

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>SWISS VALLEY FARMS, CO.,</p> <p style="padding-left: 100px;">Petitioner,</p> <p style="padding-left: 100px;">vs.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-54 (C-06-194)</p>
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**ORDER DOCKETING COMPLAINT AND
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued December 5, 2006)

On September 15, 2006, Swiss Valley Farms, Co. (Swiss Valley), filed with the Utilities Board (Board) an informal complaint, identified as C-06-194, alleging that its electric service provider, Interstate Power and Light Company (IPL), penalized Swiss Valley for failing to respond to a load interruption on July 19, 2006. Swiss Valley is an interruptible customer of IPL and operates three plants in Iowa. The plant located in Cedar Rapids is the subject of this complaint. Swiss Valley said it received two calls the day before the interruption, the first call indicating that an interruption might take place the next day and the second call notifying Swiss Valley to disregard the first call. Swiss Valley said it did not receive a call on July 18, 2006, that an interruption was to begin at 3 p.m. on July 19, 2006. Swiss Valley asked that the

penalty imposed by IPL for failure to interrupt on July 19, 2006, be cancelled and that Swiss Valley's Cedar Rapids plant be allowed to continue as an interruptible customer.

On October 6, 2006, IPL responded to the complaint. IPL said its Power Manager System, which it uses to contact interruptible customers, had been tested and that notification of the interruption was properly sent to Swiss Valley. IPL provided documentation that appropriate notice was provided and stated that no other interruptible customers complained of communications errors. IPL noted that Swiss Valley had not been suspended and continues as an interruptible customer, although its bill savings and expected program kW contribution are reduced.

On October 13, 2006, the Customer Service Section of the Board issued a proposed resolution that found IPL provided acceptable documentation that the notice of interruption was received by Swiss Valley and that IPL could impose a penalty pursuant to the terms of IPL's interruptible tariff and the interruptible agreement with Swiss Valley. The proposed resolution also noted that Swiss Valley had not been suspended from the interruptible program and continued as an IPL interruptible customer, albeit at a reduced level.

In response to this proposed resolution, Swiss Valley filed a timely request for a formal complaint proceeding. Included in its request was a copy of a cell phone bill from one of its employees, which Swiss Valley said demonstrated that no call was

received from IPL's automated calling system. IPL responded that the length of the disputed call was less than 60 seconds.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed comments in response to Swiss Valley's request for formal complaint proceedings. Consumer Advocate urged that formal complaint proceedings be held to resolve the numerous fundamental disputed facts between IPL and Swiss Valley.

Because there are factual disputes over whether Swiss Valley was properly notified, there are reasonable grounds to warrant instituting a formal complaint proceeding pursuant to Iowa Code § 476.3. The dispute over notification and any resulting penalty relate to another issue, whether Swiss Valley's minimum contract demand should be reduced, pursuant to the tariff's terms, for the next 12 months. The Board will docket this matter as a formal complaint proceeding identified as Docket No. FCU-06-54. The docket will be assigned to an administrative law judge (ALJ) for further proceedings, including the establishment of a procedural schedule and conducting a hearing. The ALJ should conduct a pre-hearing conference to discuss a procedural schedule with the parties.

IT IS THEREFORE ORDERED:

1. The informal complaint, File No. C-06-194, filed by Swiss Valley Farms, Co., on September 15, 2006, is docketed as a formal complaint proceeding, identified as Docket No. FCU-06-54.

2. Pursuant to Iowa code § 17A.11(1)"b" and 199 IAC 7.3, this matter is assigned to Administrative Law Judge Amy Christensen for such further proceedings as may be appropriate.

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 5th day of December, 2006.