

October 16, 2014

IOWA UTILITIES BOARD

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE: INQUIRY INTO BILL PAYMENT
AGREEMENTS FOR ELECTRIC AND
NATURAL GAS SERVICE

DOCKET NO. NOI-2014-0003

RESPONSE OF THE OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate, a division of the Iowa Department of Justice (hereinafter OCA), submits this Response to the Request for Clarification submitted by the Iowa Association of Municipal Utilities (“IAMU”) on October 8, 2014, and does hereby state:

1. IAMU filed a pleading entitled Request for Clarification in NOI-2014-0003, a proceeding initiated by the Board to collect information from electric and gas utilities concerning bill payment agreements entered into with residential customers during and after the 2013-2014 winter moratorium. IAMU acknowledges Board jurisdiction over “disconnection” pursuant to Iowa Code § 476.1B (2014) which provides, in relevant part, as follows:

1. Unless otherwise specifically provided by statute, a municipally owned utility furnishing gas or electricity is not subject to regulation by the board under this chapter, except for regulatory action pertaining to:

* * *

e. Disconnection of service, as set forth in section 476.20.

* * *

IAMU asserts the Board’s rules regarding level payment plans in connection with bill payment agreements do not fit within the Board’s jurisdiction over “disconnection of service”. OCA disagrees because the Board’s rules regarding level payment plans are related to disconnection.

2. The Board’s authority over disconnections for *all* gas and electric utilities is made explicit in Iowa Code § 476.20(3)(a):

The board shall establish rules which shall be uniform with respect to *all public utilities furnishing gas or electricity* relating to disconnection of service. *This subsection applies both to regulated utilities and to municipally owned utilities* and unincorporated villages which own their own distribution systems, and violations of this subsection subject the utilities to civil penalties under section 476.51. (italics added)

4. In FCU-2013-0008 the Board considered the extent of this authority over disconnections by municipal utilities and rejected IAMU's contention that disconnection should be interpreted narrowly. In that order the Board concluded that its authority over municipal disconnections necessarily extends to authority over related matters:

In addition, IAMU's interpretation of the specific reference to "disconnection" in Iowa Code § 476.1B(1)(e) is too restrictive and does not take into account the *relationship between deposits and disconnections*. Disconnection of a customer for not paying a deposit is subject to Board jurisdiction the same as a disconnection for not paying any other debt owed to a municipal utility for electric or natural gas service. If the Board establishes rules that are to apply to all disconnections of electric and natural gas service by a public utility, including a municipal utility, then rules regarding deposits and disconnection for not paying a deposit would come within the Board's jurisdiction. It is not a reasonable interpretation of the statute that the Board would be able to limit disconnection of service by a municipal utility that has charged a deposit that exceeds the limits in Iowa Code § 476.20(5), but cannot limit the amount of the deposit initially. (italics added)

5. Like deposits, level payment plans are related to disconnection and fit within the Board's statutory authority over disconnections by municipal utilities. Level payment plans relate to disconnection because the Board requires level payment plans as a way to help customers avoid disconnection by staying current with their bills. Rules 19.4(11)(e) and 20.4(12)(e) both announce this intention by stating that "[a] level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances." Thus level payment plans serve a similar function to the Board's notice of disconnection

requirements found in Rules 19.4(15) 20.4(15)—they prevent unnecessary disconnections by helping customers stay current on bills.

6. Accordingly, the Board has established uniform rules that apply to all public utilities furnishing gas or electricity relating to disconnection of service. Level payment plans are an instrumental part of those disconnection rules.

WHEREFORE, OCA respectfully requests that the Board state in response to IAMU's Request for Clarification that the Board does have jurisdiction over municipal utilities with respect to level payment plans because 1) the Board's jurisdiction over municipal utilities regarding disconnection of service extends to matters related to disconnection, and 2) level payment plans are related to disconnection.

Respectfully submitted,

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