

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NOS. GCU-07-1 WRU-07-39-150
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**ORDER REGARDING SERVICE AND GRANTING WAIVER**

(Issued December 10, 2007)

**I. SERVICE OF DOCUMENTS**

On November 13, 2007, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a motion for an order directing certain parties to this case to serve testimony and exhibits in a proper manner. In its motion, IPL states that Community Energy Solutions, Iowa Environmental Council, Iowa Farmers Union, Iowa Physicians for Social Responsibility, and Iowa Renewable Energy Association (collectively, the Coalition) served prepared direct testimony and exhibits on IPL in a manner that is not consistent with Board rules regarding service.

IPL states that on October 22, 2007, the Board issued an order granting the Coalition an extension of time to file its direct testimony and exhibits, to October 31, 2007. IPL says that on November 1, 2007, it received only a cover letter and a compact disc (CD) containing an electronic copy of the Coalition's direct testimony and exhibits. IPL did not receive a paper copy of the filing. Counsel for IPL contacted counsel for the Coalition to express concerns about this method of service,

noting that the parties had not agreed to it or even discussed it, and stating that without a paper copy it would be difficult for IPL to determine whether confidential information had been properly identified as such. IPL says that counsel for the Coalition asserted that the CD was sufficient for service purposes.

IPL asserts that the service method used by the Coalition caused significant burdens for IPL. The manner in which the information was recorded to the CD made it difficult for IPL to assemble a single, complete paper copy of the filing; for example, an exhibit would be identified as "Schedule A" or "Schedule B" only in the file name, not in the document itself, making it difficult to match each exhibit to the appropriate cover sheet and prohibiting the use of mass-production print jobs. As a result, IPL says, it was unable to assemble a complete printed copy of the information until the end of the day on November 2, 2007, two full days after the information was filed with the Board in printed format. IPL argues that this form of service does not comply with the requirements of the Board's rules and asks that either the filing be rejected or the Coalition be required to re-serve paper copies of its testimony and exhibits. IPL also asks that the Board direct the Coalition to serve all future filings in a manner that complies with Board rules.

On November 14, 2007, the Board issued an order shortening the Coalition's time to respond to the motion and requiring that any response be filed on or before November 19, 2007.

On November 16, 2007, the Coalition filed its response to IPL's motion, asserting that the Coalition complied with the Board's service rules by serving an electronic copy, rather than a paper copy, because (according to the Coalition) the Board's rules do not say that copies served on other parties must be paper copies. The Coalition also takes issue with IPL's claim that it was prejudiced by the manner of service. Finally, the Coalition states that no purpose would be served by requiring the Coalition to serve a paper copy on IPL at this time, as IPL has stated that it now has a full paper copy of all Coalition testimony and exhibits.

The Board finds that service of only an electronic copy of a document filed on paper with the Board is not in compliance with the Board's procedural rules. For example, the rules require that electronic files be accompanied by a hard-copy printout of the files (199 IAC 7.7(1)). If that requirement had been satisfied in this instance, then there would be no service dispute for the Board to decide.

The parties are always free to agree to different service methods and the Board understands that it is not unusual for parties to agree to service by electronic file, rather than paper copy, in Board proceedings. However, the Board also understands this type of service is typically accomplished by means of electronic mail, rather than U.S. mail, providing a timing benefit to the parties that offsets the potential inconvenience of having to print paper copies.

In this case, there is no claim that the parties had agreed to service of electronic copies. In the absence of such an agreement, a paper copy should have

been served. However, the Board agrees with the Coalition that there is no reason to require service of a paper copy now, given that IPL has produced its own paper copy. Instead, the Board will direct that all parties shall provide for proper service of all future filings in this docket in the same form as is filed with the Board, unless the parties agree to a different form of service.

## **II. WAIVER**

On November 19, 2007, IPL filed with the Board a supplemental update to Section 2 of its application regarding permitting information. Specifically, IPL filed with the Board two paper copies and one electronic copy of the Air Permit Application it filed with the Iowa Department of Natural Resources (IDNR) on November 1, 2007. IPL asks that the Board accept the limited number of copies as its filing; although IPL does not specifically say so, the Board interprets this as a request for waiver of 199 IAC 7.4(4)"b," which normally requires that filings include an original and ten copies. The Board notes that the filing is voluminous and is to be processed by IDNR, not the Board. On that basis, the waiver requirements of 199 IAC 1.3 are satisfied and a waiver will be granted.

**III. ORDERING CLAUSES**

**IT IS THEREFORE ORDERED:**

1. In the absence of any agreement to the contrary, all documents that are filed as paper copies should be served as paper copies and all filings in electronic format should be served as electronic copies.

2. IPL is granted a waiver of the copy requirements of 199 IAC 7.4(4)"b" as applied to the "Second Supplement to Section 2 of Interstate Power and Light Company's July 2, 2007, Application, Regarding Required Permits and Approvals," filed in this docket on November 19, 2007.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of December, 2007.