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**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

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**LS POWER MIDCONTINENT, LLC and  
SOUTHWEST TRANSMISSION, LLC,**  
Plaintiffs,  
vs.

**THE STATE OF IOWA, IOWA UTILITIES  
BOARD, ERIK M. HELLAND, GLEN  
DICKINSON and LESLIE HICKEY,**  
Defendant,

**MIDAMERICAN ENERGY COMPANY  
and ITC MIDWEST LLC,**  
Intervenors.

**Case No. CVCV060840**

**ORDER ON PLAINTIFFS' MOTION TO  
ENFORCE PERMANENT INJUNCTION**

On October 22, 2024, the Plaintiffs filed a motion to enforce the permanent injunction entered by the district court on December 4, 2023 (D0178). Intervenor MidAmerican Energy Company ("MidAmerican") filed a resistance on November 4, 2024 (D0180). Intervenor ITC Midwest LLC ("ITC") filed a response on November 4, 2024 (D0183). The Defendants did not file a responsive pleading and took no position on the motion at the hearing.

Hearing was held on the motion on February 20, 2025. The Plaintiffs were represented by their attorneys Michael Reck and Chris Jessen. The Defendants were represented by their attorney Lindsey Browning. MidAmerican was represented by attorney Tara Hall. ITC was represented by their attorneys Brett Dublinske and Lisa Agrimoni. After considering the parties' respective positions and reviewing the filings, the court makes the following order.

This case comes before the court on the Plaintiffs' motion to enforce the judgment entered in this case. On December 4, 2023, the district court granted the Plaintiffs' motion for summary judgment on Counts I and II.

The court entered a permanent injunction, which, in part, included the following:

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that to prevent injury to Plaintiffs and return to the status quo prior to Iowa Code § 478.16's and Iowa Administrative Code rule 199-11.14's enactment, the Iowa Utilities Board is permanently enjoined from 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. Such projects include 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).

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that to prevent injury to Plaintiffs and return to the status quo prior to Iowa Code § 478.16's and Iowa Administrative Code rule 199-11.14's enactment, Intervenor MidAmerican Energy Company and ITC Midwest LLC are permanently enjoined from 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. Such projects include 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).

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that this permanent injunction does not prohibit the Intervenor, 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.

**SO ORDERED.**

The Defendants and both Intervenor filed motions to reconsider the permanent injunction. On March 19, 2024, the district court denied the motions to reconsider.

On April 17, 2024, both MidAmerican and ITC filed an appeal. On April 23, 2024, ITC filed a motion to stay in the appellate case to allow projects approved prior to the district court's permanent injunction to go forward. The Plaintiffs resisted the motion. On July 5, 2024, the Honorable Justice McDonald granted ITC's motion and stayed the portion of the permanent injunction which enjoined the appellants "from 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. Such projects include LRTP-7 (Webster-Franklin-Marshalltown-Morgan Valley); LRTP-8 (Beverly- 92); LRTP-9 (Orient-

Denny-Fairport); LRTP-12 (Madison-Ottumwa-Skunk River); and LRTP-13 (Skunk River-Ipava).”

On July 15, 2024, the Plaintiffs requested a quorum review of the July 5, 2024 order. On August 7, 2024, a three-justice panel vacated the portion of the July 5<sup>th</sup> order which granted the stay and ordered that ITC’s motion to stay should be submitted with the appeal. The appeal of the district court’s permanent injunction remains pending.

The Plaintiffs assert in their motion that the permanent injunction regarding pending projects is being violated and prays the court to enforce its judgment. The intervenors deny there is a violation of the court’s injunction and further assert the district court does not have the ability to provide the Plaintiffs relief based on the Plaintiffs’ motion.

Before the court can consider the merits of the motion, it must first determine whether it has the ability to so act. The court must therefore consider the enforceability of the permanent injunction, whether the district court has jurisdiction in light of the pending appeal, and the procedure for enforcing the permanent injunction.

The district court’s ruling of December 4, 2023 is a judgment. The Iowa Supreme Court has considered a partial stay and ultimately rejected it while the appeal is pending. Thus, the December 4, 2023 order is in full force in effect until and unless the Iowa Supreme Court rules otherwise. To conclude otherwise would obviate the purpose of a stay.

However, it is disputed whether the district court should address this issue. ITC argues that the district court cannot address this motion as it poses questions regarding the scope and interpretation of the permanent injunction. The general rule is that a district court is divested of jurisdiction over the merits of the controversy when an appeal is perfected. *Hulsing v. Iowa Nat. Mut. Ins. Co.*, 329 N.W.2d 5, 7 (Iowa 1983). The district

court, however, “retains jurisdiction to proceed as to issues collateral to and not affecting the subject matter of the appeal.” *In re Estate of Tollefsrud*, 275 N.W.2d 412, 418 (Iowa 1979). The court has the power to enforce its order, in the absence of a stay. *Shedlock v. Iowa Dist. Court for Polk County*, 534 N.W.2d 656, 658-659 (Iowa 1995), citing *Kirk v. Iowa Dis. Court*, 508 N.W.2d 105, 108 (Iowa App. 1993). As the Iowa Supreme Court found in *Shedlock*, the district court retains the power to hold a party in contempt for violating its order. *Shedlock* at 659.

The difference between the parties’ positions on jurisdiction is whether the Plaintiffs are requesting the district court to merely enforce the injunction as written or to expand or clarify the injunction.

In the Plaintiffs’ motion, they allege that the electrical projects specified in the permanent injunction are still going forward in violation of the district court’s orders. The Intervenor admits the projects are ongoing but deny any violation of the permanent injunction. Based on the Plaintiffs’ allegations, the court finds they are not asking for an expansion of the injunction or clarification but instead are alleging that the permanent injunction is not being followed. This is the type of violation (if proven) that a court may enforce while a ruling is on appeal, absent a stay.

This court must next determine if it can “enforce” a ruling based on a post-trial motion, in the absence of a contempt petition or other specified procedural or statutory mechanism.

The power to grant and enforce injunctive relief is inherent in the constitutionally vested equitable jurisdiction of a district court but may also arise by statute. *Dakota, Minnesota & E. R.R. v. Iowa Dist. Ct. for Louisa Cnty.*, 898 N.W.2d 127, 135 (Iowa 2017), overruled on other grounds by *TSB Holdings, L.L.C. v. Bd. of Adjustment for City of Iowa*

*City*, 913 N.W.2d 1 (Iowa 2018). An injunctive order is an extraordinary writ, enforceable by the power of contempt. *Gunn v. Univ. Comm. to End War in Viet Nam*, 399 U.S. 383, 389, 90 S. Ct. 2013, 2017, 26 L. Ed. 2d 684 (1970). Division XV of the Iowa Rules of Civil Procedure specify that violations of injunctions issued pursuant to that Division “shall constitute contempt”. Iowa R. Civ. P. 1.511. The injunction in this case was issued pursuant to Division XV as the request for injunctive relief pled Iowa Rules of Civil Procedure 1.501-1.511. (D0001).

The courts have long held that the enforcement of alleged violations of injunctions is by a contempt action. In 1881, the Iowa Supreme Court stated the following:

It is further claimed that an attachment for contempt is not a proper mode of forcing obedience to the order in question. The order is a continuing one, in the nature of a mandatory injunction. It requires and commands the trustees to admit the parties in question to the use of the church for religious services when the Protestant Methodists are not using it for such services, and when there is no other applicant for such purpose. It is impracticable to enforce this order by execution or other writ. The only way the parties to it can be coerced into obedience is by proceeding against them for contempt.

*State v. Baldwin*, 57 Iowa 266, 10 N.W. 645, 648 (1881)

The Plaintiffs assert the court has the inherent power to enforce its orders without a contempt application and cite *In re Langholz*, 887 N.W.2d 770 (Iowa 2016) in support. This court agrees it does have inherent authority to enforce its own orders, but it must have a procedural mechanism to get there.

After a contested trial in *Langholz*, the court granted a permanent injunction to a father. The father filed a motion to allow some modifications of the injunction and to

expand upon the terms of that injunction. *Langholz* at 772. However, the post judgment motion in *Langholz* was made pursuant to a motion to reconsider under Iowa Rule of Civil Procedure 1.904(2). Thus, *Langholz* does not support the Plaintiffs' motion as there was an established procedural path utilized and the trial court in *Langholz* acted in accordance with the rules of civil procedure.

In this case, there is no procedural mechanism cited by the Plaintiffs in support of their motion. Based on the preceding analysis, this court does not believe it has the power to enforce the injunction based on a general assertion of power, absent an established procedural pathway.

It is therefore the ORDER of the court the motion to enforce the injunction is denied without prejudice. The Plaintiffs are free to reassert their allegations via a contempt application or through another established procedural mechanism.

SO ORDERED.



State of Iowa Courts

**Case Number**  
CVCV060840

**Case Title**  
LS POWER MIDCONTINENT ET AL VS STATE OF IOWA ET  
AL  
**Type:** OTHER ORDER

So Ordered

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Celene Gogerty, District Judge  
Fifth Judicial District of Iowa

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