

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFICORP and
MIDAMERICAN ENERGY COMPANY,

Petitioners,

v.

BIRCHTECH CORP.,
Patent Owner.

IPR2025-00717 (Patent 10,926,218 B2)
IPR2025-00718 (Patent 10,926,218 B2)¹

Before KRISTINA M. KALAN, ZHENYU YANG, and
AVELYN M. ROSS, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

TERMINATION
Due to Settlement Prior to Institution of Trial
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

¹ We use this caption for efficiency. These cases are not joined. The parties may not use such a caption without prior authorization from the Board.

On October 28, 2025, with our prior authorization, Petitioner MidAmerican Energy Company (“MidAmerican”) and Patent Owner Birchtech Corp. (collectively, “the Settling Parties”) filed a joint Motion to Terminate in each of the referenced proceedings. Paper 32 (“Mot.”).² In support of the Joint Motion, the Settling Parties filed a copy of their Settlement Agreement. Ex. 1143. The parties also filed a Joint Request to treat the Settlement Agreement as business confidential information. Paper 33.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. In these proceedings, the Board has not issued a decision on institution.

The Settling Parties represent that (1) they “have reached a settlement as to all disputes in this proceeding and as to the ’218 patent;”³ (2) a true copy of the Settlement Agreement has been filed; (3) no other agreements exist between the Settling Parties. Mot. 5. The Settling Parties state that no future litigation is contemplated. *Id.* The Settling Parties further represent that PacifiCorp the other named Petitioner, does not object to dismissing MidAmerican from this IPR. *Id.* at 2.

² We cite Papers and Exhibits filed in IPR2025-00717. Similar Papers and Exhibits are filed in IPR2025-00718.

³ According to the Motion, MidAmerican is a party to the currently pending multi-district litigation *In Re: Midwest Energy Emissions Corp. Patent Litigation*, No. SDIA-4-24-md-03132. Mot. 3. It appears, however, that as of October 23, 2025, MidAmerican has been dismissed from that proceeding.

Under these circumstances, we determine that it is appropriate to terminate each of these proceeding as to Petitioner MidAmerican without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. §§ 42.5(a), 42.72. This Decision does not terminate the proceedings with respect to Petitioner PacificCorp.

Further, after reviewing the Joint Request and the Settlement Agreement, we find that the Settlement Agreement contains confidential business information regarding the terms of the settlement. As such, good cause exists to treat the Settlement Agreement as business confidential information to be kept separate from the patent file. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c).

This Paper does not constitute a Final Written Decision under 35 U.S.C. § 318(a).

ORDER

In view of the foregoing, it is

ORDERED that, the Joint Motion to Terminate as to Petitioner MidAmerican Energy Company is *granted* in each of the above-identified proceedings, and IPR2025-00717 and IPR2025-00718 are hereby terminated as to Petitioner MidAmerican Energy Company;

FURTHER ORDERED that, the Joint Request to Treat Final Settlement Agreements as Business Confidential Information is *granted* in each of the above-identified proceedings, and the Settlement Agreement shall be kept separate from the files of Patent 10,926,218 B2 and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c);

IPR2025-00717 (Patent 10,926,218 B2)

IPR2025-00718 (Patent 10,926,218 B2)

FURTHER ORDERED that IPR2025-00717 and IPR2025-00718 shall not be terminated as to the remaining Petitioner PacificCorp; and

FURTHER ORDERED that the case caption in IPR2025-00717 and IPR2025-00718 for all further submissions shall be changed to remove Petitioner MidAmerican Energy Company, as indicated in the attached form of caption.

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