

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-03-150
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**ORDER ADDRESSING COMPLETENESS OF EMISSIONS FILING,
APPROVING SETTLEMENT, AND SETTING FILING DATE**

(Issued July 11, 2005)

On December 30, 2003, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) an updated multiyear plan and budget (2004 Plan Update) for managing regulated emissions from its electric power generating facilities located in Iowa that are fueled by coal. Revisions to some of the pages of the plan were filed on January 21, 2004. Pursuant to Iowa Code § 476.6(22)"a"(1) (2005), updates to the plan and budget are to be filed at least every 24 months.

The Iowa Department of Natural Resources (IDNR) filed testimony and exhibits on July 15, 2004. On November 22, 2004, IPL requested that it be allowed to file supplemental testimony and exhibits. The supplemental testimony and exhibits were attached to its filing. The Board granted the motion by order issued December 2, 2004.

IPL and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a proposed settlement agreement on April 13, 2005. The settlement stipulates that the 2004 Plan Update for the period 2004 through 2006

complies with Iowa Code § 476.6(22) and should be approved. A settlement conference pursuant to 199 IAC 7.2(11)"b" was held on May 4, 2005, in Consumer Advocate's offices.

The IDNR has an important role in the plan review process. Iowa Code § 476.6(22)"a"(4) provides, in part, that the DNR "shall state whether the plan or update meets applicable state environmental requirements for regulated emissions." If the answer is no, DNR shall recommend amendments that outline actions to bring the plan in compliance. The Board cannot approve a plan that does not meet applicable standards. Iowa Code § 476.6(22)"b."

While not a party to the settlement, the IDNR filed testimony on June 20, 2005, commenting on the 2004 Plan Update. The testimony indicated that the 2004 Plan Update, in conjunction with continued compliance with all permitting requirements and permit conditions, meets applicable state environmental requirements for regulated emissions. The IDNR stated that it did not believe it was necessary to hold a hearing in this docket. No other party requested a hearing. Because the IDNR has answered the question posed by the statute in the affirmative, the Board may rule on whether to approve the plan.

Iowa Code § 476.6(22)"d" requires the Board to issue an order approving or rejecting the 2004 Plan Update within 180 days after the filing has been deemed complete. The Board finds the filing is complete and that additional information is not required to rule on the proposed settlement. The Board did not make this finding earlier because of the ongoing settlement discussions and IDNR's review process.

Turning to the settlement itself, the Board examines all settlements pursuant to the criteria found in 199 IAC 7.2(11). This subrule provides that “[t]he board will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.”

IPL’s 2004 Plan Update initially proposed continued implementation of its Combustion Initiative (CI). However, the supplemental testimony indicated that the CI would be suspended, except for work at M.L. Kapp Unit 2, because it appeared the Environmental Protection Agency (EPA) would establish more stringent standards for nitrogen oxide (NOx) emissions under the Clean Air Interstate Rules (CAIR). IPL expects new standards for NOx and SO2 emissions to be issued by the EPA in 2005.

Subsequent to IPL’s filing, EPA in fact issued new standards for NOx and SO2 under CAIR along with new standards for mercury emissions under the Clean Air Mercury Rules (CAMR). Both CAIR and CAMR require IDNR to develop a state implementation plan. IDNR has begun a collaborative process to develop Iowa’s implementation plan.

IPL has coordinated changes to the CI with the IDNR and expects to receive revised air construction permits based on the revised scope of work. Expenditures for the CI for calendar years 2005 and 2006 will be reduced from over \$24 million to just over \$2 million. IDNR’s testimony indicated IPL’s emissions plan appropriately focuses on NOx emissions because EPA is addressing those emissions now.

The settlement agreement between IPL and Consumer Advocate contains an agreement with respect to the revised budget and stipulates that the 2004 Plan Update, as amended, complies with Iowa Code § 476.6(22). IDNR's supplemental testimony filed on June 20, 2005, does not oppose the settlement and waives any right to hearing. The settlement provides for periodic reports to be filed with Consumer Advocate and the Board every six months updating implementation of the emissions plan.

IPL's 2004 Plan Update, as amended, and the settlement appear reasonable. A suspension of the CI is appropriate given the uncertainty surrounding possible legal challenges to the CAIR and CAMR rules promulgated by the EPA. In addition, the new state implementation plan will not be finalized for some time. The IDNR's testimony states that the 2004 Plan Update, as amended, in conjunction with continued compliance with all permitting requirements and permit conditions, meets current applicable state environmental requirements for regulated emissions.

IPL's 2004 Plan Update adequately addresses costs, economic development, and reliability as provided in Iowa Code § 476.6(22)"c." IPL's 2004 Plan Update, as amended, reasonably balances costs, environmental requirements, economic development potential, and reliability of the generation and transmission system. The time frame for the 2004 Plan Update is from April 1, 2004, through December 31, 2006. IPL's next plan update will be due on or before April 1, 2006, for calendar years 2007 and 2008.

The Board will approve the settlement. The settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

IT IS THEREFORE ORDERED:

1. Interstate Power and Light Company's updated multiyear plan and budget for managing regulated emissions from its electric power generating facilities located in Iowa that are fueled by coal, filed on December 30, 2003, and amended on November 22, 2004, is deemed complete pursuant to Iowa Code § 476.6(25)"d."
2. The settlement filed by IPL and Consumer Advocate on April 13, 2005, is approved.
3. IPL shall file its next plan update on or before April 1, 2006, for calendar years 2007 and 2008.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 11th day of July, 2005.