treat the Settling Parties’ executed written agreements (“IPL Agreement” and “WPL Agreement”) as confidential business information with those agreements being filed concurrently herewith as “Available only to the Board” to preserve the confidentiality of the agreements. *See* Paper 22; Exhibits 1137 (IPL Agreement), 1138 (WPL 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 IPL and WPL settlement agreements (Exhibits 1137–38). The final settlement agreements describe the highly confidential terms of the parties’ respective settlements, which constitute 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 IPL and WPL settlement agreements, is timely and in accordance with the foregoing authority. Therefore, the Settling Parties request that the final settlement agreements (Exhibits 1137–38) 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,

Dated: August 20, 2025

/ Michelle M. Kemp /

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on August 20, 2025 a true copy of the **JOINT REQUEST TO TREAT FINAL SETTLEMENT AGREEMENTS AS BUSINESS CONFIDENTIAL INFORMATION** was served upon the below listed counsel by electronic mail:

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