

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY AND ITC MIDWEST LLC	DOCKET NO. SPU-07-11
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**ORDER DENYING MOTION TO STRIKE**

(Issued September 14, 2007)

On September 13, 2007, ITC Midwest LLC (ITC Midwest) filed with the Utilities Board (Board) a motion to strike or, in the alternative, to take official notice. ITC Midwest asked the Board either to strike one sentence of the Sierra Club's reply brief or take official notice of a Federal Energy Regulatory Commission (FERC) order.

The Sierra Club's reply brief was filed on August 27, 2007 (although an e-mailed version may have been available on August 24). ITC Midwest waited more than two weeks after the Sierra Club's brief was filed to submit its motion. The Board will deny the motion as untimely in the accelerated context of this docket.

The Board has scheduled a meeting to discuss its decision in Docket No. SPU-07-11 on September 18, 2007; a written decision must issue on or before September 27, 2007. The Board cannot extend its decision deadline. Iowa Code § 476.77(2). There is not sufficient time prior to the Board's decision meeting and decision deadline to allow parties an adequate opportunity to respond to the motion and, if official notice were taken, to offer any comment on the FERC order.

In addition, the Board generally accepts late-filed exhibits within seven days of the close of the hearing. While not directly applicable here because ITC Midwest could not have filed its motion until reply briefs were filed, the Board believes the situation is analogous and that waiting to file the motion more than two weeks after reply briefs is untimely, particularly given the statutory deadline the Board must meet and the due process rights of the other parties. A motion filed within seven days of the filing of the reply brief would have allowed sufficient time to hear from the other parties and rule on the motion.

**IT IS THEREFORE ORDERED:**

The motion to strike or, in the alternative, to take official notice filed by ITC Midwest LLC on September 13, 2007, is denied.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 14<sup>th</sup> day of September, 2007.