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

IN RE: MIDWEST ENERGY EMISSIONS CORP. PATENT LITIGATION,	**MDL CASE NO. 4:24-md-03132-SHL-WPK** **CASE MANAGEMENT ORDER**

These cases have been consolidated by the Judicial Panel on Multidistrict Litigation (the "Panel") pursuant to 28 U.S.C. § 1407. On February 28, 2025, the parties submitted a Proposed Multidistrict Litigation ("MDL") Case Management Order (MDL ECF 56) reflecting their agreement on some issues and disagreement on others. The Court hereby ORDERS as follows:

(1) Because neither side is requesting a hearing on Plaintiff's Motion for Preliminary Injunction (Case No. 4:24-cv-00243, ECF 58), the Court will not set one, nor will it require (or expect) further submissions on that Motion. Nothing about this, however, should be interpreted as any indication of the Court's view of the merits of either side's position. Nor does it mean the Court agrees or disagrees with the parties' respective positions on whether or to what extent Defendants in cases other than Case No. 4:24-cv-00243 will be bound by the Court's eventual ruling.

(2) The Court ADOPTS the proposed deadlines set forth in Section II(1) of the Proposed MDL Case Management Order with respect to Plaintiff's motion to dismiss Defendants' counterclaims (MDL ECF 57), subject to the following caveat: the Court cannot tell for sure whether these deadlines are stipulated. Accordingly, nothing in this Order prohibits any party from seeking a reasonable extension.

(3) The Court DECLINES WITHOUT PREJUDICE to adopt the proposed deadlines set forth in Section II(1) of the Proposed MDL Case Management Order with respect to PacifiCorp's motion for judgment on the pleadings. The Court cannot tell whether Plaintiff's decision to move to dismiss PacifiCorp's counterclaims—as opposed to answering those counterclaims—impacts how PacifiCorp intends to proceed. If PacifiCorp still intends to move for judgment on the pleadings, the proposed deadlines are acceptable to the Court, subject to the same caveat in Item (2), above, about reasonable extensions. Conversely, if Plaintiff's motion to dismiss the counterclaims affects what PacifiCorp intends to do, the Court will await further action from PacifiCorp before setting any deadlines. If and when PacifiCorp files a motion for judgment on the pleadings, the standard deadlines in the Local Rules will apply absent motion practice and a Court Order to the contrary.

(4) The Court ADOPTS the proposed deadlines set forth in Section II(1) of the Proposed MDL Case Management Order with respect to Ameren Corporation's anticipated motion for judgment on the pleadings and the Evergy Defendants'

anticipated motion to dismiss, subject to the same caveat in Item (3), above, about reasonable extensions.

(5) The Court sets the following additional deadlines:

Event	Date
Initial Disclosures	March 11, 2025[1]
Add Parties	March 11, 2025
Amend Pleadings	May 30, 2025[2]
Initial Infringement Contentions and Accompanying Disclosure	March 18, 2025
Initial Invalidity Contentions and Accompanying Disclosure	May 19, 2025
Exchange of Claims Terms	June 4, 2025
Exchange of Proposed Constructions	June 30, 2025
Joint Claim Construction Statement	August 8, 2025
Close of Claim Construction Discovery	October 3, 2025
Opening Claim Construction Briefing	By October 10, 2025, Defendants shall serve, but not file, their opening brief, not to exceed 30 pages.[3]
Responsive Claim Construction Briefing	By October 31, 2025, Plaintiff shall serve, but not file, its answering brief, not to exceed 30 pages.[4]
Reply Claim Construction Briefing	By November 14, 2025, Defendants shall serve, but not file, their reply brief, not to exceed 10 pages.[5]

[1] The Evergy Defendants were sued later than other Defendants, and thus their deadline shall be April 25, 2025.
[2] The deadline for the Evergy Defendants shall be July 16, 2025.
[3] With leave of court upon a showing of good cause, the Court will allow individual Defendants to have additional pages to address issues unique to that Defendant.
[4] If one or more Defendants is given additional pages for the opening claim construction brief, Plaintiff shall automatically have an equivalent number of additional pages in responsive briefing as to that Defendant(s).
[5] Again, with leave of court upon a showing of good cause, the Court will allow individual Defendants to have additional pages to address issues unique to that Defendant.

Surreply Claim Construction Briefing	By November 21, 2025, Plaintiff shall serve, but not file, its surreply brief, not to exceed 10 pages.
Joint Claim Construction Brief	By December 5, 2025, the parties shall file a Joint Claim Construction Brief.
Markman Hearing	December 15, 2025[6]
Plaintiff's Final Infringement Contentions	30 days after the Court's *Markman* Order
Defendants' Final Invalidity Contentions	60 days after the Court's *Markman* Order
Election Regarding Advice of Counsel Defense	January 12, 2026
Completion of Fact Discovery	January 30, 2026
Opening Expert Witness Disclosures	February 20, 2026
Rebuttal Expert Witness Disclosures	March 20, 2026
Completion of Expert Discovery	April 3, 2026
Dispositive Motions and Motions to Strike Expert Opinions (including *Daubert*)	April 24, 2026
Responses to Dispositive Motions and Motions to Strike Expert Opinions (including *Daubert*)	21 days after filing of motion
Replies to Dispositive Motions and Motions to Strike Expert Opinions (including *Daubert*)	14 days after filing of response
Trial Ready Date	October 12, 2026[7]

(6) The Court ADOPTS the parties' proposal for the handling of privilege logs. (ECF 56, pp. 15–16.)

(7) The Court ADOPTS the parties' proposed Protective Order (MDL ECF 56-2) and ESI Order (MDL ECF 56-3). Those Orders will be signed and filed on the docket.

[6] On or before November 21, 2025, the partes must file a joint status report indicating how many days they believe the *Markman* hearing will last.
[7] This date applies solely to cases originally filed in the United States District Court for the Southern District of Iowa.

(8) The Court has reviewed the parties' competing proposals on discovery limits. Plaintiff's proposal goes too far in restricting discovery in a situation where Plaintiff chose to sue so many defendants for alleged infringement in so many different facilities. Conversely, Defendants' proposal does not go far enough in trying to achieve the efficiencies that MDL is designed to achieve. The Court therefore ORDERS the following discovery limits, all of which may be extended by leave of court upon a showing of good cause:

a. Plaintiff may serve interrogatories subject to the following limits:

i. Plaintiff may serve up to 30 interrogatories on each of Defendants PacifiCorp and MidAmerican Energy Company;
ii. Plaintiff may serve up to up to 15 common interrogatories on Interstate Power and Light Company ("IPL") and Wisconsin Power and Light Company ("WPL"). It may serve an additional 10 individual interrogatories on each of IPL and WPL (for a total of 20).
iii. Plaintiff may serve up to 15 common interrogatories on Ameren Corp. ("Ameren") and Union Electric Co. (d/b/a Ameren Missouri) ("Union Electric"). It may serve an additional 10 individual interrogatories on each of Ameren and Union Electric (for a total of 20).
iv. Plaintiff may serve up to 15 common interrogatories on the Evergy Defendants. It may serve, collectively, an additional 25 individual interrogatories on the Evergy Defendants, to be allocated between those Defendants as Plaintiff sees fit (but not to exceed 10 individual interrogatories for any specific Evergy Defendant).

b. Defendants may serve up to 15 common interrogatories upon Plaintiff. In addition, Defendants may serve individual interrogatories subject to the following limits:

i. PacifiCorp and MidAmerican Energy Company each may serve 15 individual interrogatories upon Plaintiff.
ii. IPL and WPL each may serve 10 individual interrogatories upon Plaintiff (for a total of 20).
iii. Ameren and Union Electric each may serve 10 individual interrogatories upon Plaintiff (for a total of 20).
iv. The Evergy Defendants may serve, collectively, an additional 25 individual interrogatories upon Plaintiff, to be allocated as they see fit (but not to exceed 10 individual interrogatories by any specific Defendant).

c. The deposition of any single third-party witness will be limited to 7 hours absent leave of Court or written agreement of the parties and the witness or designating entity.

d. No more than 7 hours of expert deposition testimony may be taken by each Party for each disclosed expert witness who provides a report. For example, if a single technical expert submits reports on both infringement and invalidity against a Defendant, that expert may be deposed for up to 14 hours in total by that defendant.

e. The Court is intentionally not setting limits on party depositions because (1) the parties seem to be so far apart on that issue, and (2) the Court does not have enough context to understand which side's position (if either) is more reasonable. The Court is, however, concerned about the potential for overly burdensome oral discovery and therefore will entertain motion practice from any party that wishes to provide additional context to help the Court set appropriate limits. In the meantime, the Court encourages the parties to continue conferring among themselves to try to bridge the apparent gap between their respective positions. To assist in those efforts, the Court offers the following guidance:

    i. The parties must take all reasonable efforts to avoid duplicative discovery.
    ii. The deposition of any single fact witness should be limited to 7 hours per day. If either side believes that additional time with a particular witness is necessary, the parties should meet and confer in good faith in order to reach an agreement.
    iii. To the extent any Defendant notices a deposition of Plaintiff, Defendants must work cooperatively to limit the burden on the deponent.
    iv. The Court cannot understand why each of the ten Defendants would need 70 hours of 30(b)(1) or 30(b)(6) depositions from Plaintiff (for a total of 700 hours) in a situation where, as far as the Court can tell, the bulk of the discovery directed toward Plaintiff is likely to be focused on issues that are common to all Defendants such as the history and validity of Plaintiff's patents. The Court therefore is likely to be sympathetic to a plaintiff-side motion to set tighter limits. Again, however, the Court does not have enough context to set an appropriate limit.

f. The Court is intentionally not setting limits on Requests for Admission because no such limits exist in the Federal Rules of Civil Procedure. The Court is, however, aware of the potential for Requests for Admission to be used in an abusive manner and will entertain motion practice from any aggrieved party.

IT IS SO ORDERED.

Dated this 7th day of March, 2025.

Stephen H. Locher
UNITED STATES DISTRICT JUDGE