

**BK: 2018 PG: 3937**  
**Recorded: 12/3/2018 at 12:48:01.0 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 14, 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 Eugene R. Schafer and Vicky R. Schafer, 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 2009, Page 2084 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 #AH064

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

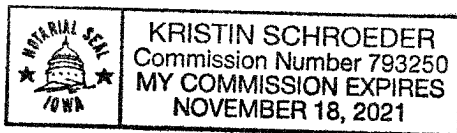
Title: Assistant Corporate Secretary

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.



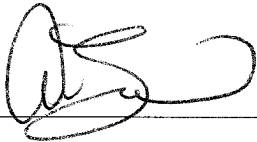
Kristin S  
Kristin Schroeder Notarial Officer

My commission expires: 11-18-21

STAMP

[SIGNATURES CONTINUE ON NEXT PAGE]

MidAmerican Energy Company

By: 

Name: Adam Jablonski

Title: Project Manager, Renewable Energy

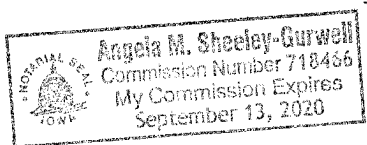
STATE OF IOWA, POLK COUNTY) ss:

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

Angela M. Sheeley-Gurwell  
Angela M. Sheeley-Gurwell Notarial Officer

My commission expires: 9/13/20

STAMP



## **EXHIBIT A**

### **Legal Description**

Tract 1: An irregular shaped tract of land that is located in the NE Fractional 1/4 of Section 5, Township 77 North, Range 29 West of the 5th P.M., Madison County, Iowa, described as follows: Beginning at the NE corner of the NE Fractional 1/4 of said Section 5, thence S0°00'E along the East line thereof, 637.00 feet, thence S89°50'46"W, 1197.67 feet, thence N55°18'15"W 365.74 feet to a point that is on the Southerly right-of-way line of Interstate Highway No. 80 as it is presently established, thence N43°52'38"E, along the Southerly right-of-way line of said Interstate Highway No. 80, 620.91 feet to a point that is on the North line of said NE Fractional 1/4, thence S89°10'00"E along said North line, 1088.12 feet to the Point of Beginning.

Tract 2: Parcel "A" of the Plat of Survey filed in the Office of the Recorder of Madison County, Iowa on April 21, 1989, and recorded in Book 2 Page 147, being a part of NE Fractional 1/4 of Section 5, Township 77 North, Range 29 West of the 5th P.M., Madison County, Iowa; EXCEPTING THEREFROM Parcel "B" of the Plat of Survey filed in the Office of the Recorder of Madison County, Iowa on May 4, 2007, and recorded in Book 2007 Page 1889.