

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  GRH ELECTRONICS, INC.	DOCKET NO. DRU-05-2
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**ORDER GIVING NOTICE AND ESTABLISHING DATES FOR  
INTERVENTION AND REPLIES**

(Issued December 20, 2005)

On December 15, 2005, GRH Electronics, Inc. (GRH), filed a petition with the Utilities Board (Board) requesting a declaratory order concerning a service offered by GRH known as the "Compugas System." This service allocates gas service among tenants of multiple unit premises that are metered by a master meter. The question is whether the service, as described, brings GRH within the definition of a "public utility" pursuant to Iowa Code § 476.1. The petition has been identified as Docket No. DRU-05-2. The petition is filed pursuant to the provisions of Iowa Code § 17A.9 and 199 IAC 4.1.

GRH states that the question to be answered by the Board is whether the inclusion by GRH of a landlord service fee on a tenant's bill makes GRH a public utility or whether it violates Iowa law and Board regulations.

The facts to be considered are:

- 1) GRH offers a service known as the "Compugas System" which is used to allocate a gas service bill among tenants of multiple unit buildings metered by a master meter;

2) GRH has offered the Compugas System in Iowa for over 20 years;

3) The Board has received informal complaints concerning the Compugas System at the Riverside Apartments in Council Bluffs, Iowa, identified as File Nos. C-05-176, C-05-177, C-05-208, C-05-210, and C-05-229; and

4) On November 16, 2005, Board staff sent a proposed resolution to GRH in which staff indicates, *inter alia*, that charging of a monthly service fee of \$6.61 on each of the tenants' bills appears to be in violation of 199 IAC 19.3(1).

GRH states that on February 22, 1985, the Iowa State Commerce Commission (ISCC), the predecessor to the Board, issued an order in Docket No. WRU-85-1 finding that the Compugas System of allocating master metered gas costs did not make GRH a public gas utility subject to the provisions of Iowa Code chapter 476 or 199 IAC 19. GRH states that on April 10, 1986, the ISCC issued a declaratory ruling in Docket No. DRU-86-5 holding that an allocation system used only to allocate a master meter bill among users was not covered by 199 IAC 19.3(1).

GRH contends that Compugas submits the gas bills to the tenant on behalf of a landlord and the inclusion of the service fee reflects a charge by Compugas to the landlord and does not constitute an action as a public utility. GRH states that it does not act in any manner as a public utility and clearly states on its handouts to the tenants that it is not a public utility. GRH states that its actions comply with

guidelines of the National Council on Weights and Measures (NCWM) and the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE). GRH points out that the tenant makes payment to the landlord, not to GRH.

GRH explains that it charges the landlord a fee for monthly processing of usage data, printing, and mailing the individual tenant gas bills. According to GRH, the fees are then passed on to the tenant by the landlord on the Compugas bill and the aggregate charge to the tenants equals the amount the landlord pays the local utility company for gas service plus the amount of the service fee, and never more. The landlord thus receives only the out-of-pocket expenses of the gas used and the service fee, and no additional compensation.

GRH argues that it follows accepted national practice established by ASHRAE and, under this practice, GRH's fee to the landlord is a cost to the landlord, not profit. GRH argues that it does not receive compensation for gas service nor does it resell natural gas to tenants. Neither the landlord nor GRH reprice the service or discontinue gas service for non-payment.

GRH states that it meets the three criteria identified in Board staff's proposed resolutions for determining whether the Compugas System is a public utility service.

The three criteria are:

1. The landlord and Compugas will not use typical utility bill collection efforts, such as late fees and disconnection of service, to collect gas charges;

2. The landlord will enforce collection of the gas charges only through the provisions of landlord-tenant law, treating the gas charges at all times as a part of the tenant's rent; and

3. The service fee will always be less than the residential customer service fee charged by the local gas company.

GRH states that the first two criteria are met by the Compugas program. GRH states that it will almost always meet the third criteria, but the service fee is not benchmarked to the average cost of service charged by the utility so it is possible that at some locations the service charge might be higher than the service fee charged by the utility. GRH states that to the best of its knowledge all of the service fees charged in Iowa are less than the average cost charged by the local utility serving the location.

Iowa Code § 476.1 provides that a public gas utility subject to the Board's jurisdiction is one that furnishes gas by piped distribution system to the public for compensation. Paragraph 199 IAC 19.3(1)"a" provides in pertinent part that where a multi-occupancy building is master metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

Rule 199 IAC 4.2 provides that the Board shall, within five days after the filing of the petition, give notice to all persons not served by the petitioner to whom notice

is required by law and may give notice to any other persons. GRH did not give notice to any other persons when it filed the petition for a declaratory order. The Board will direct that a copy of this order be sent to all rate-regulated public gas utilities and to the complainants in File Nos. C-05-176, C-05-177, C-05-208, C-05-210, and C-05-229.

Iowa Code § 17A.9 requires that the Board take one of four actions within 30 days of the filing of the petition for declaratory ruling. Pursuant to Iowa Code § 17A.9, the petition is deemed denied if the Board does not issue a declaratory order within 60 days of the filing of the petition or a later time agreed to by the parties. The Board thus has until February 13, 2006, to issue a declaratory order in this docket.

In compliance with Iowa Code § 17A.9(5)(b), the Board will set a schedule for intervention and the filing of responses to the petition. After receipt of any applications to intervene and any responses, the Board will determine what further proceedings are necessary. To ensure a complete record, the Board will have the information in the complaint files listed above included in the official file in this docket. Information in those files will be reviewed in reaching a decision.

GRH indicated that it requests a meeting pursuant to 199 IAC 4.7, if the Board has questions or needs additional information. The Board will determine whether a meeting is needed after the intervention deadline has passed.

**IT IS THEREFORE ORDERED:**

1. A copy of this order shall be sent to Interstate Power and Light Company, Aquila, Inc., d/b/a Aquila Networks, Atmos Energy Corporation, and MidAmerican Energy Company.

2. Copies of File Nos. C-05-176, C-05-177, C-05-208, C-05-210, and C-05-229 shall be included in the official file in this docket. A copy of this order shall be sent to the complainant in each of these matters.

3. Petitions to intervene shall be filed on or before December 30, 2005, in compliance with 199 IAC 4.3(3). Late filings may be allowed upon a showing of good cause. The petition should include all information that the person wishes the Board to consider concerning the questions raised by the petition for declaratory order.

4. Replies to the petitions to intervene shall be filed on or before January 6, 2006.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of December, 2005.