

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INQUIRY INTO BILL PAYMENT AGREEMENTS FOR ELECTRIC AND NATURAL GAS SERVICE	DOCKET NO. NOI-2014-0003
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**ORDER ADDRESSING RESPONSES TO PAYMENT AGREEMENT INQUIRY AND  
ESTABLISHING DATE FOR RESPONSES**

(Issued August 6, 2014)

**BACKGROUND**

On March 20, 2014, the Utilities Board (Board) opened an inquiry proceeding to collect information from electric and natural gas utilities concerning bill payment agreements entered into with residential customers from November 1, 2013, through May 1, 2014. In the March 20, 2014, order, the Board stated that the extreme weather that occurred during the past winter had placed a strain on the budgets of individual customers and utilities and on the resources of private and government programs designed to help customers with natural gas and electric heating bills. The Board opened the inquiry with two primary goals: (1) to serve as a reminder of the Board's rules regarding payment agreements for residential customers and (2) to collect data to provide a better understanding of the ability of the Board's rules to address some of the issues raised by extreme winter weather.

In the March 20, 2014, order, the Board directed the its Records and Information Center to send the order to all municipal, cooperative, and investor-owned electric and natural gas utilities in Iowa. All utilities were to file responses to the Board's inquiry with information about bill payment agreements entered into between November 1, 2013, and May 1, 2014. The responses were due June 1, 2014.

Board staff prepared a sample form that was provided to some of the utilities so that responses would be somewhat uniform for those utilities that do not routinely collect this type of information. The Iowa Association of Municipal Utilities and the Iowa Association of Electric Cooperatives provided assistance in contacting the members of their respective organizations and explaining the type of information the Board requested. The Board has received information from all of the municipal, cooperative, and investor-owned utilities.

### **SUMMARY OF RESPONSES REGARDING PAYMENT AGREEMENTS**

The Board has reviewed the responses filed by the utilities and has prepared an analysis of those responses that addresses the issues presented under the provisions of the Board's payment agreement rules. The analysis is organized by the provisions of the payment agreement rules.

**1. A residential customer who cannot pay a bill for natural gas or electric service and who is not in default of a payment agreement with the utility shall be offered an opportunity to enter into a reasonable payment agreement.**

This is the primary requirement under the Board's payment agreement rules. Some utilities indicated that they did not offer payment agreements to customers but worked with customers if the customer was unable to pay for electric or natural gas service. Working with customers who cannot pay for utility service is encouraged by the Board and Board staff when discussing these issues with utilities; however, regardless of any other activity engaged in by a utility, the utility is required to offer a customer who is unable to pay for electric or natural gas service a payment agreement that complies with the Board's rules. Board rules provide a structure that balances the need for the customer to pay the bill and the customer's ability to pay at a specific point in time. Following the rules should prevent most complaints if the customer is unable to pay under an arrangement that is consistent with Board rules. The rule does not prevent the utility from working with the customer and offering more favorable terms for payment, however, the rules provide a minimum standard agreement that the utility must offer the customer.

**2. The residential customer's current household income, ability to pay, payment history, the size of the bill, the length of time the bill has been outstanding, and any special circumstances creating extreme hardship within the household, are to be considered in determining a reasonable agreement.**

This provision provides that a utility will work with the customer to arrange for payments that the customer is able to make based upon the customer's financial situation. Under this provision, the utility may offer the customer a payment arrangement with more favorable terms than the minimum standards established by

Board rules. The utility is required to at least offer the minimum established by the rules.

**3. Terms of payment agreements.**

**(1) If a residential customer has received a disconnection notice or has been disconnected from service for 120 days or less and the customer is not in default of a payment agreement, the utility is required to offer the customer a minimum of a 12-month payment agreement. If a customer has been disconnected from service for more than 120 days, the utility is required to offer the customer a payment agreement of a minimum of six months. The payment agreement shall also require the payment of the current bill or the utility may require the customer to enter into a level payment plan to pay the current bills.**

This provision of the Board's payment agreement rules establishes the minimum requirements for a payment agreement for a customer. For a customer who has received a disconnection notice or who has been disconnected for less than 120 days, the utility is required to offer the customer a minimum payment agreement of 12 months. The utility may offer the customer more favorable terms, such as a longer period to repay the debt; however, the 12-month standard is the minimum length of a payment agreement under those circumstances. The rules require that the customer pay for current usage in addition to making the monthly payment required by the payment agreement.

Responses to the Board's inquiry showed that some utilities did not offer this minimum payment agreement or allowed the customer to enter into a payment agreement for a shorter period. Regardless of the customer's willingness to pay off a debt sooner, the utility is required to set up a 12-month agreement. The customer can always pay the debt off sooner; however, the 12-month agreement provides protection for both the customer and the utility in case the customer cannot meet the terms of a payment agreement with a shorter payment period. A customer should not be disconnected for failure to make payments on a shorter period where the payments made would have met the payment requirements of the 12-month payment agreement.

When considering a complaint that involves a payment agreement, The Board will consider the facts of each situation on a case-by-case basis; however, the Board's first consideration is whether the utility offered the customer the minimum payment agreement required by Board rules and whether the payments made by the customer either complied with or would have complied with that 12-month agreement. Where the customer made two consecutive payments that either complied with a 12-month payment agreement or would have complied with a 12-month payment agreement, then the customer is entitled to a second payment agreement.

**(2) If the customer defaults on the first payment agreement, the utility is required to offer the customer a second payment agreement of at least the same length or longer as the first payment agreement as long as the customer**

**has made two full consecutive payments under the first payment agreement. The customer will be required to pay for current service as part of the second payment agreement and the utility may require the customer to make the first payment under the second payment agreement up front as a condition of entering into the second payment agreement.**

Where the customer has defaulted on a first payment agreement, but has made two full consecutive payments under a 12-month or longer payment agreement, the customer is eligible for a second payment agreement. The second agreement is required to be for the same term as the first payment agreement and the customer is required to pay for current usage as part of the second payment agreement. In addition, the utility may require the first payment up front as part of the second payment agreement.

As with the first payment agreement, a utility may offer the customer more favorable terms than those established as the minimum requirement by Board rules. Where the customer defaults on the second payment agreement, Board rules do not require the utility to offer the customer additional payment agreements. In those circumstances, a utility may offer any additional payment agreements under whatever the terms the utility and customer can negotiate.

When a customer has made payments pursuant to a first payment agreement, or a first and second payment agreement, that have paid off the beginning balance of the debt, the Board considers the debt to have been paid and the customer is usually eligible for another first payment agreement if additional debt is accrued. Since each

fact situation is unique, the Board considers each customer's payment history when determining whether the customer is eligible for a new first payment agreement. The Board understands that some customers do not make the required payments under payment agreements and the Board understands that those customers will be disconnected. Where the Board's minimum standards for payment agreements have been followed, the Board recognizes the utility's obligation to its other customers to disconnect those customers who do not pay their bills.

### **LEVEL PAYMENT PLAN RULES**

In reviewing the responses to the Board's inquiry regarding payment agreements, the Board discovered that some utilities are not following the Board's rules with regard to procedures established for level payment plans (also known as budget billing), especially those rules that establish standards for recomputation of the level payment amount to be paid by the customer. The Board's level payment plan rules are set out below and the Board then addresses how the rules are to be implemented.

**199 IAC 19.4(11)"e" (Electric: 20.4(12)"e") Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month (Electric: 3,000 kWh per month). A level payment plan should be designed to limit volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:**

**(1) Be offered to each eligible customer when the customer initially requests service.**

**(2) Allow for entry into the level payment plan anytime during the calendar year.**

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)"e"(4) (Electric: 20.14(12)"e"(4)). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by a customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency of the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the



**account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.**

A level payment plan is a method that allows customers to pay a flat amount each month that may be greater or lesser than the amount owed for actual usage in any particular month. This allows the customer to budget for the cost of utility service each month. The level payment plan is designed to cover the costs of utility service over a 12-month period rather than the payment for actual usage each month. The Board's level payment plan rules require a utility to offer a level payment plan to all new customers and to any eligible customer throughout the year. As stated earlier, the Board's payment agreement rules allow a utility to require a customer to enter into a level payment plan as part of a payment agreement.

The rules allow a utility to calculate the monthly payment amount based upon historical as well as projected usage levels. Once the payment amount is set, the utility is required to recompute the monthly payment amount annually, but a utility may recompute the monthly payment amount monthly or quarterly, or when the estimated usage differs by more than 10 percent from the monthly payment amount being charged. The method used to calculate the monthly payment amount is required to be described in the utility's tariff and a customer is to be notified at least one billing cycle in advance of a change in the monthly payment amount, unless the utility recomputes the monthly payment amount on a monthly basis.

Whenever the utility recomputes the monthly payment amount, regardless of whether that recalculation is annually, monthly, quarterly, or when the estimated amount differs by more than 10 percent from the amount being charged, any balance

owing by the customer is to be spread over the subsequent 12-month period. The amount owed does not become due and payable upon recomputation. The Board has discussed this issue with customers and utilities where the utility has demanded payment of any under-billing when the utility recomputes the monthly payment amount for the subsequent 12-month period. The level payment plan is designed to provide for the recovery of the actual amount of electric or natural gas service over a 12-month period, such that during periods of higher usage the customer will pay less than actual usage and during periods of lower usage the customer will pay more than actual usage. The intent is that over time the level payments equal the amount the customer owes for actual usage over the 12-month period. Level payment plans can be especially helpful for customers who are entering into payment agreements since the customer will know the exact amount that is owed and that amount will not fluctuate significantly during the period of the payment agreement.

### **FALL MEETINGS**

Each Fall, members of the Board's Customer Service section schedule meetings with utilities and Community Action Agencies to discuss the Board's customer protection rules and any specific questions raised by those attending the meetings. The Board will be scheduling these meetings again during the month of September and the primary discussion will be about the payment agreement rules and the issues that the responses from the utilities have highlighted.

Representatives from each utility are encouraged to attend one of these Fall meetings. If a utility is unable to send a representative to one of the scheduled

meetings, the utility should contact the Board's Customer Service section to discuss any issues or questions the utility has concerning the Board's payment agreement rules, or any other Board rules. In addition, the Board will keep this inquiry docket open for 60 days to allow utilities to file responses to this order.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Docket No. NOI-2014-0003 will be held open for 60 days after the date this order is issued.
2. Responses to this order shall be filed within 45 days of the date of this order.

### **UTILITIES BOARD**

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad  
Executive Secretary

/s/ Sheila K. Tipton

Dated at Des Moines, Iowa, this 6<sup>th</sup> day of August 2014.