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**IOWA UTILITIES BOARD**  
**Energy Section**

Docket No.: NOI-2014-0003  
Utility: INQUIRY INTO BILL  
PAYMENT AGREEMENTS  
FOR ELECTRIC AND  
NATURAL GAS SERVICE

File Date/Due Date: March 20, 2014/N/A  
Memo Date: July 29, 2014

**TO:** THE BOARD

**FROM:** Jane Whetstone, Cecil Wright

**SUBJECT:** Summary of Responses to Board Order and Recommendation

**I. Background**

On March 20, 2014, the Utilities Board (Board) issued an order that opened an inquiry to collect information from electric and natural gas utilities concerning bill payment agreements entered into with residential customers during and after the most recent Winter Moratorium period, specifically 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 Records and Information Center to send the order to all municipal, cooperative, and investor-owned electric and natural gas utilities. 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.

The Board has received responses from all municipal, cooperative, and investor-owned utilities as requested. The Iowa Association of Municipal Utilities and the Iowa Association of Electric Cooperatives have provided assistance in contacting the members of their respective organizations and explaining the type of information the Board requested.

Staff prepared a sample form so that responses would be somewhat uniform for those utilities that do not routinely collect this type of information. The form is set out below. Staff has also summarized the information provided by the utilities on a spread sheet by category of whether the utility is a municipal, cooperative, or investor-owned utility. This spread sheet is available for Board review but, because of its size, has not been included in this memorandum.

The form requesting information from the utilities is as follows:

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1. Attach sample copy of the utility payment agreement and a sample copy of a customer monthly utility bill for a customer with a payment agreement.
2. Fill in the information on the table below.

	<b>Amount Owed</b>	<b>Length of Agreement</b>	<b>Number of Payments Received</b>	<b>Amount of debt remaining from the original Payment Agreement as of May 1, 2014</b>	<b>LIHEAP Qualified</b>	<b>LIHEAP Payment Received</b>
<b>Customer 1</b>						
<b>Customer 2</b>						

3. Number of customers who were refused payment agreements between November 1, 2013, and May1, 2014.
4. Provide the reason why the utility refused to enter into a payment agreement for each customer refused an agreement.
5. Provide an explanation if utility policy/procedures on payment agreements are different than Board rules at 199 IAC 19.4(10) and 20.4(11).

If the utility does not maintain the information requested, provide what information the utility does maintain that may be relevant to each question.

## **II. Board Bill Payment Agreement Rules**

The Board rules applicable to bill payment agreements can be summarized as follows:

### **Natural Gas Service 199 IAC 19.4(10) and Electric Service 199 IAC 20.4(11)**

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

## **III. Summary of Information**

### **A. Payment Agreements**

Staff has reviewed the responses filed by the utilities and has prepared an analysis of those responses below. The analysis addresses the issues raised by the responses under the provisions of the Board's payment agreement rules. In addition, the responses indicated a lack of understanding by some utilities of the level payment rules that are sometimes used as part of a payment agreement and staff has provided an analysis of those rule requirements.

Staff 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, staff believes that a 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. The 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 disputes if the customer is unable to pay under some arrangement consistent with Board rules. The rule does not prevent the utility from working with the customer and offering more favorable terms for repayment, 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.**

As discussed in the provision above, 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 other than the minimum 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. The customer is required to 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. It is staff's opinion that 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 the shorter 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, Board staff will consider the facts of each situation on a case-by-case basis; however, staff'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 pursuant to subparagraph (2) below.

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

## **B. Level Payment Plan Rules**

In reviewing the responses to the Board's March 20, 2014, order regarding payment agreements staff discovered that some utilities are not following the Board's rules with regard to procedures established for level payment plans, especially those rules that establish standards for re-computation of the level payment amount to be paid by the customer. Staff has set out the level payment plan rules below and then provided an analysis of how staff believes the provisions of the rules are to be implemented.

**1. 199 IAC 19.4(11)"e" (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 (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). 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 delinquency.**

A level payment plan, or budget billing, is a method that allows customers to pay a flat amount that may be greater or lesser than the amount owed for actual usage. This allows the customer to budget for the cost of utility service each month and a level payment plan is designed to cover the costs of utility service over a 12-month period rather than pay 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 any eligible customer throughout the year. 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 re-compute the monthly payment amount annually, but 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, or quarterly, 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. Board staff has had conversations 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. Board rules require, and 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 where during periods of higher usage the customer pays less than actual usage and during periods of lower usage the customer pays more than actual usage. The intent is that over time the level payments equal the amount the customer owes for actual usage. 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.

#### **IV. 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.



**V. Recommendation**

Direct General Counsel to prepare for Board review an order that addresses the issues regarding the payment agreement rules and the level payment plan rules as discussed in this memorandum. The order should also include the information about the Fall meetings with the Board's Customer Service section staff. Staff is working on having the schedule of meetings available to attach to the order.

**RECOMMENDATION APPROVED**

/cw

**IOWA UTILITIES BOARD**

<u>/s/ Elizabeth S. Jacobs</u>	<u>7-30-14</u>
	Date

<u>/s/ Nick Wagner</u>	<u>8/4/14</u>
	Date

<u>/s/ Sheila K. Tipton</u>	<u>7/30/2014</u>
	Date