

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:	
INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. RPU-2019-0001 (TF-2019-0017, TF-2019-0018)

**ORDER GRANTING INTERVENTIONS, GRANTING REQUESTS FOR
ADMISSION PRO HAC VICE, ADDRESSING COMPLAINT,
DENYING MOTION TO REDUCE INTERIM RATES,
PROVIDING NOTICE OF HEARING, AND
ESTABLISHING PROCEDURAL SCHEDULE**

(Issued April 11, 2019)

BACKGROUND

On March 1, 2019, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) an application for revision of its electric rates. IPL's application has been identified as Docket No. RPU-2019-0001. Along with the application, IPL also filed proposed tariffs, identified as Docket Nos. TF-2019-0017 and TF-2019-0018, setting forth interim rates and its proposed final rates, respectively, pursuant to Iowa Code chapter 476 and 199 IAC chapter 26.

On March 8, 2019, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a motion to reduce interim rates. The Iowa Business Energy Coalition (IBEC) and Large Energy Group (LEG) joined in OCA's motion.

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On March 26, 2019, the Board issued an order that approved IPL's corporate undertaking; docketed and suspended TF-2019-0018; granted petitions to intervene filed by ITC Midwest, LLC (ITC Midwest), IBEC, and LEG; denied IPL's request to consolidate the electric rate case proceeding with IPL's application for revision of its natural gas rates, identified as Docket No. RPU-2019-0002; set April 1, 2019, as the date for a scheduling conference for Docket Nos. RPU-2019-0001 and RPU-2019-0002 and an oral argument regarding OCA's motion to reduce interim rates; and required IPL to file additional information to assist the Board in reviewing IPL's application.

IPL, OCA, ITC Midwest, IBEC, LEG, MidAmerican Energy Company (MidAmerican), Archer Daniels Midland Company (ADM), the Environmental Law & Policy Center (ELPC) and Iowa Environmental Council (IEC), (collectively, the Environmental Intervenors), and a representative of AARP of Iowa appeared at the scheduling conference. IPL, OCA, IBEC, LEG, and AARP of Iowa presented arguments regarding OCA's motion to reduce interim rates at the oral argument that followed the scheduling conference.

PETITIONS TO INTERVENE

On March 27, 2019, Sierra Club filed a petition to intervene in Docket No. RPU-2019-0001. Sierra Club states that many of its 7,000 members in Iowa are IPL ratepayers with an interest in cost-effective and environmentally sound generation of reliable power. Sierra Club explains its members are interested in many aspects of

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IPL's application, including rate design, grid modernization, access to clean energy, and costs associated with IPL's generating assets and transmission system. Sierra Club asserts that no other party can represent its unique interests in this proceeding. Sierra Club intends to conduct discovery and may submit testimony and participate in the proceeding.

On March 28, 2019, MidAmerican filed a petition to intervene. MidAmerican states that as the only other rate-regulated electric public utility in Iowa, it seeks to intervene to monitor this proceeding, which is the first general rate case in Iowa based on future test year estimates. MidAmerican also identifies a particular interest in renewable energy. MidAmerican also asserts that as an electric transmission owner in Iowa, it may be affected by decisions in this case relating to the transmission system. MidAmerican asserts that its interests are unique and plans to monitor the proceeding and may file testimony, participate in the hearing, and file briefs.

Also on March 28, 2019, ADM filed a petition to intervene and a complaint regarding IPL's rates for Standby Power Service. ADM says it is a publicly held international agribusiness that receives Standby and Supplementary Power Service from IPL. ADM asserts it has a substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party. ADM plans to actively participate in the proceeding, in particular regarding issues relating to IPL's rates for Standby Power Service.

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On March 29, 2019, the Environmental Intervenors filed a petition for intervention. ELPC is a nonprofit corporation organized under Illinois law that promotes and advocates for policies that encourage energy efficiency and renewable energy in the Midwest. ELPC has members who reside in Iowa and has an office in Des Moines, Iowa. IEC is a nonprofit corporation organized under Iowa law that focuses on environmental and sustainability issues, including policies that support development of clean energy. Collectively, the Environmental Intervenors say they have a substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party. The Environmental Intervenors intend to monitor the proceedings and may file testimony and participate in hearings to fully develop the record in this proceeding.

To date, no objections to any petition to intervene have been filed. The Board finds that Sierra Club, MidAmerican, ADM, and the Environmental Intervenors have alleged sufficient interests and will grant each petition pursuant to the Board's rule at 199 IAC 7.13.

ADMISSIONS PRO HAC VICE

On March 28, 2019, Mr. Eric Callisto filed a request to appear pro hac vice as counsel on behalf of IPL in this proceeding. Mr. Callisto explained he is licensed to practice law in the state of Wisconsin, the state of New York, the United States District Court for the Western District of Wisconsin, the United States District Court for the Eastern District of Wisconsin, the United States Court of Appeals for the

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Seventh Circuit, and the United States Court of Appeals for the District of Columbia Circuit. Mr. Callisto states he is an attorney with the law firm of Michael Best & Friedrich LLP, where he supports Alliant Energy Company and its subsidiaries, including IPL.

Mr. Callisto states he is familiar with the rules of professional conduct, the disciplinary procedures of the state of Iowa, the standards of professional conduct, and Board procedures. Mr. Callisto states that Michael Greiveldinger, a member in good standing of the Iowa bar, sponsors his admission request. Mr. Callisto asserts he has complied with Iowa Court Rule 31.14(11) by registering with the Office of Professional Regulation and paying the required fee.

The motion complies with 199 IAC 7.4(8)(a). Mr. Greiveldinger is an in-state attorney as defined in Iowa Court Rule 31.14(1)(c) upon whom service may be made in all matters connected with this case. The Board will grant Mr. Callisto's request for admission pro hac vice.

On March 28, 2019, attorneys Daniel E. Frank and Allison E. Speaker each filed a request to appear pro hac vice as counsel on behalf of ADM in this proceeding. Mr. Frank explains he is currently licensed to practice law in Washington, D.C., and the Commonwealth of Virginia and is a member in good standing of the Washington, D.C., and Virginia bars. Mr. Frank is an attorney with the law firm of Eversheds Sutherland (US) LLP in Washington, D.C.

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Mr. Frank states that he is familiar with the Iowa rules of professional conduct, the disciplinary procedures, the applicable local rules and the procedures of the Iowa courts and Board. Mr. Frank states further that Jacob Bylund and Christopher Kreuder, members in good of the Iowa bar, sponsor and move for his admission. Mr. Frank says he has complied with Iowa Court Rule 31.14(11) by registering with the Office of Professional Regulation and paying the required fee.

Ms. Speaker says she is currently licensed to practice law in the Commonwealth of Virginia and Washington, D.C., and is a member in good standing of the Virginia and Washington, D.C., bars. Ms. Speaker is an attorney with the law firm of Eversheds Sutherland (US) LLP in Washington, D.C.

Ms. Speaker states that she is familiar with the Iowa rules of professional conduct, the disciplinary procedures, the applicable local rules and the procedures of the Iowa courts and Board. Ms. Speaker also states that Jacob Bylund and Christopher Kreuder, members in good standing of the Iowa bar, sponsor and move for her admission. Ms. Speaker says she has complied with Iowa Court Rule 31.14(11) by registering with the Office of Professional Regulation and paying the required fee.

Both requests comply with 199 IAC 7.4(8)(a). Mr. Bylund and Mr. Kreuder are in-state attorneys as defined in Iowa Court Rule 31.14(1)(c) upon whom service may be made in all matters connection with this case. The Board will grant the requests for admission pro hac vice filed by Mr. Frank and Ms. Speaker.

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ADM'S COMPLAINT

ADM's March 28, 2019 complaint relates to IPL's current Standby Power Service rates. ADM asks the Board to consolidate the complaint with IPL's electric rate case.

On April 5, 2019, IPL filed a motion to dismiss and answer to ADM's complaint.

The Board will not consolidate the complaint with Docket No. RPU-2019-0001 at this time. Instead, the complaint will be processed according to chapter 6 of the Board's rules. See 199 IAC 6.3-6.7. The complaint has been identified as Docket No. C-2019-0037.

The Board approved IPL's compliance tariff for Standby Power Service rates subject to complaint or investigation. See *Interstate Power and Light Company*, Docket Nos. RPU-2017-0001, TF-2017-0034, "Order Approving Compliance Filing and Requiring Filing," issued April 26, 2018. Because ADM's complaint will be processed as an informal complaint, IPL's motion to dismiss and answer are not properly filed in this docket and the motion to dismiss will be denied. IPL will have an opportunity to respond to ADM's complaint in File No. C-2019-0037.

The issues ADM raises about IPL's proposed final rates for Standby Power Service will be addressed in the rate case proceeding, Docket No. RPU-2019-0001.

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MOTION TO REDUCE INTERIM RATES

OCA argues that IPL's use of a 10 percent return on equity (ROE) to calculate its interim rates is inappropriate when IPL's current tariffs incorporate a 9.6 percent ROE and its proposed final rates only seek a 9.8 percent ROE. OCA asserts this return is improper and not reasonable or just. OCA argues the Board has broad and overarching authority under Iowa Code §§ 476.2(1) and 476.3(1) to protect consumers and to ensure that rates are reasonable. OCA argues that IPL's use of the ROE from Docket No. RPU-2010-0001, a decision that is over eight years old, does not result in reasonable rates given that ROEs have been decreasing in recent years nationwide. OCA asks the Board to require IPL to recompute the interim rates based on a 9.6 percent ROE.

IBEC raises issues about IPL's treatment of production tax credits associated with new wind generation assets included in IPL's interim rate base and IPL's treatment of the Accumulated Depreciation Reserve and Plant-In-Service balance used to calculate interim rates.

LEG's position, as stated at the oral argument, is that the Board should determine the appropriate ROE for interim rates by considering financial market data and adjusting the ROE approved by the Board in IPL's most recent rate case upward or downward as necessary to reflect current conditions.

IPL argues OCA's motion is premature because Iowa Code § 476.6(9) allows the Board to consider ordering refunds of interim rates at the conclusion of the

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proceeding. IPL contends the ROE incorporated into interim rates is based on regulatory principles established by the Board in IPL's last fully litigated electric rate case, Docket No. RPU-2010-0001. IPL argued that the Board should not require a reduction in interim rates at this time based on IBEC's assertions, which are not fully developed or supported by testimony. IPL disputed LEG's reliance on a statutory provision that has been repealed.

The Board has considered OCA's motion to reduce interim rates, the parties' responses and subsequent filings, and the arguments presented on April 1, 2019. The Board concludes that because Iowa Code § 476.6(9)(a) provides that a utility may place temporary rates in effect without Board review, and further specifically directs the Board to consider ordering refunds at the conclusion of the proceeding, the Board cannot at this time grant the relief OCA, IBEC and LEG have requested. That said, there is no restriction on the Board's ability to investigate all aspects of IPL's interim rates in this proceeding.

Iowa Code § 476.6(9)(a) authorizes the Board to require refunds in two situations: (1) where amounts the utility collects in temporary rates exceed amounts which would have been collected under final rates approved by the Board and (2) where the Board determines that the temporary rates were not based on previously established regulatory principles. The Board expects that the record developed in this proceeding will allow the Board to determine at the conclusion of the proceeding whether to require refunds under these provisions. The Board's findings regarding

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refunds under the two options are independent. The refund of interim rates which were not based on previously established regulatory principles is not predicated on the Board's finding regarding final rates. The Board held in a previous case that temporary rates which were not based upon previously established regulatory principles are subject to refund regardless of whether final rates approved by the Board are higher or lower than the temporary rates. *Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy*, Docket No. RPU-2010-0002, "Order Addressing Application for Clarification," issued May 6, 2011, at 7. IPL agreed with this interpretation of the statute at the oral argument.

A comparison of interim rates with the final rates approved at the conclusion of this proceeding should indicate whether a refund is necessary under the first provision.

To develop the record on the second provision, i.e., the issue of whether IPL's interim rates were based on previously established regulatory principles, the parties shall address the following issues relating to IPL's interim rates in their direct or reply testimony:

1. Was IPL's use of a historic test year for interim rates and a future test year for proposed final rates consistent with Iowa Code § 476.33(4)?
2. Which previously established regulatory principles apply to interim rates since the enactment of statutory provisions that allow a utility to use either a historic test year or future test year?
3. Did the enactment of statutory provisions allowing the use of a future test year negate regulatory principles established by the Board in decisions predating those provisions?

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4. Was IPL's calculation of interim rates erroneous as alleged by IBEC?
5. Were IPL's interim rates supported by previously established regulatory principles? Testimony should identify the source of any principle cited as applicable to IPL's interim rates.
6. Has the Board established a regulatory principle that a utility choosing to implement temporary rates must use the ROE embedded in the tariffs most recently approved by the Board before temporary rates were implemented?

This list is not intended to be exclusive. Parties may address other issues relating to IPL's interim rates that will assist the Board in developing a record on which to base its final decision.

PROCEDURAL SCHEDULE

At the scheduling conference held on April 1, 2019, the parties agreed to hearing dates of October 7-9, 2019, and deadlines for testimony and other required filings included in the schedule attached to this order. The parties also agreed to the Board's request that they include in their Joint Statement of Issues a list of any witnesses that will address issues that are common to both the electric and gas rate cases.

At OCA's request, the Board will set an expedited discovery schedule pursuant to Board subrule 7.15(2) for data requests from OCA or Intervenors following IPL's reply testimony due August 30, 2019. Responses to these requests will be due within five days. Should any disputes regarding discovery arise, the parties shall comply with the Board's rules at 199 IAC 7.15(4)-(5).

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The Board has set an intervention deadline for 20 days after the date of this order. Any parties granted intervention after the date of this order will be required to abide by the procedural schedule as set forth in the attached order.

If the parties to this proceeding reach a settlement that resolves any of the contested issues, the settlement must comply with the provisions of Board rule 7.18. If a proposed settlement is not filed on or before September 20, 2019, the Board will conduct the hearing as scheduled, unless the Board orders otherwise. If a unanimous settlement is reached among the parties, the Board is required to consider whether the “settlement is reasonable in light of the whole record, consistent with law, and in the public interest.” 199 IAC 7.18. In addition, subrule 7.18(1) requires that a motion for the Board to approve a settlement contain a statement adequate to advise the Board of the scope of the settlement and the grounds on which adoption is requested. Non-unanimous settlements must follow the procedures described in subrules 7.18(2)-(5). Also, each party to a partial settlement shall file a statement summarizing its position on, and proposed resolution of, each issue that remains in dispute. To ensure that the Board has the necessary evidence in the record in this docket to fulfill the requirements of rule 7.18, the parties to any unanimous settlement in this docket shall either cite to those portions of the record that support the terms of the settlement or provide the Board with additional evidence to support the terms of the settlement. The Board understands that negotiations between the parties are confidential and not admissible pursuant to Board rule and

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Iowa R. Evidence 5.408; however, this does not preclude the Board from requesting additional information about the terms of a settlement. Based upon a review of the terms of a settlement, the record, and any additional information requested by the Board, a settlement may be approved as filed, or rejected, or the Board may approve the settlement with modifications that will then need to be considered by the parties.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The petition to intervene filed by Sierra Club on March 27, 2019, is granted.
2. The petition to intervene filed by MidAmerican Energy Company on March 28, 2019, is granted.
3. The petition to intervene filed by Archer Daniels Midland Company on March 28, 2019, is granted.
4. The petition to intervene filed by the Environmental Law & Policy Center and the Iowa Environmental Council on March 29, 2019, is granted.
5. The requests for permission to appear pro hac vice filed by Eric Callisto, Daniel E. Frank, and Allison E. Speaker on March 28, 2019, are granted.
6. The complaint filed by Archer Daniels Midland Company on March 28, 2019, identified as Docket No. C-2019-0037, will be processed according to chapter 6 of the Utilities Board's rules.

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7. Interstate Power and Light Company's motion to dismiss the complaint of Archer Daniels Midland is denied.

8. The motion to reduce interim rates filed by the Office of Consumer Advocate, a division of the Iowa Department of Justice, is denied as premature pursuant to Iowa Code § 476.6(9)(a). Issues regarding the interim rates implemented by Interstate Power and Light Company on April 1, 2019, should be addressed in the testimony of the parties and will be decided by the Board as part of its final order at the conclusion of the proceeding.

9. The procedural schedule established for Docket No. RPU-2019-0001 is attached to this order.

10. Any settlements that resolve any of the contested issues in this proceeding must be filed on or before September 20, 2019, to allow the Utilities Board time to determine whether the hearing should be held as scheduled. If a proposed settlement is filed with the Utilities Board after September 20, 2019, the Utilities Board will consider the settlement, and any issues that are not subject to the settlement, at the hearing scheduled pursuant to this procedural schedule, unless ordered otherwise.

11. A public hearing for the presentation of evidence and the cross examination of witnesses shall commence at 9 a.m. on October 7, 2019, in the Board's Hearing Room at 1375 East Court Avenue, Des Moines, Iowa. The Board has reserved three days for the hearing. Each party shall provide a copy of its

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prefiled testimony and exhibits to the court reporter at hearing. The parties shall appear one half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities who will require assistive services or devices to observe or participate in this hearing shall contact the Utilities Board Customer Service at (515) 721-7300 at least ten business days in advance of the hearing to request appropriate arrangements.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Kelsie Vanderflute

/s/ Richard W. Lozier, Jr.

Dated at Des Moines, Iowa, this 11th day of April, 2019.

Interstate Power and Light Company (IPL)

Procedural Schedule - Docket No. RPU-2019-0001 (Electric)

Filing/Activity	Deadline
IPL's Application and Direct Testimony Filed	March 1, 2019
Customer Comment Meetings	April 11 – May 23, 2019
Petitions to Intervene	May 1, 2019
OCA & Intervenor Direct Testimony	August 1, 2019
OCA & Intervenor Rebuttal to Each Other	August 15, 2019
IPL Reply Testimony to OCA and Intervenors	August 30, 2019
OCA & Intervenor Rebuttal to IPL (expedited discovery deadlines apply)	September 10, 2019
Joint Statement of Issues (includes list of witnesses common to electric and gas rate cases)	September 16, 2019
Pre-Hearing Briefs	September 16, 2019
Notice of Settlement (includes list of settled issues)	September 20, 2019
HEARING	October 7 – 9
Simultaneous Initial Briefs	TBD at conclusion of hearing
Simultaneous Reply Briefs	TBD at conclusion of hearing