

IN THE IOWA SUPREME COURT

Supreme Court No. 24–0641

District Court No. CVCV060840

**LS POWER MIDCONTINENT, LLC and SOUTHWEST
TRANSMISSION, LLC,
Plaintiffs–Appellees,**

vs.

**STATE OF IOWA, IOWA UTILITIES BOARD, and ERIK HELLAND,
Defendants–Appellants,
and
MIDAMERICAN ENERGY COMPANY and ITC MIDWEST LLC,
Intervenors–Appellants.**

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE COLEMAN J. MCALLISTER

Supplemental Reply Brief of Appellant ITC Midwest LLC

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LS Power Midcontinent, LLC and Southwest Transmission, LLC (“LS Power”) received the relief they sought when this case started. The 2020 Iowa Right of First Refusal (“ROFR”) statute for transmission incumbents is gone. Absent a change in law, competitive bidding will be available for future Iowa transmission projects, with limited exceptions for upgrades and projects to address immediate reliability needs as provided for in Midcontinent Independent System Operator, Inc.’s (“MISO”) Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”).

Having achieved the objective stated in its prayer for relief, but unable to get what it now wants—the ability to compete for already awarded projects—LS Power seeks to stop others from developing needed transmission lines. LS Power continues to cause costly litigation delays that may defer much-needed infrastructure—including by requesting additional time to file a supplemental brief on long-anticipated MISO Variance Analysis results and then submitting a supplemental brief that merely rehashes arguments made months earlier.

Regardless of why, LS Power continues its pattern of huffing and puffing in all the wrong places. As the MISO Variance Analysis that prompted this supplemental briefing reinforces, the District Court and this Court lack jurisdiction over MISO’s application of its Tariff (especially in a

case where MISO was never named).¹ The Federal Energy Regulatory Commission (“FERC”) is the exclusive venue for LS Power’s complaints, especially their transparent collateral attack on the Variance Analysis outcome. This Court should dissolve Ordering Paragraphs 7 and 8 of the District Court’s injunction.

STATEMENT OF THE FACTS

In the District Court’s December 4, 2023 Ruling on Motions for Summary Judgment (“Order”), the District Court struck down the ROFR statute and issued an injunction that prohibits the Iowa Utilities Commission (“IUC”), ITC, and MidAmerican Energy Company (“MEC”) from acting in reliance on the ROFR. *See* Order ¶¶ 7–8. IUC, ITC, and MEC appealed this portion of the District Court’s injunction because the District Court lacked subject matter jurisdiction to invade a matter of exclusive federal law, the injunction extended beyond the scope of the ROFR, and the injunction was improperly retroactive and overbroad. ITC Br. at 23–49 (06/25/2024).

Before briefing was filed on this appeal, MISO commenced a Variance Analysis for the Iowa LRTPs.² MISO uses the Variance Analysis to review

¹ To the extent LS Power’s argument, post MISO Variance Analysis, is to ensure MISO’s decision is negated, arguably MISO was a necessary, but absent, party.

² ITC uses “Iowa LRTPs” as shorthand to refer to the Tranche 1 Long Range

a MISO-approved project when it appears that the developer “will be unable to complete facilities for which it has been designated to construct.” Tariff Attachment FF § IX.C.4. MISO’s Variance Analysis was triggered by the District Court’s Order, including the paragraphs on appeal, which permanently enjoined ITC, MEC, and the IUC,

[F]rom taking any additional action, or relying on prior actions, related to any and all electric transmission line projects in Iowa that were claimed pursuant to, under, or in reliance on Iowa Code § 478.16 and/or Iowa Administrative Code rule 199-11.14.

Order at 21–22.

In its Variance Analysis announcement, MISO specifically referenced the District Court’s injunction, noting that:

The injunction prohibited ITC and MidAm from taking any further action upon the Iowa Eligible Facilities in reliance on the Iowa ROFR and the IUB from taking any additional action on facilities that were claimed in reliance on the Iowa ROFR. The District Court Order only expressly allowed the permitting of facilities claimed “otherwise in a manner not relying on claimed existence of” the Iowa ROFR and/or if Mid Am and/or ITC are awarded the projects through a competitive process.

Transmission Projects (“LRTPs”) at issue in this appeal: LRTP-7 (Webster-Franklin-Marshalltown-Morgan Valley); LRTP-8 (Beverly-Sub 92); LRTP-9 (Orient-Denny-Fairport); LRTP-12 (Madison-Ottumwa-Skunk River); and LRTP-13 (Skunk River–Ipava).

* * *

On May 28, 2024, pursuant to Attachment FF, Section IX.D.1 of the Tariff, MISO confirmed the commencement of Variance Analysis upon the grounds that there is a current inability to construct some or all of the facilities contained in the Project due to the District Court Order.

See e.g., Beverly – Sub 92 Transmission Project, Commencement of Variance Analysis (May 30, 2024) (“Notice of Variance Analysis”).³

On August 26, 2024, LS Power submitted a brief to this Court emphasizing that a Variance Analysis was the correct procedure to address the District Court’s injunction, and that “MISO initiated that exact process in May 2024 **for the very projects at issue here.**” LS Power Br. at 52 (double emphasis in original).

Three days later, MISO issued a Notice of Variance Analysis Outcome – Mitigation Plan for the Iowa LRTPs (“Mitigation Plans”).⁴ As discussed in ITC’s reply brief, MISO recognized the District Court Order, applied its own

³ Available at <https://cdn.misoenergy.org/Beverly%20-%20Sub%2092%20Variance%20Analysis%20Mitigation%20Plan%20Public%20Notice645354.pdf>.

⁴ *See e.g.*, MISO, Beverly – Sub 92 Transmission Project, Notice of Variance Analysis Outcome – Mitigation Plan (Aug. 29, 2024) <https://cdn.misoenergy.org/Beverly%20-%20Sub%2092%20Variance%20Analysis%20Mitigation%20Plan%20Public%20Notice645354.pdf> (similar notices were issued for the other Iowa LRTPs that are substantively the same).

Tariff, and concluded under the applicable Tariff factors the best mitigation plan was to assign ownership of the Iowa facilities through existing provisions in MISO’s Transmission Owner Agreement (“TOA”), which is the “default procedure for defining ownership” where there is “uncertainty.” Mitigation Plans at 3-4. MISO emphasized the importance of this approach to “expediently resolve the reliability concerns created by potential or actual construction delays of the LRTP Tranche 1 Project.” *Id.*

Even though this decision was widely anticipated—and the result of a process LS Power *argued for*—LS Power sought supplemental briefing because Appellants “introduced new arguments, facts, and issues” related to “arguments on [MISO’s] mitigation plan announced after LSP filed its Appellee Brief.” Suppl. Br. Mot. ¶ 2 (10/07/2024); ITC Reply Br. at 13 n.7 (09/16/2024) (citing LS Power’s requests for a Variance Analysis process). On January 14, 2025, this Court ordered supplemental briefing on “new matters raised in appellants’ reply briefs.” Order at 1 (01/14/2025).

ARGUMENT

Nonetheless, LS Power’s supplemental brief merely reiterated its argument that this Court has authority to interpret Iowa law. LS Power Suppl.

Br. at 12 (02/05/2024).⁵ That has never been in dispute. *See* ITC Reply Br. at 13.

The question in this appeal is narrower than “who determines the scope and enforcement of a permanent injunction issued on a state constitutional claim.” LS Power Suppl. Br. at 12. The question is whether an Iowa District Court has subject matter jurisdiction to retroactively require MISO—a nonparty, regulated under the Federal Power Act (“FPA”)—to reassign the Iowa LRTPs in a competitive process or cancel them, in contravention of a FERC-approved Tariff.⁶ ITC Reply Br. at 8-9. It does not.

⁵ LS Power also argues that ITC and MEC’s continued work to comply with their federal obligation to construct the Iowa LRTPs “violates the injunction.” LS Power Br. at 13. Over ITC’s objection because questions about the scope of the injunction are before this Court, LS Power’s “motion to enforce” the injunction is currently pending in district court. *See* LS Power Br. at 13 n.3.

⁶ LS Power characterizes ITC’s position as arguing that the Mitigation Plan “in some way, divests Iowa’s judiciary of the ability to interpret Iowa law and frees them from the requirement to respect an injunction.” LS Power Suppl. Br. at 12. This blatantly misrepresents ITC’s argument. ITC argues that the state lacks jurisdiction to tell MISO and MISO-regulated entities that they cannot follow the terms of MISO’s FPA and FERC-approved Tariff. ITC Br. at 23–43; ITC Reply Br. at 17–27. ITC subsequently used the mitigation plan as an example of MISO concurring with the limitation on state court jurisdiction, and to emphasize that ITC and MEC remain obligated to construct the Iowa LRTPs assigned to them pursuant to MISO’s Tariff, because those projects remain critical to reliability of the electrical system. ITC Reply Br. at 21–22. In response to the enforcement motion pending below, ITC also argues that the Mitigation Plan satisfies the explicit terms of the district court injunction that a new MISO decision on a basis other than

I. MISO IS NOT AN AGENCY, BUT ITS TARIFFS ARE BINDING FEDERAL LAW.

LS Power repeatedly observes that MISO is a private entity, not an agency. *See e.g.*, LS Power Suppl. Br. at 6. But this does not make its decisions less binding, nor subject them to state court review.

The FPA grants FERC jurisdiction over the rates, terms, and conditions of service for the transmission and sale at wholesale of electric energy in interstate commerce. ITC Br. at 17. Under FPA Section 205(a), “[a]ll rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges[,] shall be just and reasonable.” 16 U.S.C. § 824d(a); *see also FERC v. Elec. Power Supply Ass’n*, 577 U.S. 260, 264–65 (2016). To facilitate FERC’s enforcement of that requirement, each regulated utility must “file with the Commission” its rates and terms of service in a publicly available tariff. 16 U.S.C. 824d(c). Under the filed-rate doctrine, utilities are required to follow the rates and terms that are on file with FERC. *See, e.g., Pioneer Trail Wind Farm, LLC v. FERC*, 798 F.3d 603, 610 (7th Cir. 2015).

the ROFR is not subject to that injunction.

Electricity has become an increasingly large, complex, and important interstate business since the FPA was enacted. *Elec. Power Supply Ass'n*, 577 U.S. at 267. FERC established “Regional Transmission Organizations,” or RTOs, to “break down regulatory and economic barriers” and “reduce technical inefficiencies caused when different utilities operate different portions of the grid independently,” and FERC encouraged transmission providers to transfer operational control over their facilities to RTOs that operate them in a nondiscriminatory manner. *Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527, 536–37 (2008); *see also* 16 U.S.C. § 824a(a). MISO is the RTO that operates the transmission system that includes Iowa, but its footprint extends much further. *See* FERC, Electric Power Markets: MISO (last visited Feb. 11, 2025).⁷ MISO is also a “public utility” under the FPA, and “provide[s] open access to the regional transmission system to all electricity generators at rates established in a ‘single, unbundled, grid-wide tariff’.” *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1364 (D.C. Cir. 2004) (citation omitted).

In 2011 FERC issued Order No. 1000, which required that RTOs participate in regional transmission planning to identify important projects

⁷ Available at <https://www.ferc.gov/industries-data/electric/electric-power-markets/miso>.

and allocate the costs of these projects to regions that benefit. *See Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, 136 FERC ¶ 61,051, at ¶ 253 (2011); *see also generally S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

MISO identified the Iowa LRTP projects as necessary to meet local and regional needs and to replace aging equipment. In December 2024, MISO’s board of directors proposed Tranche 2.1, the second phase of MISO’s Long-Range Transmission Plan, which “builds on the foundation of Tranche 1.” *See MISO, Long-Range Transmission Planning* (last visited Feb. 11, 2025).⁸

Order No. 1000 also required RTOs to provide a process for regional transmission planning that provided nonincumbent transmission developers an opportunity to participate in the region. *See Order No. 1000*, 136 FERC ¶ 61,051, ¶¶ 225, 332. To comply with Order No. 1000, MISO implemented a Competitive Developer Selection Process to select the transmission developer that will construct and own identified projects and will be eligible to use the Tariff’s regional cost allocation method to spread the costs among the facility’s beneficiaries. *See Tariff, Attachment FF § VIII; see also*

⁸ Available at <https://www.misoenergy.org/planning/long-range-transmission-planning/>.

Midcontinent Indep. Sys. Operator, Inc., 161 FERC ¶ 61,248, ¶¶ 2–3 (2017) (discussing competitive bidding).

MISO’s Tariff exempts three project types from the Competitive Developer Selection Process. First, rights to develop upgrades to existing transmission facilities are assigned to the owner of those facilities.⁹ See Tariff, Attachment FF § VIII.A.2. Second, the Tariff establishes a separate process for the award of projects intended to address immediate reliability needs. *Id.* § VIII.A.3. Finally, the Tariff directs MISO to follow applicable state or local laws addressing a utility’s right to construct a transmission project. *Id.* § VIII.A.1; see also *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127, ¶ 147 (2014) (accepting state ROFR provision).

MISO can also conduct a Variance Analysis under its Tariff. See Tariff, Attachment FF § IX. It did so for the Iowa LRTPs, and concluded that the

⁹ Seventy percent of the Iowa LRTPs assigned by MISO to ITC are “upgrades” under MISO’s Tariff. MISO’s Tariff provides that upgrades to existing facilities are automatically assigned to incumbents. MISO Tariff, Attachment FF, § VIII.A.2. The seventy percent of the Iowa LRTPs that were assigned to ITC as upgrades would never have been available for competitive bid because they were also assigned as upgrades. Thus, this seventy percent of the Iowa LRTPs also was never within the District Court’s injunction because they were not assigned to ITC “pursuant to, under, or in reliance on Iowa Code § 478.16.” LS Power mischaracterizes MISO’s mitigation plans when it states otherwise. See LS Power Suppl. Br. at 7 n.1. While LS Power attempts to take issue with the upgrade designations, it does not and cannot dispute that the MISO Tariff assigns upgrades to incumbents.

most suitable way to resolve “potential impacts to the Transmission System . . . , including potential reliability, economic, or public policy impacts” was to affirm its assignment of the Iowa LRTPs to ITC and MEC. Mitigation Plan at 5.

MISO’s Tariff is a filed rate. It is matter of federal law that has binding effect. *See* ITC Br. at 31 n.17; ITC Reply Br. at 20; *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 963 (1986). MISO may not be a federal agency, but it operates under FERC-approved tariffs, and FERC exercises supervisory authority over it through rules, complaint proceedings, and other legal processes. It is a legally meaningless distinction here, and gets LS Power nowhere, to point out that MISO is not a “federal agency.”

II. LS POWER SELECTIVELY QUOTES FROM MISO’S MITIGATION PLANS TO MISCONSTRUE MISO’S ANALYSIS.

Given this backdrop, it is indisputable that MISO’s Mitigation Plans require ITC and MEC to construct the Iowa LRTPs. MISO reaches this conclusion without reliance on the now-declared-unconstitutional ROFR statute. Foundational to MISO’s Mitigation Plans is the District Court’s conclusion that the ROFR is invalid—MISO would not have conducted the Variance Analysis unless the ROFR statute had been declared unconstitutional. *See generally* Notice of Variance Analysis.

LS Power selectively quotes portions of MISO’s Mitigation Plans that explain the complex procedural background that led to its Variance Analysis as an indication that MISO relied on the ROFR statute in developing the Mitigation Plans. LS Power’s cherry-picked quotations mischaracterize MISO’s decision.

In its Mitigation Plans, MISO explained that when it *first assigned* the Iowa LRTPs, “MISO followed its Tariff by determining that said facilities of the Project were not eligible for the competitive process due to *the then-existing* Iowa ROFR.” Mitigation Plan at 4 (emphasis added). MISO acknowledged that “per the District Court Order, the Project[s] can still be designated to ITC and MidAm provided [they are] assigned in a manner not in reliance on the Iowa ROFR.” MISO Mitigation Plans at 3. Ultimately, MISO recognized the invalidation of the Iowa ROFR and concluded for each ITC Iowa LRTP that,

in light of the applicable Tariff-provided factors and the accompanying findings of fact related to [the Iowa LRTP] Project[s], the most appropriate Variance Analysis outcome shall be a mitigation plan which will: (i) assign ownership of the Iowa facilities through existing provisions set forth within the Transmission Owner Agreement (TOA), and (ii) expediently resolve the reliability concerns created by potential or actual construction delays of the LRTP Tranche 1 Project.

Id. (footnote omitted). As MISO explains, the default under the TOA is that “ownership and the responsibility to construct facilities which are connected to a[n] . . . Owner’s system *belong to that Owner.* . . .” (Emphasis added by MISO.)¹⁰ Here, that means ITC and MEC.

In short, MISO did not rely on the ROFR. MISO accepted the ROFR statute is not effective and instead applied its FERC-approved Tariff and FERC-approved Transmission Owner Agreement (“TOA”)¹¹ to determine the best mitigation plan. The entire point of the Variance Analysis was to address an exogenous change in state law—in this case the ROFR being invalidated—by looking at Tariff-based factors to determine the best path forward given the significant reliability needs. Here, MISO found in the Mitigation Plan that,

following the assignment of the Project, ITC and MidAm have undergone over two (2) years of engineering efforts to comply with their construction responsibilities and are therefore sufficiently capable to satisfy such responsibilities set forth within the Tariff;

¹⁰ Mitigation Plan at 4 (citing Tariff, Rate Schedule 1, MISO TOA, Appendix B, § VI).

¹¹ MISO, *Agreement of Transmission Facilities Owners to Organize the Midcontinent Independent System Operator, Inc., a Delaware Non-Stock Corporation* (Mar. 2, 2018), (available at [https://cdn.misoenergy.org/MISO%20TOA%20\(for%20posting\)47071.pdf](https://cdn.misoenergy.org/MISO%20TOA%20(for%20posting)47071.pdf)).

ITC and MidAm are both MISO Transmission Owners and MISO Qualified Transmission Developers, so ITC and MidAm have already supplied MISO with the information to support the required acceptable levels of financial, project implementation, regulatory and operational risk, based on their track records, level of experience, credentials, business plans and/or existing resources;

delaying the Iowa facilities' in-service dates could adversely affect the Transmission System and the MTEP, including potential reliability, economic, and public policy impacts. . .

Mitigation Plan at 3 (internal paragraph numbering omitted). As a result, MISO found the best approach, consistent with its Tariff, was to assign the projects to ITC and MEC.

The caselaw LS Power cites in its Supplemental Brief does not undermine this analysis. LS Power Suppl. Br. at 14-15. In *Mid-America Pipeline Co. v. Iowa State Commerce Commission*, this Court issued a prospective declaration that a pipeline company could not exercise eminent domain authority for a private pipeline. 114 N.W.2d 622, 624 (Iowa 1962). The Court concluded the Commerce Commission lacked authority to implement a statute that the Legislature could not constitutionally enact. But the *Mid-America* court said nothing about applying federal law once the unconstitutional state statute was struck down. No party here argues that an Iowa court cannot invalidate an Iowa law. The question here is whether the relief granted interferes with MISO's application of its federal Tariff.

The unpublished federal district court cases *Messina* and *Velazquez* fare no better. The *Messina* and *Velazquez* courts observed that a federal agency may not disregard a valid state court order. LS Power Suppl. Br. at 14–15; *Messina v. U.S. Citizenship & Immigr. Servs.*, No. Civ.A. 05CV73409DT, 2006 WL 374564, at *5–6 (E.D. Mich. Feb. 16, 2006); *Velazquez v. Holder*, No. C. 09–01146 MEJ, 2009 WL 4723597, at *5–7 (N.D. Cal. Dec. 9, 2009). Both involve state court adoption decisions—adoption is plainly within the province of state law. See *De Sylva v. Ballentine*, 351 U.S. 570, 580–81 (1956) (“To determine whether a child has been legally adopted . . . requires a reference to state law.”). In contrast, ITC and MEC argue here that the District Court lacked jurisdiction to issue an injunction that invaded a matter of *federal* jurisdiction. If the state court lacked jurisdiction, the order is not validly issued. *Opat v. Ludeking*, 666 N.W.2d 597, 606 (Iowa 2003) (“A judgment is void when the court lacks jurisdiction of the parties or of the subject matter . . .” (citation omitted)).

When it issued the Mitigation Plans, MISO acknowledged that, “[t]he District Court Order ruled that the Iowa ROFR was unconstitutional” and recognized that the Order only allowed permitting of facilities claimed otherwise in a manner not relying on the claimed existence of the ROFR statute. Mitigation Plan at 1–2. MISO then applied its Tariff to evaluate the

best outcome for the region and assigned ownership of the Iowa LRTPs to ITC and MidAm.¹² Having made a new decision based on its Tariff and the TOA, the District Court Order allows development of the projects to proceed.¹³ To the extent LS Power disagrees with MISO’s Mitigation Plans, or how MISO applies its Tariff to a subsequently-stricken state law when it determines a Mitigation Plan, *it must take that up with FERC which is the sole avenue for challenge to MISO’s interpretation of its Tariff*. And given that no party is challenging the determination of the fate of the 2020 ROFR as a matter of state law, and that MISO has since weighed in through its Variance Analysis, that is the only issue LS Power can plausibly still be raising.

¹² LS Power also cites *Ohio Valley Environmental Coalition v. Horinko*, 279 F. Supp. 2d 732, 755 (S.D. W. Va. 2003). The *Ohio Valley* court noted “the rule that the court should defer to a federal agency’s reasonable interpretation of a state regulation, but that the agency is not permitted to effectively amend the regulation to give it a meaning that the text of the regulation does not fairly support.” *Id.* This rule does not apply here. MISO does not purport to interpret the District Court’s injunction. MISO applies its own Tariff.

¹³ “[T]his permanent injunction does not prohibit the Intervenors, if reassigned the above referenced projects, through competitive processes or otherwise in a manner not relying on claimed existence of § 478.16, from seeking approval from the State to move forward with the previously claimed projects.” Order at 22.

III. CONTRARY TO LS POWER’S ASSERTIONS, ITC IS LAWFULLY PURSUING ITS PROJECTS – AND LS POWER IS NOT AVAILING ITSELF OF THE ADMINISTRATIVE PROCESS.

Finally, ITC notes that LS Power continues to take no role in the projects it claims to be interested in – and arguably fails to exhaust its administrative remedies. LS Power was served in IUC dockets for several Iowa LRTPs, including the Morgan Valley. *See* IUC Docket No. E-22554. ITC sought (and the IUC held) county information meetings required by Iowa Code section 478.2; LS Power did not file a motion with the IUC to deny the request. ITC requested a scheduling conference which was held February 13; LS Power did not participate—no motion to stay, no proposed schedule. If LS Power had any concern about ITC continuing to move forward with permitting, it could have appeared in that docket.¹⁴ It did not.

LS Power’s inactions demonstrate a lack of interest in protecting alleged business opportunities. It is evident LS Power’s primary objective is to halt development of much needed transmission infrastructure. LS Power’s huffing and puffing seeks to blow the entire house down on electric customers

¹⁴ This would be a particularly appropriate way for LS Power to have raised any concerns because the District Court’s injunction does not require ITC to return to the court for approval to proceed—it leaves to ITC’s discernment whether the exceptions to the scope of the injunction have been met.

in Iowa and elsewhere. The Mitigation Plans make clear that there is no path to MISO declaring the Iowa LRTP's competitive and bidding the projects. LS Power obtained prospective relief that will apply to future applicable projects unless the Legislature adopts a new ROFR statute without the errors in the prior enactment. LS Power's continuing effort to deny other transmission owners the opportunity to build the Tranche 1 Iowa LRTPs cannot result in benefits for LS Power—it can only hinder the projects, harming customers, endangering reliability, and raising costs not just in Iowa but in every state the interconnected Iowa LRTPs touch.

CONCLUSION

For the foregoing reasons, the Court should reverse the District Court's decision and remand with instructions to dissolve Ordering Paragraphs 7 and 8 which enjoin ITC, MEC, and the IUC from taking action on the Iowa LRTPs.

Respectfully submitted this 20th day of February 2025.

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
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REQUIREMENTS**

This brief complies with the typeface requirements and type-volume limitation of Iowa R. App. P. 6.903(1)(d), 6.903(1)(g)(1) or (2), and this Court's January 14, 2024 Order because:

This brief has been prepared in a proportionally spaced typeface using Microsoft Word version 2010 in Times New Roman, 14 point font and contains 3,986 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Respectfully submitted this 20th day of February 2025.

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the 20th day of February 2025, a copy of this Appellee Proof Brief was served upon the parties and upon the Clerk of the Supreme Court through the electronic filing of the same with the Iowa Judicial Branch Appellant Courts' EDMS system.

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