

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>RALPH VAN FOSSEN, Complainant,</p> <p style="text-align:center">vs.</p> <p>INTERSTATE POWER AND LIGHT COMPANY, Respondent.</p>	<p style="text-align:right">DOCKET NO. FCU-07-12 (C-07-147)</p>
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ORDER REGARDING MOTIONS

(Issued December 13, 2007)

On November 6, 2007, the undersigned administrative law judge issued a "Procedural Order and Notice of Hearing" in this proceeding. Among other things, the order set December 14, 2007, as the deadline for Mr. Van Fossen to file his prepared direct testimony and exhibits.

On December 10, 2007, Mr. Van Fossen filed a "Motion to Compel; and Request for Extension to File Direct Testimony." On the same date, he also filed a "Filing Alliant Energy IPL's Data Response; and Van Fossen Request for Subpoenas." With this filing, he included copies of three data requests he had submitted to Interstate Power and Light Company (IPL), with IPL's responses to the data requests.

The undersigned notes that Mr. Van Fossen did not file an original and ten copies of Attachments 2 and 3 to IPL's responses to the data requests. Board rule 199 IAC 7.4(4) requires parties to file an original and ten copies of all filings with the Board unless otherwise ordered or specified in the rule. This rule requires that parties must file the correct number of copies of complete sets of all filings. The Board needs complete sets of the correct number of copies so it can properly administer this case. Board subrule 7.4(2)"a" states that unless otherwise specifically provided, all documents are officially filed upon receipt by the executive secretary of the Board "in a form that complies with the Board's filing requirements." Although Mr. Van Fossen is unrepresented by counsel, he must comply with this rule. Failure to comply in the future may result in the rejection of the filing by the Board.

In his motion to compel, Mr. Van Fossen argues that IPL's responses to his data requests are deficient and that an e-mail response from IPL's attorney shows that IPL refuses to remedy the deficiencies. Mr. Van Fossen argues that IPL's objections to his data requests are without merit and not credible. He argues that the answers to the data requests are a fundamental part of his case.

Board subrule 199 IAC 7.15(5) states that opposing parties shall be given the opportunity to respond to motions related to discovery within ten days of the filing of the motion, unless the time is shortened by order. This would ordinarily require IPL to file its response to the motion by December 20, 2007. Due to the upcoming

holiday, this time will be slightly shortened, and IPL's response will be due on or before December 19, 2007.

Mr. Van Fossen also requests an extension of time to file his direct testimony and exhibits so that he can integrate the requested data from IPL into his testimony. He suggests that one week would be a reasonable length of time for IPL to provide the requested information.

This case has already been the subject of an informal complaint proceeding, so the parties are already familiar with many of the facts of the case. In addition, IPL provided answers to Mr. Van Fossen's data requests that included much of the information he requested. Therefore, Mr. Van Fossen will be able to file direct testimony and exhibits presenting the bulk of his case in compliance with the procedural schedule. Since this order is issued just prior to Mr. Van Fossen's deadline of December 14, 2007, the undersigned will grant Mr. Van Fossen a seven-day extension to file his direct testimony and exhibits. If Mr. Van Fossen has additional evidence to present after his direct testimony and exhibits are due, he may present this evidence in his prefiled rebuttal testimony. If IPL requires a similar seven-day extension to file its testimony and exhibits due to the additional time given to Mr. Van Fossen, it should file an appropriate motion.

Mr. Van Fossen requests that the Board issue subpoenas so that all current and former meter readers who were involved with this case, presumably those who read Mr. Van Fossen's meter, for the period January 1, 2003, through November 27,

2007, will be in attendance at the hearing so that he may cross-examine them. There is no indication in the motion whether Mr. Van Fossen has requested that IPL's counsel make these meter readers available for cross-examination at the hearing. In addition, Mr. Van Fossen does not specify the number of subpoenas he requests and does not identify the names of the persons he wishes subpoenaed, at least to the extent he knows their names. Therefore, Mr. Van Fossen must first ask IPL's counsel whether IPL will voluntarily make these meter readers available at the hearing before requesting subpoenas from the Board. If Mr. Van Fossen finds it necessary to request subpoenas from the Board in the future, he must state the efforts he has made to seek voluntary cooperation from opposing counsel regarding the subject of the requested subpoenas, specify the number of subpoenas he requests, and identify the persons to be subpoenaed, at least to the extent he knows their names.

IT IS THEREFORE ORDERED:

1. Interstate Power and Light Company must file its response to Mr. Van Fossen's motion to compel on or before December 19, 2007.
2. Mr. Van Fossen must file his prepared direct testimony and exhibits as discussed in the body of this order on or before December 21, 2007.
3. Mr. Van Fossen's "Request for Subpoenas" filed on December 10, 2007, is denied at this time as discussed in the body of this order.

4. Unless specifically modified in this order, the "Procedural Order and Notice of Hearing" issued on November 6, 2007, remains in full force and effect.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 13th day of December, 2007.