IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISOIN

IN RE: MIDWEST ENERGY EMISSIONS CORP. PATENT LITIGATION	4:24-md-03132-SHL-WPK ORDER RE: DEFENDANTS MIDAMERICAN ENERGY COMPANY, PACIFICORP, INTERSTATE POWER AND LIGHT AND WISCONSIN POWER AND LIGHT'S DEADLINE TO FILE SUR-REPLY

In this Court's prior Order on March 6, 2025, it directed the above listed Defendants to inspect the disputed logbooks by April 7, file their sur-reply by April 21, 2025, or notify the Court why they were not able to meet these deadlines. ECF 59 at 5. Defendants filed Notice to the Court on April 7, 2025, setting forth the steps they had taken to obtain the logbooks and how such efforts had been fruitless to date. ECF 101. This included filing a Motion to Compel Plaintiff to produce the complete logbooks for the dates requested by Defendants. ECF 72, 73.

However, one of the main issues in this discovery dispute is that it appears Plaintiff does not have possession of the relevant logbooks. Instead, it appears that non-parties Energy and Environmental Research Center (EERC) and Energy and Environmental Research Center Foundation (the Foundation) have possession of them. Thus, another step taken by Defendants MidAmerican and PacifiCorp was to file a Motion to Compel the EERC and the Foundation to produce the requested logbooks. The EERC is a non-profit division of the University of North Dakota, and the Foundation is a non-profit corporation that deals with the protection and commercialization of EERC developed technologies. As such, jurisdiction over the EERC and the Foundation lies in North Dakota. Defendants therefore filed that Motion to Compel in North

Dakota. *PacifiCorp and MidAmerican Energy v. Energy and Env't Rsch. Ctr. and Energy and Env't Rsch. Ctr. Found., a North Dakota Nonprofit Corp.,* 3:25-mc-00003-PDW (D.N.D. Mar. 20, 2025).

Defendants have requested that the deadline for their sur-reply be extended based on their ongoing efforts to compel discovery of the complete logbooks. They seek a deadline of two weeks after the depositions of Thomas Erickson and John Pavlish, which must occur after the logbooks are produced. ECF 101 at 10. In Plaintiff's Resistance to the Motion to Compel, it argues Defendants have failed to demonstrate diligence in their discovery efforts and as such they should not get an extension of the deadline to file their sur-reply. ECF 92 at 12.

The Court finds Defendants have in fact demonstrated diligence in their discovery efforts in this regard. As set forth in their Report to the Court, Defendants have been working on the issue of these logbooks since December 2024, including motion practice and numerous meet-and-confers. ECF 101 at 3-9. The Court does not favor setting deadlines that are based on future actions by outside persons or entities in that it leaves too much uncertainty to matters outside the Court's control. It prefers to set deadlines to a date certain both for scheduling purposes of the parties and the Court, as well as to ensure the efficient and timely progression of the case. However, because there is pending litigation in another federal district court, various non-parties are involved here, and Defendants have been diligent in their efforts at discovery, the Court will make an exception here and allow Defendants' requested extension. Accordingly, the deadline for Defendants to file their sur-reply is extended to two weeks after the logbooks are produced and after the depositions of Erickson and Pavlish have been conducted.

IT IS SO ORDERED.

Dated April 18, 2025.

Honorable William P. Kelly
U.S. Magistrate Judge