

**BK: 2018 PG: 3935**  
**Recorded: 12/3/2018 at 12:47:58.0 PM**  
**Pages 6**  
**County Recording Fee: \$32.00**  
**Iowa E-Filing Fee: \$3.60**  
**Combined Fee: \$35.60**  
**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 19, 2018 is made and entered into by and between MidAmerican Energy Company, and its successors and assigns (“**Grantee**”) and Farm Credit Services of America, FLCA (“**Lender**”).

#### **RECITALS**

A. Grantee and Byron C. DeVries and Beth A. DeVries a/k/a Beth Ann DeVries, 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 2016, Page 714 in the records of the Madison County Recorder 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 event of default by Grantee exists under the Easement Agreement beyond the applicable grace period, Grantee’s right to possession of the Property, and the terms and provisions of the Easement Agreement, will 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 will (i) thereby succeed to the position of the Owner, and Grantee will attorn to the Successor 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 will 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. Notwithstanding the foregoing, a Successor Owner will not be:

(a) liable for any act, omission or default of Owner under the Easement Agreement occurring prior to Successor Owner’s possession or ownership;

(b) subject to any offsets or defenses which Grantee might have against Owner attributable to actions occurring prior to Successor Owner’s possession or ownership; or

(c) bound by any amendment, modification, waiver or forbearance of the Easement Agreement to the extent such amendment, modification, waiver or forbearance would have a material adverse effect upon any right of Successor Owner without Successor Owner’s written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

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: Farm Credit Services of America, FLCA  
105 Theater Circle  
Perry, Iowa 50220  
Attention: Karen Turner

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.

2 Arbor Hill, Parcel #AH311

4. This Agreement is binding upon and will 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]*

FARM CREDIT SERVICES OF AMERICA, FLCA

By: Karen Turner

Printed Name: Karen Turner

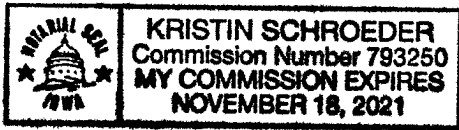
Title: Assistant Corporate Secretary

STATE OF Iowa, Dallas COUNTY) ss:

This record was acknowledged before me on November 19, 2018 by

Karen Turner as Asst Corporate Secretary  
(name of person signing) (type of authority, e.g. officer, manager, trustee etc.)

of Farm Credit Services of America, FLCA.

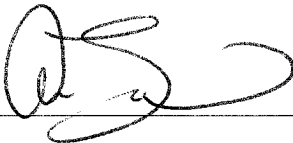


Kristin S  
Notarial Officer

STAMP

[SIGNATURES CONTINUE ON NEXT PAGE]

MidAmerican Energy Company

By:  \_\_\_\_\_

Name: Adam Jablonski

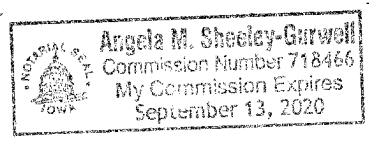
Title: Director, Renewable Energy

STATE OF IOWA, POLK COUNTY) ss:

This record was acknowledged before me on November 28, 2018 by Adam Jablonski as Director, Renewable Energy of MidAmerican Energy Company.

  
Notarial Officer

STAMP



5 Arbor Hill, Parcel #AH311

## EXHIBIT A

### Legal Description

Tract 1: That part of the West Half (W1/2) of the Southeast Quarter (SE1/4) of Section Two (2), in Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa.

Tract 2: The East Half (E1/2) of the Southwest Quarter (SW1/4) of Section Two (2), in township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, described as follows: Beginning at the Northwest corner of the East Half (E1/2) of the Southwest Quarter (SW1/4) of said Section Two (2), thence East 375.8 feet along the Quarter Section line to the point of intersection with the South line of the Chicago, Rock Island & Pacific Railroad right-of-way, thence South 82°59'45" East, 2267.9 feet along said right-of-way line to the point of intersection with the East line of the West Half (W1/2) of the Southeast Quarter (SE1/4) of said Section Two (2); thence South, 00°10'30" West, 99.6 feet along said East line; thence North, 86°56' West, 528.6 feet; thence South 89°33' West, 1483 feet; thence South 04°54' East, 37.9 feet; thence South 89°36' West 620 feet to the West line of the East Half (E1/2) of the Southwest Quarter (SW1/4) of said Section Two (2); thence North, 00°09' East, 401.6 feet to the point of beginning, and containing 14.93 acres, more or less; and beginning at a point on the South line of Section Two (2), 836.4 feet East of the Southwest corner of the said East Half (E1/2) of the Southwest Quarter (SW1/4); proceed North 62°48' East, 837 feet; thence North, 47°48' East, 322 feet; thence North, 06°11' West, 494 feet, thence North, 87°05' East, 295.1 feet; thence North, 39°19' East, 61.6 feet; thence North, 00°17' East 1132.8 feet; thence South, 86°56' East, 528.6 feet to a point on the East line of said West Half (W1/2) of the Southeast Quarter (SE1/4); thence South 00°10'30" West, 2258.4 feet to the Southeast corner of said West Half (W1/2) of the Southeast Quarter (SE1/4); thence North, 89°57' West, 1790 feet to the point of beginning, and containing 40.95 acres, more or less.

Tract 3: The Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) and that part of the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) lying South of the Railroad right-of-way all in Section Two (2), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa containing 68.127 acres.