

**BK: 2018 PG: 3817**  
**Recorded: 11/26/2018 at 8:11:58.0 AM**  
**Pages 5**  
**County Recording Fee: \$27.00**  
**Iowa E-Filing Fee: \$3.50**  
**Combined Fee: \$30.50**  
**Revenue Tax:**  
**LISA SMITH RECORDER**  
**Madison County, Iowa**

PLEASE RETURN TO: MIDAMERICAN ENERGY ATTN: RIGHT-OF-WAY SERVICES P.O. BOX 657 DES MOINES, IA 50303-0657  
Prepared by: Ryan K. Gurwell, A&R Land Services, 1609 Golden Aspen Dr., Suite 104, Ames, IA 50010 (515)337-1197

### **LENDER NON-DISTURBANCE AGREEMENT**

This Non-Disturbance Agreement (this “**Agreement**”), dated as of November 14/18, 2018 is made and entered into by and between MidAmerican Energy Company, and its successors and assigns (“**Grantee**”) and Earlham Savings Bank (“**Lender**”).

#### **RECITALS**

A. Grantee and David D. Boyle and Carolyn S. Boyle, husband and wife, as joint tenants with full rights of survivorship and not as tenants in common (“**Owner**”) are parties to a WINDPARK EASEMENT AGREEMENT, as evidenced by that certain MEMORANDUM OF WINDPARK EASEMENT AGREEMENT of even date (together, “**Easement Agreement**”), as those documents may be amended or supplemented from time to time, affecting the real property described on attached Exhibit A (the “**Property**”);

B. Lender is the holder of a promissory note secured by a mortgage, deed of trust, or other security instrument (the “**Mortgage**”) recorded at Book 2001, Page 5652 in the records of the Madison County Recorder, and a Mortgage Extension Agreement recorded at Book 2018, Page 468 that is a lien on all or a portion of the Property;

C. Grantee has requested that Lender agree not to disturb any rights of Grantee under the Easement Agreement with respect to the Property if Lender forecloses the Mortgage; and

D. Lender is willing to so agree on the terms and conditions set forth in this Agreement.

#### **AGREEMENT**

In consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lender covenants and agrees with Grantee that, provided (i) the Easement Agreement is in full force and effect and (ii) no default exists under the Easement Agreement beyond the applicable grace period, Grantee’s right to possession of the Property, and the terms

1 Arbor Hill, Parcel #AH040

and provisions of the Easement Agreement, shall not be affected or disturbed by Lender in the exercise of any of its rights under the Mortgage or of any rights otherwise available to Lender at law or in equity.

2. If a Successor Owner (as defined below) comes into possession or ownership of the Property, then such Successor Owner shall (i) thereby succeed to the position of the Owner under the Easement Agreement and (ii) not disturb the possession of Grantee except in accordance with the terms of the Easement Agreement or this Agreement, and the Easement Agreement shall continue in full force and effect. **“Successor Owner”** means any person or entity (including, without limitation, Lender or any nominee or designee of Lender) that while this Agreement is in effect acquires possession or ownership of the Property by reason of judicial or non-judicial foreclosure of the Mortgage, any other exercise by Lender of rights and remedies available to Lender as holder of the Mortgage, or delivery of a deed to the Property in lieu of foreclosure.

3. All notices, requests and communications under this Agreement must be in writing and will be deemed to have been duly given only if delivered personally or by nationally recognized courier service or mailed (first class postage prepaid) to the parties at the following addresses:

If to Lender: Earlham Savings Bank  
7300 Lake Drive  
West Des Moines, Iowa 50266  
Attention: *Sec. loan office*

If to Grantee: MidAmerican Energy Company  
4299 Northwest Urbandale Drive  
Urbandale, Iowa 50322  
Attention: Vice President- Renewable Energy

All such notices, requests and other communications will (i) if delivered personally or by nationally recognized courier to the address as provided in this Section, be deemed given upon delivery, and (ii) if delivered by mail in the manner described above to the address provided in this Section, be deemed given upon receipt. Any party may from time to time change its address or other information for purpose of notices to that party by giving notice specifying such change to the other party.

4. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of Lender and Grantee.

5. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

*[Remainder of page intentionally left blank; next page is signature page]*

**EARLHAM SAVINGS BANK**

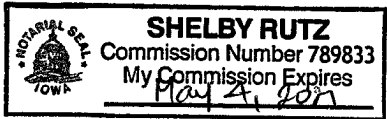
By: [Signature]  
Printed Name: Noah B. Hunter  
Title: Vice-President

STATE OF Iowa, Madison COUNTY) ss:

This record was acknowledged before me on November 14, 2018 by

Noah B. Hunter as Vice President  
(name of person signing) (type of authority, e.g. officer, manager, trustee etc.)

of Earlham Savings Bank.



[Signature]  
\_\_\_\_\_  
Notarial Officer

My commission expires: May 4, 2021

STAMP

[SIGNATURES CONTINUE ON NEXT PAGE]

MidAmerican Energy Company

By: 

Name: Adam Jablonski

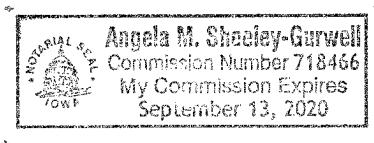
Title: Director, Renewable Energy

STATE OF IOWA, POLK COUNTY) ss:

This record was acknowledged before me on November 20, 2018 by Adam Jablonski as Director, Renewable Energy of MidAmerican Energy Company.

Angela M. Sheeley-Gurwell  
Notarial Officer

STAMP



## **EXHIBIT A**

### Legal Description

The East 70 acres of the Southeast Quarter (1/4) of Section Twenty-six (26) in Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, EXCEPT the South 500 feet of the East 500 feet thereof.