

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. WRU-06-11-150 (WRU-04-14-150)
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**ORDER GRANTING, IN PART, REQUEST FOR
EXTENSION OF WAIVER AND INTERVENTION**

(Issued June 19, 2006)

On February 28, 2006, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a request for a two-year extension of a waiver of the electric energy adjustment clause (EAC) rules related to flowing costs and credits associated with participation in wholesale markets operated by regional transmission organizations through the EAC for recovery. The Board originally granted a waiver allowing these costs and credits to flow through IPL's EAC on May 13, 2004; that waiver was set to expire on May 31, 2006. On May 30, 2006, the Board issued an order extending the waiver for one month, through June 30, 2006, to allow the Board adequate time to review the arguments presented in this docket.

On March 20, 2006, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response and objection to the waiver request. IPL filed a reply to Consumer Advocate's objection on April 5, 2006, and Consumer Advocate responded to IPL's reply on April 7, 2006. The Large Energy Group (LEG)

filed a petition to intervene on April 26, 2006, and a substantive response to IPL's request for waiver was filed by LEG on May 3, 2006.

LEG is a group of large industrial customers who receive electric service from IPL. LEG's members are therefore affected by the amount of charges and credits flowing through IPL's energy adjustment clause. No objections to LEG's petition to intervene were filed, and the Board will grant the petition. LEG has met the requirements of 199 IAC 7.13 for intervenor status.

The initial two-year waiver was granted by the Board because of changes about to occur in the wholesale electricity markets that would affect costs flowing through the EAC. Those changes were brought about because of activities of regional transmission organizations approved by the Federal Energy Regulatory Commission (FERC).

The first change impacting costs flowing through IPL's EAC was the use of PJM locational marginal pricing in the Commonwealth Edison control area beginning in 2004. IPL buys some of its electricity in the wholesale market in this control area. The second major change was that the Midwest Independent Transmission System Operator, Inc. (MISO), of which IPL is a member, implemented new arrangements, identified as the Midwest Market Initiative (MMI). Both of these changes meant that explicit charges and credits for locational marginal pricing and financial transmission rights would replace implicit charges and credits previously flowed through the EAC. Because IPL is a member of MISO, the MISO MMI had a much greater impact on IPL than the PJM activities. The waiver was necessary because the EAC rules were

adopted in an environment where there were no explicit charges and credits for such things as locational marginal pricing and financial transmission rights and the rules did not provide for such charges and credits to flow through the EAC.

IPL states a two-year extension of the waiver is necessary because the MISO MMI, or "Day-2 market," is still in its first year of operation and there are issues remaining to be resolved. Until these issues are resolved, IPL believes the flexibility allowed by a rule waiver, rather than a change to the EAC rules, is superior. IPL notes that the other relevant circumstances have not changed since the Board granted the initial waiver request in 2004.

Consumer Advocate argues that any waiver extension should be less than two years and should be conditioned upon IPL continuing to provide timely MISO Day-2 status reports, conducting an independent analysis of Iowa ratepayer effects resulting from IPL's membership in MISO (including the impact of other utilities exercising their option to withdraw from MISO), investigating IPL's options for continued membership in MISO, and providing information showing that MISO costs and credits included in the EAC are not already included in base rates. Consumer Advocate notes that there have been concerns about MISO's increased dispatch of peaker units, notices by other utilities regarding MISO withdrawal, and a Minnesota order denying recovery of certain Day-2 costs through a fuel adjustment clause; all of these developments support imposing conditions on any short-term waiver extension.

In its response to Consumer Advocate, IPL states it is prepared to enter into a cooperative process with Consumer Advocate, the Board's staff, and other interested

parties to evaluate various aspects of IPL's MISO membership and provide updates. However, IPL opposes formally imposing the waiver conditions suggested by Consumer Advocate. In particular, IPL notes that MISO is currently conducting an independent evaluation comparing Day-2 production costs to what they would have been in the Day-1 operation; requiring IPL to conduct another independent study would be duplicative, time-consuming, and expensive.

LEG joins Consumer Advocate in asking that any waiver be conditioned on IPL continuing to provide timely Day-2 reports, providing an independent and unbiased analysis of Iowa ratepayer impacts of IPL's MISO membership, investigating alternatives to MISO membership, and demonstrating that MISO EAC costs are not included in base rates. LEG asked to be included as a participant in any formal or informal process that might be used to consider some or all of these issues.

The reasons for granting the initial waiver remain valid today, satisfying the standards for a waiver found in 199 IAC 1.3. Application of the EAC rule in the new market environment would shift legitimate costs of providing energy from ratepayers to shareholders. The waiver does not prejudice the legal rights of any person because the costs to be collected are similar in nature to costs being collected today. The rule subject to waiver is not mandated by statute and there is no negative impact on the public health, safety, and welfare. Because the markets are relatively new and evolving, the Board believes it is more appropriate to proceed under a waiver

than a change to the EAC rules. A waiver can be reexamined or modified quickly if changing circumstances warrant.

The Board does not find it necessary at this time to impose the conditions suggested by Consumer Advocate and LEG. IPL continues to voluntarily provide Day-2 status reports when appropriate and has agreed to engage in a cooperative process with Consumer Advocate and other interested persons to evaluate various aspects of IPL's membership in MISO. The Board expects this cooperative process, which is to include LEG, to move forward in an expeditious manner.

Because MISO has commissioned an independent study to compare production costs under Day-2 market conditions to what production costs would have been in the Day-1 operation, the Board believes it is unnecessary to require IPL to conduct an independent cost-benefit study. The MISO study is expected to provide cost-benefit analyses down to the control area, though not specifically to each state. If the study extends to the control area, then the costs and benefits can be allocated to the various state and federal jurisdictions and non-jurisdictional entities. Ordering IPL to conduct a second, state-specific study now would be duplicative and expensive, particularly when the information from the MISO commissioned study appears likely to be adequate.

Although it may be a topic of the cooperative process, the Board also does not see the need to require at this time any cost-benefit studies that specifically consider the impacts of any utilities withdrawing from MISO. Some withdrawal requests are pending and others have been made by relatively small utilities. In addition, MISO is

on record as stating its intent to absorb current withdrawal costs without increasing costs to other MISO members. Any study of the costs and benefits to other members of the withdrawal of some members is unlikely at this time to provide much useful information and could be expensive and time-consuming.

Similarly, it is premature to require IPL to prepare a formal report on its options for continued membership in MISO. Such a report might be appropriate once the MISO-commissioned study is complete and costs have been allocated to various jurisdictions and utilities.

Finally, the Board has seen no evidence suggesting that IPL is recovering any MISO costs twice, once through the EAC and again through base rates. Therefore, the Board will not condition the waiver on IPL demonstrating that there has been no double collection. If Consumer Advocate or anyone else discovers any evidence that supports allegations of double collection, the Board's complaint or EAC process is available to resolve such disputes.

The Board is not imposing formal conditions at this time both because it believes some of the conditions suggested are premature and because of IPL's commitment to a cooperative process with Consumer Advocate, LEG, and others who may be interested in IPL's MISO costs. This cooperative process, together with Consumer Advocate's independent investigative authority, should provide necessary information in a timely fashion. If circumstances change, the Board may formally impose requirements like the conditions suggested by Consumer Advocate and LEG.

The Board notes that a waiver can be cancelled at any time upon appropriate notice and opportunity for hearing. 199 IAC 1.3.

At the same time, the Board also does not believe a two-year extension of the waiver is warranted. Because of the changes brought about by MISO and the Day-2 market, the Board believes it is appropriate to limit the current extension to June 30, 2007. If IPL wants an extension of the waiver, its next waiver request should specifically address not only the issues that will be the subject of the cooperative process, but some other issues of interest to the Board, including, but not limited to, the extent (if any) that MISO MMI costs are contributing to increases in IPL's EAC, the reasons for peaking dispatch issues and whether these issues are being resolved, and the results of IPL taking the MISO cost-benefit study, when completed, and extracting the costs and benefits down to IPL's service territory.

The Board and its staff are active participants in the MISO process, including membership and participation in the Organization of MISO States. Board members and staff attend meetings at MISO headquarters in Carmel, Indiana, on a regular basis. Other meetings are held each month via teleconference. This participation has allowed the Board to keep abreast of the issues raised in the waiver request and various responses. The Board intends to continue its active participation and encourages other stakeholders to do the same.

IT IS THEREFORE ORDERED:

1. The request for waiver filed by Interstate Power and Light Company on February 28, 2006, is granted, in part. The waiver is effective until June 30, 2007, subject to the discussion in this order.

2. The petition to intervene filed by the Large Energy Group on April 26, 2006, is granted.

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 19th day of June, 2006.