

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NOS. PSA-04-1 PSA-04-2
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**ORDER OVERRULING OBJECTION, TAKING OFFICIAL NOTICE, AND
ADDRESSING MOTION TO COMPROMISE**

(Issued December 15, 2004)

PROCEDURAL HISTORY

On August 12, 2004, the Utilities Board (Board) issued an order opening Docket No. PSA-04-1, In re: Interstate Power and Light Company, and directing Interstate Power and Light Company (IPL) to show cause why it should not be assessed civil penalties under the provisions of Iowa Code § 476.51 for violations of federal and Board gas safety regulations in IPL's Mason City zone. On September 10, 2004, the Board issued an order opening Docket No. PSA-04-2, In re: Interstate Power and Light Company, and directing IPL to show cause why it should not be subject to civil penalties for violations of federal and Board gas safety regulations in IPL's Creston zone. In the same order, the Board consolidated Docket Nos. PSA-04-1 and PSA-04-2 for hearing and established a procedural schedule for the filing of prepared testimony. The Board scheduled a hearing in the consolidated dockets for November 19, 2004.

In the show cause orders, the Board took official notice of the June 10, 2004, Board staff Mason City zone inspection report and July 13, 2004, addendum and marked them as Utilities Board Exhibits 1 and 2, respectively. The Board also took official notice of the August 17, 2004, Board staff inspection report for the Creston zone and marked it as Utilities Board Exhibit 3. In accordance with the procedural schedule, IPL has filed the direct testimony of Vern A. Gebhart, Edward C. Greiner, and James A. House. Attached as Schedules A and B to the direct testimony of Mr. House are the IPL responses dated July 28, 2004, to the Mason City inspection report, and September 23, 2004, to the Creston zone inspection report.

On October 21, 2004, Board staff filed a reply to the testimony and IPL's September 23, 2004, response concerning the Creston zone, and on October 25, 2004, Board staff filed a reply to the testimony and IPL's July 28, 2004, response concerning the Mason City zone. The two staff replies were mailed to IPL and a copy was sent to the Consumer Advocate Division of the Department of Justice (Consumer Advocate).

On October 28, 2004, IPL filed an objection to the replies filed by Board staff and requested the Board strike the replies from the evidentiary record in these consolidated proceedings. Also on October 28, 2004, IPL filed a motion to compromise the two show cause proceedings pursuant to Iowa Code § 476.51 and to take official notice of IPL's September 24, 2004, updated response to the Board staff inspection report of the Mason City zone.

On November 3, 2004, Consumer Advocate filed a response to the motion to compromise. On November 9, 2004, the Board issued an order canceling the

hearing scheduled for November 19, 2004, to allow for review of the motion to compromise. The Board will address the objection to the Board staff replies, the request for official notice, and the motion to compromise below.

OBJECTION TO REPLIES

IPL contends that the procedural schedule established by the Board for these consolidated proceedings did not provide for Board staff to file replies. IPL states if the Board staff inspectors intend to be active parties in this matter, they should abide by the same procedural schedule as IPL and Consumer Advocate and the replies should have been filed on or before October 8, 2004, and served on IPL's counsel.

IPL also contends that the Board staff replies address matters beyond both the temporal and geographic scopes of these consolidated dockets. IPL points out that the Board staff replies cite past incidents that were not addressed in Board Exhibits 1, 2, or 3. IPL points out that the Board staff replies also discuss matters that relate to IPL zones other than Mason City and Creston and, therefore, are not included in the issues to be addressed in these consolidated dockets.

Finally, IPL contends that the Board's orders issued August 12, 2004, and September 10, 2004, did not indicate that Board staff inspectors intended to be advocates in these consolidated dockets rather than acting as advisors to the Board. IPL states that in other proceedings, the Board has taken steps to ensure that those members of Board staff that will directly participate in developing the record will not advise the Board on substantive decisions, as required by Iowa Code § 17A.17(1). IPL asserts that the Board cannot take official notice of the replies since the replies are clearly in the nature of rebuttal testimony or opinion and not investigative reports

or facts. IPL states that if the Board denies the objections to the Board staff replies and decides to take official notice of them and include them in the evidentiary record, the Board should allow IPL two weeks to file responsive testimony.

When issuing the show cause orders, the Board understood that once it determined that the Board staff inspection reports and addendum, Board Exhibits 1, 2 and 3, would be the basis of show cause proceedings, it would have to segregate the Board staff inspectors who had prepared the reports from any Board staff that was designated to advise the Board in the two dockets. The Board anticipated that the two inspectors might be called as witnesses in the proceeding and thus could not advise the Board concerning any of the issues raised by the inspection reports. The Board has made the required segregation and Board staff inspectors John Bloome and Reed Helm have not and will not advise the Board on matters in these consolidated dockets.

The Board agrees with IPL that the procedural schedule established by the Board in these dockets did not include a date for the filing of replies by Board staff inspectors. The procedural schedule was established to allow IPL the opportunity to file testimony to address the violations found in the inspection reports for the Mason City and Creston zones and for Consumer Advocate or any intervenor to file testimony.

By establishing a procedural schedule, the Board did not intend to prevent the normal inspection process from continuing. If these consolidated dockets had not been established, IPL would have sent responses to the inspection reports to Board staff and Board staff would have replied to IPL. IPL would then have updated its

response and this process would have continued until the violations or other issues in the inspection reports were resolved.

Following the process described above, IPL prepared and sent to Board staff a response to the Mason City zone inspection report on July 28, 2004, and a response to the Creston zone inspection report on September 23, 2004. These responses are Schedules A and B to Exhibit JAH-1 prepared by IPL witness House. The Board, to ensure a complete record, would have taken official notice of these responses but they are attached to the testimony of IPL witness House and so will come into the record with his testimony.

The replies filed by Mr. Bloome and Mr. Helm continued the inspection process by replying to issues raised by IPL. Since IPL had also filed testimony concerning the inspection reports, the replies filed by Mr. Bloome and Mr. Reed addressed IPL's testimony as well as the responses to the inspection reports.

To ensure the record is complete in these consolidated proceedings, the Board will take official notice of the replies filed by Mr. Bloome and Mr. Helm. These replies were prepared and filed in the normal inspection process. The Board will give IPL two weeks from the date of this order to file rebuttal testimony or updated responses to the October 21 and October 25, 2004, Board staff replies.

The Board does not consider IPL's objection to the information in the Board staff replies related to other inspection reports to be well-founded. IPL witness House uses a comparison to other inspections to support his position that there was not a pattern of violations and to suggest that IPL is not being treated the same as MidAmerican Energy Company. In addition, IPL witness Gebhart makes reference to

Board staff inspections of the Spirit Lake, Ames, and Burlington zones in his testimony. Mr. Bloome and Mr. Helm are responding to those comments.

References to other IPL inspections are, therefore, responsive to the testimony of Mr. House and Mr. Gebhart.

The Board will overrule the "Objection To Responses" filed by IPL on October 28, 2004, and take official notice of the October 21 and October 25, 2004, responses filed by Board staff. The Board will allow IPL two weeks from the date of this order to file additional testimony or updated responses to the Board staff replies.

MOTION TO COMPROMISE AND REQUEST FOR OFFICIAL NOTICE

On October 28, 2004, IPL filed a motion to compromise these two show cause proceedings as provided in Iowa Code § 476.51. In the motion, IPL indicates that it has filed the prepared testimony of Vern Gebhart, Edward Greiner, and James House. IPL points out that although a date was set for the filing of prepared testimony by Consumer Advocate, no prepared testimony has been filed by that party.

IPL indicates that it has acknowledged in the testimony of James House that there is sufficient evidence that 9 of the 11 probable violations cited in the Board's August 12, 2004, order and 20 of the 20 probable violations cited in the September 10, 2004, order did occur. IPL then provides a general description of the 29 violations that it has acknowledged and submits that it is not necessary for the Board to conduct a hearing in order to determine the amount of civil penalties to be assessed if the total amount of such penalties does not exceed \$29,000 for both dockets. IPL indicates that the total penalty of \$29,000 equates to \$1,000 per

violation, as described in its motion. IPL also indicates that the Board did not set a date for compliance in its August 12 and September 10, 2004, orders and that IPL, where possible, has corrected all of the violations. (Some violations involve missed intervals for completing certain tasks; while the tasks have been completed, it is impossible to correct the missed interval.)

IPL does not agree there is sufficient evidence that there was a probable violation of 49 CFR § 192.469 for failing to take a sufficient number of readings to determine the adequacy of cathodic protection on 15 systems in the Belmond district. This is described in the Board's August 12, 2004, order in violation paragraph 4. IPL points out that Board staff cited a book by A.W. Peabody, Peabody's Control of Pipeline Corrosion, to support the cited violation. IPL states that the Peabody book is not incorporated by reference into the federal regulations and, therefore, should not be used as the basis for finding a violation.

IPL contends that there is not sufficient evidence to support the pattern violation described in violation paragraph 11 in the Board's August 12, 2004, order. IPL contends that the pattern violation is not a probable violation cited in the June 10, 2004, inspection report but is found in the July 13, 2004, addendum. IPL then insists that there is no continuing pattern of violations of the nature found by the Board in Docket No. PSA-01-1.

IPL contends that the violations found in Docket No. PSA-01-1 involved the failure of IPL to complete required maintenance and inspections. IPL asserts the earlier violations are different from the issues in this docket, that is, the failure to complete required maintenance and inspections within the intervals required by

Board and federal regulations. IPL asserts that the violations in Docket No. PSA-01-1 are far more serious than those cited in Docket No. PSA-04-1 and IPL's focus was on complying with the Board's order in Docket No. PSA-01-1 and not on compliance with the inspection interval requirements.

IPL points out that the inspection reports do not cite any violations related to emergency shut-off valves, response times to leak calls, maximum allowable operating pressure (MAOP), or failure to maintain proper records, which were the principal issues in the earlier docket. The violations in the current dockets relate mainly to missing required inspection intervals. IPL also refers to the testimony of Mr. House, which compares the number of violations found in Board staff inspection reports during the period 1999 through 2001 and the period 2002 through 2004. According to IPL, the comparison shows that it has significantly decreased the number of violations cited and IPL contends the comparison does not support the contention made in the July 13, 2004, addendum that IPL is backsliding to the problems addressed in Docket No. PSA-01-1.

Further, IPL asserts that there is no evidence that the probable violations cited in the August 12 and September 10, 2004, orders were willful. IPL states that its personnel did not knowingly or deliberately violate Board or federal safety regulations. IPL states that the violations were the result of human error and were remedied as quickly as possible.

IPL states that it is implementing a new Gas Inspection and Maintenance Management System (GIMMS) to assist in ensuring that inspection intervals are met in the future. GIMMS uses geographic information system (GIS) data and customer

information system data to develop schedules for appropriate inspection and maintenance cycles and any corrective action required by Board and federal safety regulations. IPL indicates that it has been implementing GIMMS over the last two years and five zones are currently using GIMMS. IPL expects to complete implementing GIMMS in all nine zones in 2005. IPL states that it is also implementing a backup system using new maintenance tracking spreadsheets.

IPL has made personnel and organizational changes to ensure future compliance. The gas operations manager in the Mason City and Belmond districts has been replaced and a local manager has been hired for the Creston zone. IPL has made a selective addition of managers and directors who are located geographically closer to their employees and IPL customers. IPL has increased management oversight with the introduction of regions and regional directors. Each regional director is responsible for the operational performance of the electric and gas business in their geographically defined area. These directors will be responsible for safety compliance in their regions.

IPL has also narrowed the responsibility of the Vice President-Customer Operations as part of the reorganization. The position is no longer responsible for operations related to Wisconsin, the West and East Distribution Dispatch Centers, or the customer operations supply chain. The position will retain responsibility for safety compliance in Iowa.

Another part of the reorganization is the creation of the Compliance and Operational Performance Group (COPG). This group consolidates electric metering, gas meter and regulations, line clearance, operation policies and procedures, gas

compliance and operator qualifications, line regulatory compliance, and compliance and operational performance under the direction and guidance of one manager. This centralizes many of the regulatory oversight and touch points into one group with one manager who reports directly to the Vice President-Customer Operations.

IPL believes these organizational changes will improve IPL's safety compliance. However, IPL suggests that there will be a learning curve and start-up costs before the changes will become fully effective. IPL expects that improvement should be apparent in future inspections.

IPL indicates that employee training continues to be a primary focus of the company-wide safety compliance training process instituted as the result of Docket No. PSA-01-1. Employees have attended numerous training sessions and executive and operational managers have attended several coaching sessions. IPL states that it is currently engaged in an extensive training program for the Mason City and Northwest zone managers. The same training will then be provided to the managers in the Creston zone. IPL will audit compliance to determine whether the training is effective and the COPG will conduct annual audits.

As part of the offer of compromise, IPL proposes to file certain information on a semi-annual basis through the end of 2006 to provide the Board with assurances that GIMMS, the new maintenance tracking spreadsheets, the staffing changes, and the organizational changes are effectively addressing the violations cited in these consolidated dockets. The information to be provided is as follows:

1. A description of the regulatory safety inspections that were done in the preceding six-month time period for each zone and district, with

information showing the timeliness of inspections. The filing will include an attestation that the identified inspections were the only ones known by IPL to be required within the time period. If a violation has occurred during the reporting period, IPL will explain how the violation occurred and what steps have been taken to avoid re-occurrence.

2. A description of the compliance inspections that will be accomplished during the next reporting period and the approximate dates those inspections are scheduled to be completed. The description will include whether the inspection is required and the required date for completion.

3. A description of any facilities and equipment reported by IPL personnel or others that are or were not in compliance with regulatory requirements and the repairs and upgrades that have been made or that are planned to meet current or forthcoming standards.

4. A description of any internal audits or other performance checks by higher level management during the prior reporting period, including a summary of the results of those audits and any responsive actions taken.

5. A description of any problems either zone managers or other IPL personnel have reported in meeting regulatory standards during the reporting period and any higher-level management's responses.

6. An attestation by appropriate management that the information is true and correct.

Finally, IPL requests that the Board take official notice of its September 24, 2004, update of its July 28, 2004, response to the June 10, 2004, inspection report

for the Mason City zone. The September 24, 2004, update is attached to the motion to compromise.

CONSUMER ADVOCATE'S RESPONSE TO MOTION TO COMPROMISE

On November 3, 2004, Consumer Advocate filed a response to IPL's motion to compromise. In the response, Consumer Advocate summarizes the motion and discusses the appropriateness of civil penalties. Consumer Advocate states that civil penalties are essential to provide a deterrent effect necessary for compliance and to protect the regulatory process. Consumer Advocate notes that IPL has acknowledged most of the cited violations, has taken prompt action to remedy the violations, and has made personnel changes where appropriate.

Consumer Advocate points out that IPL has submitted testimony demonstrating that IPL has made continuous efforts to devote more resources to gas safety compliance. Consumer Advocate states that violations continue to occur because of a failure to devote sufficient resources and attention to compliance and it is important to ask whether and in what respect IPL has been bringing more resources to bear on the effort.

Consumer Advocate then summarizes IPL's compliance efforts and concludes that IPL has made a reasonable showing that it has been focusing resources on compliance issues and has been working steadily within the last year to improve its performance. Consumer Advocate states that IPL appears to have addressed the cited violations in a generally satisfactory manner, however, Consumer Advocate believes that a monetary penalty is appropriate due to the number of violations.

Consumer Advocate supports the filing of periodic reports as proposed by IPL to increase awareness of compliance requirements by IPL personnel. The information will be needed on a regular basis and preparing the reports should enable IPL to improve its compliance efforts. Consumer Advocate believes that the reporting requirements and the monetary penalty agreed to by IPL constitute a reasonably satisfactory resolution of this matter.

BOARD DISCUSSION

The Board opened Docket Nos. PSA-04-1 and PSA-04-2 to provide IPL the opportunity to show cause why it should not be subject to civil penalties because of the number and nature of violations that were cited in the Board staff inspection reports for the Mason City zone and the Creston zone. The Board put IPL on notice in Docket No. PSA-01-1, under the provisions of Iowa Code § 476.51, that failure to maintain compliance with federal and Board gas pipeline safety regulations could result in civil penalty action.

In the show cause orders, the Board describes 11 violations in the Mason City zone and 20 violations in the Creston zone. Many of the cited violations were for multiple compliance failures of the same federal and Board safety standard. In addition, violation paragraph 11 in the August 12, 2004, order described a pattern violation where IPL management failed to properly supervise employees to ensure compliance standards were met. IPL has offered to compromise the action for civil penalty based upon acknowledgement of all but one of the specific violations described in the two show cause orders. IPL has not acknowledged one specific

violation and the pattern violation described in the August 12, 2004, order. The Board will address the specific violations and the pattern violation separately below.

A. Specific violations

IPL has offered to compromise the two show cause dockets for a total of \$29,000 and the filing of reports that will enable the Board to monitor compliance in the future. IPL has acknowledged all of the specific violations in the Mason City zone except for the specific violation described in violation paragraph 4 and the pattern violation described in violation paragraph 11. IPL acknowledged all 20 of the specific violations cited in the Creston zone.

Iowa Code § 476.51 provides that in determining the amount of the penalty, or the amount agreed upon in a compromise, the Board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance after notice of the violation and any other relevant factors.

Using the criteria in Iowa Code § 476.51 as a guideline, the Board considers the amount of the civil penalty offered by IPL to be reasonable for the specific violations that have been acknowledged. The Board understands that IPL presented this amount as \$1,000 for each of the violations as described in the August 12 and September 10, 2004, show cause orders and acknowledged by IPL. Although the Board considers the total amount of the civil penalty to be reasonable, the Board would not assess each of the violations equally. A civil penalty should be imposed only where it would have a deterrent effect against future infractions and some of the

violations are of such a nature the penalty may not have an appropriate deterrent affect.

For example, the \$1,000 civil penalty for the violation cited for two missing marker signs is probably excessive for these minor violations. Additionally, a \$1,000 civil penalty may not be appropriate for those violations that occurred because of an employee in the Creston zone who may have deliberately not performed the compliance tasks assigned him. The Board recognizes that the employee's actions, if intentional, are not representative of IPL and, when they were discovered by IPL, the company took action to address the problem. IPL also informed Board staff of the situation.

The Board questions whether this employee was adequately supervised, but the Board does not want to create an environment where a utility may not be forthcoming where it has found problems for fear of being assessed civil penalties. The discovery of a problem by the utility and the taking of appropriate action are factors that will be taken into account when determining whether to assess civil penalties or the amount of the penalty. Even though IPL discovered the problem and took appropriate action, the violations occurred and it is appropriate to cite them in the inspection reports, but the company's response could lead to the conclusion that a \$1,000 civil penalty is not appropriate for these particular items.

The Board considers a civil penalty of \$1,000 or more to be reasonable for the violations of missed or late inspections that are cited in violation paragraphs 1, 2, 7, 8, 9, and 10 for the Mason City zone and violation paragraphs 6, 12, 13, 14, 15, 16, 19, and 20 for the Creston zone. Other cited violations where a civil penalty is

reasonable include the failure to follow-up when inadequate gas odorization was found (violation paragraph 6 in Mason City) and the failure to properly report inadequate odorization (violation paragraph 9 in Creston).

The one specific violation not acknowledged by IPL involves the number of pipe-to-soil readings that should be taken in a cathodic protection zone. The situation described in violation paragraph 4 in the Mason City zone indicates that IPL took only two readings in each of 15 gas systems containing up to 26,500 feet (5 miles) of steel gas pipe. IPL is correct that the standards provided in the Peabody book referenced by Board staff are not codified in federal rules. However, it appears from the inspection report that Board staff considered the number of readings taken by IPL was not adequate to evaluate protection over the entire system under any standard, and that is the basis on which staff found a violation. The Board understands that Board staff used the Peabody book as the best available guidance for a reasonable number of test points and did not rely on Peabody to conclude that a violation existed.

The Board understands, based upon the testimony of Mr. House, that IPL is conducting studies by zone to determine what is the appropriate number of test points needed in its cathodic protection zones. The results of the studies should establish a reasonable standard for the number of test points needed on IPL's systems. The Board is very interested in the results from these studies and Board staff should be provided the results of the studies as they are concluded. Studies that establish a number of test points that the Board could consider to be reasonable could remove the necessity of pursuing civil penalties for the cited violation.

B. Pattern violation

IPL does not acknowledge a pattern violation as part of the offer of compromise. IPL contends that the evidence of violations found in the inspection reports does not support a pattern violation. IPL argues that the violations found in these consolidated dockets are not a continuing pattern of specific violations of the nature found by the Board in Docket No. PSA-01-1. IPL argues that the violations originally discovered in Docket No. PSA-01-1 are of a substantially different nature than the current violations cited in the Board's August 12 and September 10, 2004, orders. IPL points out that over the last three years it has been attempting to achieve the level of maintenance, documentation, and formal communications which the Board expected and which was agreed to by IPL in resolution of the violations cited in Docket No. PSA-01-1.

To consider the offer of compromise, it will be necessary for the Board to consider the merits of the pattern violation based upon the record, as it currently exists. Based upon that record, it appears the focus of IPL's arguments on a continuing pattern of specific violations from Docket No. PSA-01-1 is misplaced. The Board recognizes that the specific violations cited in the Mason City zone and the Creston zone are not absolutely identical to those found to be violations in Docket No. PSA-01-1. However, the pattern violation cited by Board staff appears to address the failure of IPL's management team and processes to keep IPL in compliance with all federal and Board safety standards.

In Docket No. PSA-01-1, the Board found that the increased attention to gas safety regulations taken by IPL in response to the earlier violations should allow IPL

to remain in compliance. The inspection results show that IPL has not maintained compliance as expected. The Board described the earlier violations in the show cause orders in these consolidated dockets to provide the background and notice of the Board's prior efforts to have IPL comply with federal and Board safety standards. The Board in the show cause orders did not suggest that the pattern violation was based upon a continuation of the same violations found in Docket No. PSA-01-1; rather, the Board stated that the specific violations in these consolidated dockets should not have occurred if the oversight mechanisms, scheduling tools, and training established in the earlier docket were in place and operating correctly.

In the January 21, 2003, order in Docket No. PSA-01-1, the Board found that IPL's actions in creating the position of Operations Specialist, assigning an engineer to be responsible for Iowa operations, developing record keeping procedures for leak surveys, appointing a lead person to be responsible for the gas safety compliance in the Belmond area, creating the position of Corrosion Technician, using Corrective Maintenance Orders to document compliance, and performing random audits by the Manager of Operations and Compliance all supported a finding that the pattern violation in that docket was being corrected. The Board understood that these corrective measures were to keep IPL in compliance with pipeline safety standards. Based upon the number and nature of cited violations in the inspection reports for the Mason City and Creston zones, these corrective measures do not seem to have achieved the desired result.

Performing the required inspections at the required intervals is an integral part of maintaining a natural gas system in compliance with the applicable safety

standards. IPL's suggestion that these violations are not as "serious" as the violations cited in Docket No. PSA-01-1 demonstrates a failure to fully understand its safety responsibilities. Completing the required maintenance and keeping proper records are important aspects of compliance with gas safety regulations and conducting inspections at required intervals is equally important.

Based upon the inspection reports, it appears the underlying problem is a failure of management oversight of compliance procedures. Even with the new management, reorganization, and record tracking systems that resulted from Docket No. PSA-01-1, IPL could not conduct the required inspections within the intervals required by federal and Board safety standards. IPL witness Greiner admits that IPL's focus was not on the inspection interval requirements. IPL witness House admits that the violations resulted from the difficulty inherent in managing multiple inspection records with varying cycles in a paper format.

However, managing multiple records with varying cycles in a paper format is not an excuse for failing to comply with safety standards. The Board found that the violations in Docket No. PSA-01-1 were corrected based largely on IPL's assurances that the procedures put into place at that time would allow IPL to track compliance and ensure compliance into the future. If, as witness House indicates, there was too much information to be tracked, IPL should have improved the system or provided more resources to ensure that the tracking was accomplished and IPL was in compliance with federal and Board safety regulations.

Although the Board has found that the amount of the civil penalty offered by IPL would be reasonable to resolve the specific violations acknowledged, the Board

finds that it cannot accept the offer of compromise proposed by IPL because IPL does not acknowledge that IPL management has failed to establish procedures to ensure compliance with pipeline safety standards. The Board considers the issue of IPL's management of its compliance procedures to be of paramount importance. The Board addressed its concerns about IPL's management in Docket No. PSA-01-1 and, based upon actions taken by IPL at that time, found that the problems had been corrected.

The numerous violations in the two inspection reports in these consolidated dockets raise this same concern. Since IPL does not acknowledge the pattern violation, the Board considers it necessary to conduct a hearing on this issue. Only after an evidentiary record is developed can the Board determine whether IPL is correct or Board staff is correct concerning IPL's management of its compliance efforts.

C. Reporting requirements

IPL offered to file six-month reports containing certain compliance information as part of the offer to compromise. IPL stated that the filing of information would allow the Board the means to ensure continuing compliance with inspection intervals and other requirements. The Board considers reporting to be an integral part of ensuring compliance and the information IPL indicates it would report appears to be acceptable. The Board questions whether more frequent reports than the six-month intervals would be more effective. Monthly or quarterly reports might allow for a more thorough review of compliance. This issue can be addressed at the hearing.

D. Official Notice

The Board will grant IPL's request and take official notice of IPL's September 24, 2004, updated response to the inspection report of the Mason City zone. The response updates IPL's activities to correct the violations cited in the inspection report. The response will be marked as Utilities Board Exhibit 6.

E. Procedural schedule

Since the Board is not accepting the offer of compromise, a new procedural schedule will be established. As discussed above, the Board will allow IPL two weeks from the date of this order to file rebuttal testimony or an undated response to the Board staff replies dated October 21, 2004, and October 25, 2004. The Board on November 9, 2004, cancelled the hearing scheduled for November 19, 2004. The hearing will be rescheduled for February 2, 2005.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The objection to Board staff replies filed by Interstate Power and Light Company on October 28, 2004, is overruled.
2. Pursuant to Iowa Code § 17A.14(4), the Utilities Board staff response dated October 21, 2004, is officially noticed and entered into the record of this proceeding as Utilities Board Exhibit 4.
3. Pursuant to Iowa Code § 17A.14(4), the Utilities Board staff response dated October 25, 2004, is officially noticed and entered into the record of this proceeding as Utilities Board Exhibit 5.

4. Pursuant to Iowa Code § 17A.14(4), the September 24, 2004, response of Interstate Power and Light Company is officially noticed and entered into the record of this proceeding as Utilities Board Exhibit 6.

5. Copies of Utilities Board Exhibits 4, 5, and 6 shall be placed in the file in this docket by the Utilities Board's Record's and Information Center.

6. The motion to compromise filed by Interstate Power and Light Company on October 28, 2004, is denied as discussed in this order.

7. A hearing shall be held for the purpose of receiving testimony and the cross-examination of all testimony beginning at 9 a.m. on February 2, 2005. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

8. The parties may file simultaneous briefs on or before February 16, 2005.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 15th day of December, 2004.