

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>JEFF SOBOROFF,</p> <p style="padding-left: 100px;">Complainant,</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. C-07-166</p>
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ORDER DENYING REQUEST FOR FORMAL COMPLAINT PROCEEDINGS

(Issued November 9, 2007)

On April 16, 2007, Jeff Soboroff filed a written complaint with the Utilities Board (Board) concerning Interstate Power and Light Company's (IPL) electric service. Mr. Soboroff complained that his electric meter continually flashes "error" (allegedly resulting in incorrect readings), that he was incorrectly billed at a commercial rate rather than a residential rate, and that monthly meter readings were incorrect during a time Mr. Soboroff said he did not live at the premises in question. Mr. Soboroff said that while IPL issued a credit to him for the difference between commercial and residential rates, he did not receive a credit for the minimum commercial account charge of \$35 per month.

IPL filed a response to the complaint on May 1, 2007. IPL said the building in question was used by the previous tenant as a commercial establishment (a bar and

grill) and that the meter is a digital, demand, and time of day meter for 3-phase service. IPL noted that if a customer is not billed using demand data, the meter is programmed to flash to remind the meter reader the meter is not currently being used to measure demand; the flashing does not mean there is a meter malfunction. IPL said if Mr. Soboroff wanted the 3-phase meter removed, he would have to install a single-phase meter base and eliminate two of the three phases of the building's internal wiring.

With respect to commercial versus residential rate billing issues, IPL said its records indicated that Mr. Soboroff requested a commercial rate on July 20, 2005, because he planned to open a bar in the building. IPL stated that Mr. Soboroff contacted them again in October 2006 for residential service. IPL investigated and found a business had not opened at the location; IPL maintained that it credited Mr. Soboroff for the full difference between the commercial and residential rates.

The final issue raised by Mr. Soboroff relates to usage prior to January 2006, when he claims he did not reside in the building. IPL said that while he may not have resided in the building, the building had electric service and usage registered on the meter. IPL noted it tested the meter on May 26, 2006, and the meter test demonstrated 100 percent accuracy. IPL pointed out that Mr. Soboroff did not request a referee test pursuant to 199 IAC 20.6(6). IPL's response also indicated that contractors were working on the building during this time.

On September 12, 2007, the Board's Customer Service Section issued a proposed resolution to Mr. Soboroff's complaint. The proposed resolution noted that

a Board inspector visited Mr. Soboroff's premises but was unable to gain entrance; however, he was able to determine from the outside that the building in fact had 3-phase service and that the digital meter could not be replaced with a mechanical meter unless Mr. Soboroff installed single-phase service.

The proposed resolution also found that Mr. Soboroff was given proper credit for the difference between commercial and residential rates. The Board's staff reviewed the bills, tariff sheets, and calculations in reaching its conclusion.

Finally, the proposed resolution addressed Mr. Soboroff's contention that there should have been little or no usage prior to January 2006. The proposed resolution indicated that IPL's billings for those months were consistent with the activities at the premise and were correct.

Mr. Soboroff disagreed with the proposed resolution and filed a timely letter requesting formal complaint proceedings on September 14, 2007. Mr. Soboroff claimed that the building was not inhabitable until the summer of 2006 and that there should have been little or no usage during that time. Mr. Soboroff indicated that contractors were only there infrequently and would have used very little electricity. Mr. Soboroff also continued to insist that he does not have 3-phase wiring at the premises.

IPL filed a response to Mr. Soboroff's request for formal complaint proceedings. IPL noted it had provided detailed calculations regarding the bill credits given to Mr. Soboroff and that Mr. Soboroff provided no basis for his claim that he is due additional refunds. IPL again pointed out that the meter in question registered

usage at 100 percent accuracy, no documentation was provided to indicate the building is not wired for 3-phase service, and Mr. Soboroff has changed his story on several occasions with respect to the date he moved into the building.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response on September 28, 2007. Consumer Advocate said there are sufficient disputed facts, such as Mr. Soboroff's claims that he did not use much electric service prior to January 2006, to warrant formal proceedings. For example, Consumer Advocate pointed out that Mr. Soboroff apparently owned a home in Bettendorf, Iowa, during this time period and resided there.

Iowa Code § 476.3(1) (2007) provides, in part, that following informal complaint proceedings, "[t]he complainant or the public utility also may petition the board to initiate a formal proceeding which petition shall be granted if the board determines that there is any reasonable ground for investigating the complaint." This is the standard the Board applies to requests for formal complaint proceedings.

All documents contained in the file of an informal complaint proceeding are part of the record. 199 IAC 6.7. Thus, in determining whether there is any reasonable ground for instituting formal complaint proceedings, the Board reviews the entire file.

There are three issues raised in the request for formal complaint proceedings. The first relates to Mr. Soboroff's meter and 3-phase service, the second concerns billings, and the third deals with usage during a time when Mr. Soboroff stated he did

not reside at the premises. From the information provided, there is no reasonable ground for instituting formal complaint proceedings on any of these issues.

IPL provided documentation that the meter installed at the premises is for 3-phase service, the premises is wired for 3-phase service, and the blinking does not indicate a meter malfunction. A Board inspector confirmed the fact that the premise has 3-phase service. Although the inspector was unable to enter the premises, his report confirmed that there was 3-phase service because of the transformer and wire size. The file indicates that while Mr. Soboroff continued to complain the building was not 3-phase service, he did not submit any report from an electrician and refused IPL's offer to send its technicians to work with him to recommend changes to the building's wiring. There is no evidence, other than Mr. Soboroff's assertions, to indicate the building does not have 3-phase service or that the meter is inaccurate; the blinking merely indicates that the meter is measuring usage, not demand.

There is also no reasonable ground for instituting formal complaint proceedings on the billing issues. IPL provided documentation, confirmed by review of the Customer Service Section, that appropriate credit was given when it was found that Mr. Soboroff should have been on residential rather than commercial rates. In the months where usage was under \$35 per month, Mr. Soboroff in fact was not billed for a \$35 monthly charge. The billing records indicate that all appropriate credits have been issued.

Finally, there are no reasonable grounds to grant formal proceedings on the usage issue from the time Mr. Soboroff took service until January 2006. While Mr.

Soboroff claims he did not reside in the building during that time, the meter registered usage and was tested; the meter was found to be 100 percent accurate. IPL does not have the burden to explain who used the electricity, but only a burden to show that its meter registered usage accurately. The request for formal complaint proceedings will be denied.

IT IS THEREFORE ORDERED:

The request for formal complaint proceedings filed by Jeff Soboroff on September 14, 2007, is denied.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 9th day of November, 2007.