

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>RALPH VAN FOSSEN,                      Complainant,</p> <p>          vs.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,                      Respondent.</p>	<p>DOCKET NO. FCU-07-12                     (C-07-147)</p>
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**PROPOSED DECISION**

(Issued April 25, 2008)

APPEARANCES:

MR. RALPH H. VAN FOSSEN, JR., 806 Linden Street, Decorah, Iowa 52101, appearing pro se.

MR. KENT M. RAGSDALE and MS. PAULA N. JOHNSON, attorneys at law, Alliant Energy Corporate Services, Inc., 200 First Street SE, Cedar Rapids, Iowa 52406, appearing on behalf of Interstate Power and Light Company.

MR. BEN STEAD, attorney at law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Consumer Advocate Division of the Iowa Department of Justice.

**STATEMENT OF THE CASE**

On March 14, 2007, Mr. Ralph H. Van Fossen, Jr. filed a complaint with the Utilities Board (Board) against his electric service provider, Interstate Power and Light Company (IPL), alleging that IPL engaged in deceptive billing practices by

estimating his electric usage for eight out of the previous nine months and therefore deliberately shifting his billings from lower summer rate periods to higher winter rate periods. Mr. Van Fossen also alleged that IPL wrongly over estimated his electric usage for the past three months. In addition, Mr. Van Fossen alleged that IPL unilaterally advanced his payment due date gradually by three weeks to cause excessive late fees and charged usurious interest rates on allegedly late payments. He alleged that IPL threatened to disconnect his electric service over a small past due balance, which he did not owe, during several weeks of sub-zero temperatures. (Informal complaint file.)

Board staff investigated the complaint and forwarded it to IPL for response. IPL filed a response to the complaint on March 28, 2007. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) sent a data request regarding the complaint to IPL on March 14, 2007, and IPL also responded to the data request. Mr. Van Fossen filed nine additional letters with more information regarding his prior complaints and additional related complaints against IPL on March 29 (2 letters), April 2 (2 letters), April 11, April 23, May 14, June 14, and August 2, 2007. IPL filed an additional response to the complaints on April 19, 2007. (Informal complaint file.)

On August 7, 2007, Board staff issued a proposed resolution with findings on the six issues raised by Mr. Van Fossen. In the proposed resolution, Board staff stated that IPL's use of estimated bills had been excessive and IPL should have

more diligently attempted to obtain actual meter readings. However, the proposed resolution found that IPL had not violated Board rules on estimated meter readings, that IPL was within the rules for billing customers and its calculations were correct, that IPL had not violated the rules for calculating late fees, that IPL was within the rules when it issued the disconnection notice, that the due date issue had been resolved, and that IPL had not misapplied the credit for the appliance cycling program. Staff found that no additional action was required and notified Mr. Van Fossen of his right to request a formal proceeding if he disagreed with the proposed resolution. (Informal complaint file.)

Mr. Van Fossen filed a request for formal proceedings on August 13, 2007, in which he disagreed with the proposed resolution. IPL filed a response to the request for formal proceedings on August 28, 2007, in which it stated its belief that the request for formal proceedings should be denied. The Consumer Advocate filed a letter on August 29, 2007, stating that Mr. Van Fossen's request for formal proceedings should be granted. IPL filed a response to the Consumer Advocate's letter on September 11, 2007, reiterating its position that formal proceedings should be denied. Mr. Van Fossen filed additional letters in support of his request for formal proceedings on August 31 and September 17, 2007. (Informal complaint file.)

The details of the informal complaint case are contained in informal complaint file number C-07-147, which is incorporated into the record in this case pursuant to 199 IAC 6.7. (Informal complaint file.)

On October 15, 2007, the Board issued an order finding that there were reasonable grounds to warrant instituting a formal complaint proceeding pursuant to Iowa Code § 476.3, docketing the case for formal proceeding, and assigning it to the undersigned administrative law judge. In the order, the Board directed the undersigned to conduct a prehearing conference to discuss a procedural schedule with the parties. The prehearing conference was held on October 31, 2007, by telephone conference call. The parties agreed to a procedural schedule at the prehearing conference. On November 6, 2007, the undersigned issued a procedural order and notice of hearing setting the hearing in the case for February 20, 2008.

Throughout this proceeding, the parties filed various motions and responses regarding discovery, confidentiality, and procedural issues, and these were ruled on in various orders. These filings and orders are not discussed in this decision.

On November 14, 2007, IPL filed a request for determination with attachments with the Board. Essentially, IPL offered to pay its calculation of the amounts in dispute from Mr. Van Fossen's electric bills to settle the case. (Tr. 203-205.) Mr. Van Fossen declined the offer in his request for denial filed November 19, 2007, and his supplementary request for denial filed November 29, 2007.

On December 10, 2007, Mr. Van Fossen filed IPL's response to his Data Request No. 1 with the Board.

On December 14, 2007, IPL filed public and confidential versions of the attachments to Mr. Van Fossen's December 10, 2007, filing.

On December 19, 2007, IPL filed Attachment A, which had inadvertently been omitted from its December 14, 2007, filing.

On December 24, 2007, Mr. Van Fossen filed prepared direct testimony and exhibits with the Board.

On January 22, 2008, Mr. Van Fossen filed his response to IPL Data Request No. 1 with the Board.

On January 22, 2008, IPL filed the prepared direct testimony and exhibits of Mr. Bernard R. Oleksa, Jr., with the Board.

On January 29, 2008, the Consumer Advocate filed rebuttal exhibits with the Board, which consisted of IPL responses to Consumer Advocate data requests and a copy of a letter dated August 7, 2007, from IPL to the Consumer Advocate.

On January 30, 2008, Mr. Van Fossen filed the prepared testimony of his son, Mr. D. Scott Van Fossen.

On February 1, 2008, Mr. Van Fossen filed rebuttal testimony and exhibits with the Board.

On February 8, 2008, IPL filed a public version of the Consumer Advocate's rebuttal exhibits with the Board.

On February 11, 2008, Mr. Van Fossen filed a supplement to his rebuttal testimony with the Board.

The hearing in this case was held on February 20, 2008. Mr. Van Fossen appeared pro se and testified on his own behalf. Although Mr. Scott Van Fossen did

not appear at the hearing, his prepared testimony was admitted and spread upon the record. Mr. Van Fossen called IPL employee Mr. Lyle Henning as a witness. Mr. Henning is a service representative in the customer care department for IPL. Mr. Van Fossen's Exhibits 1 – 6 were admitted at the hearing. IPL was represented by its attorney, Mr. Kent Ragsdale. Mr. Oleksa and Mr. Stuart Schultz testified on behalf of IPL. Mr. Oleksa is a regulatory relations manager for IPL, and Mr. Schultz is a meter reader for IPL. IPL Exhibit 200, Schedules A – AB were admitted. The Consumer Advocate was represented by its attorney, Mr. Ben Stead. Consumer Advocate Exhibits 101 and 102 were admitted. At the hearing, the parties agreed to file their statements of the monetary amount in dispute, with calculations or an explanation of how the amount was derived, by March 12, 2008. (Tr. 257-262.) The amount was supposed to be the current amount in dispute as of the date of the hearing. (Tr. 259.) In addition, the Consumer Advocate agreed to file a corrected Exhibit 102 with the Board.

On February 22, 2008, the Consumer Advocate filed its Exhibit 102. On March 6, 2008, Mr. Van Fossen sent an electronic mail (e-mail) message to the undersigned with attached documents providing his calculation of the disputed amount at issue in this case. On March 7, 2008, IPL and the Consumer Advocate sent an e-mail message to the undersigned providing their statement of the amount in dispute. On March 10, 2008, Mr. Van Fossen filed a statement with attached

Exhibits 7 and 8, previously e-mailed on March 6, which provided his calculation of the total accumulated interest charges at issue in this proceeding.

**DID IPL COMPLY WITH APPLICABLE BOARD STATUTES AND RULES IN ITS PROVISION OF SERVICE TO AND BILLINGS OF MR. VAN FOSSEN?**

**I. Number of Estimated Meter Readings**

**Mr. Van Fossen's position**

Mr. Van Fossen originally complained that IPL sent him estimated bills for eight out of his nine electric bills between July of 2006 and March of 2007. (Informal complaint file; Exhibits 1, 4, 5; Tr. 22, 24-26, 70-71, 120-121.) Mr. Van Fossen complained that IPL estimated his bills in October 2004, October 2005, April 2006, July 2006, August 2006, September 2006, October 2006, November 2006, January 2007, February 2007, and March 2007. (Informal complaint file; Tr. 22, 24, 70-71, 120-121; Exhibits 1, 4, 5.) At the hearing, it became clear to Mr. Van Fossen that the August 3, 2006, bill had been adjusted, not estimated, but he continues to complain that IPL estimated his meter readings too often during 2006 through March 2007. (Tr. 100-102, 120-121; Exhibit 1.)

Mr. Van Fossen also complains that IPL has falsely stated to the Board and the Consumer Advocate that he or his son directed IPL to estimate the meter readings at their home if Mr. Van Fossen's dogs were out. (Tr. 24, 38, 135; Informal complaint file.) Mr. Van Fossen argues that IPL falsely claimed it had made an actual read on August 2, 2006, and falsely attributed other estimated reads to "Dog."

(Tr. 24, 39, 142-144; Exhibits 4, 5, 6, 102.) In addition, Mr. Van Fossen argues, IPL changed some of the excuses for estimating readings from "Dog" to "Missed," and billed him as an actual read when the bill was shown as estimated on filings with the Board or when IPL had not actually read his meter. (Tr. 24-26, 39, 113, 142-144; Exhibits 4, 5, 102.) Mr. Van Fossen argues that IPL's repeated claim that it estimated his meter readings because its employees were denied access to his property by a dog problem is bogus and IPL never mentioned a dog problem until after he filed his complaint. (Tr. 25-26, 33, 38-41, 113-114, 142-144; Exhibits 4, 5, 6, 102.) He originally stated that his dog had been permanently tied 45 feet away from the meter for the past seven years, and questioned why his dog had suddenly become a problem in the past ten months. (Informal complaint file; Tr. 38-41.) At the hearing, Mr. Van Fossen testified that he has three dogs, two of which are not tied and one who is tied. (Tr. 38, 41, 80, 109-112.) Mr. Van Fossen testified he does not keep his dogs tied up because the law does not require it, and all that is required is that he have control of his dogs. (Tr. 111-112.) Mr. Van Fossen argues his dogs are well-adjusted and friendly, and other utilities have not said there was a dog problem and have not estimated his bills. (Tr. 26, 38-39, 41, 114.)

Mr. Van Fossen argues that IPL's dangerous animal policy is unjustified. (Tr. 39-41, 112-114.) He does agree that IPL employees have the right to a safe workplace. (Tr. 93.)

Mr. Van Fossen testified that meter readers who were afraid of dogs could come to the front door and he or a family member would accompany them to the meter. (Informal complaint file; Tr. 115-116.) Alternatively, he testified, IPL could leave him a card to fill out with the actual meter reading, which would be more accurate than its estimations. (Informal complaint file; Tr. 115-116.) Mr. Van Fossen also testified that it has not been necessary for him to accompany the meter reader since April of 2007 since the meter reader has read his meter each month since then and knows his dogs are friendly. (Tr. 116-117.)

#### **IPL's position**

IPL argues that Board rule 199 IAC 20.3(6) requires it to read its meters and bill its customers at least monthly, and the same rule allows IPL to issue a billing based on an estimated meter reading if an actual meter reading cannot be obtained. (Informal complaint file; Tr. 161.) IPL states that it estimated Mr. Van Fossen's electric meter reading ten times during the past 24 months (ending in March 2007). (Informal complaint file; Tr. 165.) IPL argues that the meter was estimated in March 2007 because meter reading staff was assisting with outage restoration due to the February ice storms in the Decorah area. (Informal complaint file.) IPL argues that it estimated Mr. Van Fossen's February 2007 electric bill because snowfall and sub-zero temperatures limited its ability to obtain meter readings. (Informal complaint file.)

IPL further argues that many of the estimated meter readings were due to Mr. Van Fossen's unrestrained dogs, which created a safety concern for IPL's meter reading staff. (Informal complaint file; Tr. 175-181; Exhibit 102.) IPL pointed out that Mr. Van Fossen's August 10, 2007, letter addressed only one of Mr. Van Fossen's two dogs. (Informal complaint file; Tr. 180.) IPL states that its meter reading personnel are instructed not to take a safety risk and attempt to obtain a meter reading if there is an unrestrained animal in the area. (Informal complaint file; Tr. 176.) According to IPL's policy on unrestrained animals in effect at the time Mr. Van Fossen's bills were estimated, meter readers were prohibited from entering property if a dog was not restrained. (Tr. 176; Exhibit 200, Schedule I.) IPL implemented this policy in 2003 after it saw an increase in injuries to field personnel related to unrestrained animals. (Tr. 176.)

IPL originally stated that Mr. Van Fossen told its meter readers to estimate the readings if his dogs were not restrained, and later stated that the direction came from Mr. Van Fossen's son. (Informal complaint file; Tr. 177-178, 225-227, 248-249; Exhibit 200, Schedule K.)

IPL originally stated that due to unrestrained dogs on or near Mr. Van Fossen's property, estimated readings were necessary in seven out of 21 months: April 2005, September 2005, April 2006, June 2006, August 2006, October 2006, and January 2007. (Tr. 177-181; Informal complaint file.) However, it became clear during the hearing that Mr. Van Fossen's dogs were not the cause of the estimated

readings in some of these months. (Tr. 139-152, 168-181, 214-216, 225-228, 238; Exhibits 4, 5, 102, 200, Schedule J.) IPL witness Mr. Oleksa testified IPL estimated Mr. Van Fossen's electric usage because of an unrestrained dog five times between November 2002 and April 2007. (Tr. 177; Exhibits 102, 200, Schedule J.) Mr. Oleksa further testified that Mr. Van Fossen has been charged with violating Decorah's ordinance on loose dogs seven times since 2001 and found guilty six of those times. (Tr. 181-182; Exhibit 200, Schedules M, N, O.) Mr. Oleksa testified IPL found an unrestrained dog on Mr. Van Fossen's property as recently as December 14, 2007. (Tr. 182-183; Exhibit 200, Schedule P.) Therefore, argues IPL, there appears to be a habitual problem with Mr. Van Fossen's unrestrained dogs. (Tr. 183-184.)

Mr. Oleksa testified that IPL has continued to obtain actual meter readings, even though Mr. Van Fossen's dogs are unrestrained, because the Decorah manager instructed IPL's meter readers to take necessary measures to obtain actual readings. (Tr. 184.) IPL meter reader Mr. Stuart Schultz testified he tries to get the meters read if he can. (Tr. 253-254.) He testified he has tried to avoid Mr. Van Fossen's dogs in the past, although he now thinks they are not that bad. (Tr. 247-256.) IPL instructed its field staff to take two employees to read Mr. Van Fossen's meter if necessary. (Tr. 184.) IPL's meter reader made the choice to violate IPL's animal policy and not bring another employee with him. (Tr. 184, 249-256.) This current practice is not acceptable to IPL because it may not be safe for employees

and it gives Mr. Van Fossen an advantage not given to other similarly situated customers. (Tr. 184-185.)

IPL argues that it has obtained actual meter readings sufficient to maintain compliance with 199 IAC 20.3(6), which requires that no more than three consecutive bills may be estimated, absent unusual circumstances or permission from the customer. (Tr. 162-166; Informal complaint file.) Mr. Oleksa testified that IPL estimated Mr. Van Fossen's meter readings on April 4, June 29, August 31, October 4, October 31, 2006, and on January 2, February 1, and March 2, 2007. (Tr. 166, 212; Exhibit 1.)

### **Analysis**

Board rule 199 IAC 20.3(6) requires utilities to schedule meter readings at least monthly. The rule requires utilities to make an effort to obtain readings of the meters on corresponding days of each meter reading period. The utility may allow the customer to supply the meter readings by telephone or on a form supplied by the utility.<sup>1</sup> However, a utility representative must physically read the meter at least once each 12 months. 199 IAC 20.3(6). The same rule states that if a meter reading form has been left when the utility could not read the meter, and the customer does not return the form in time for the utility's billing operation, the utility may estimate the customer's bill. If a utility cannot obtain an actual meter reading, the utility may render an estimated bill to the customer without reading the meter or supplying the

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<sup>1</sup> The rule also allows a utility to arrange to read meters electronically, although Mr. Oleksa testified this is not currently available on Mr. Van Fossen's route. (Tr. 230-233.)

customer with a meter reading form. 199 IAC 20.3(6). The rule states a utility may not render more than three consecutive estimated bills to a customer unless there are unusual circumstances or approval is obtained from the customer.

In this case, IPL did not estimate Mr. Van Fossen's bills for more than three consecutive months. (Exhibit 1; Informal complaint file; Tr. 100-101, 120-121, 166.) There was originally some confusion regarding whether the bill dated August 3, 2006, was estimated because IPL used the same marking to indicate the bill was amended that it routinely used on other bills to show that those bills were estimated. (Exhibit 1; Informal complaint file; Tr. 70-71, 100-101, 120-121, 166-168.) However, during the hearing it was clarified that this bill was amended, not estimated. (Tr. 70-71, 100-101, 120-121, 166-168, 216-218.) This is significant because the three subsequent bills issued to Mr. Van Fossen were all estimated, and if the August 3 bill had been estimated, IPL would have violated 199 IAC 20.3(6). Therefore, IPL did not violate the rule regarding the number of estimated meter readings. 199 IAC 20.3(6).

In addition, although there was a dispute between the parties whether Mr. Van Fossen or his son had directed an IPL meter reader to estimate the bills if the dogs were out, the dispute is irrelevant because no more than three consecutive estimated bills were issued to Mr. Van Fossen. (Exhibit 1; Tr. 33, 38, 128-136, 139-141, 166-168, 248-249.) In addition, it is clear that Mr. Van Fossen is not currently giving his approval to IPL to estimate readings even if his dogs are out. (Tr. 33, 38, 128-136.)

However, even though IPL did not technically violate the rule, its use of estimated meter readings and billings was excessive in this case. IPL issued estimated bills to Mr. Van Fossen on April 5, June 30, September 1, October 5, and November 2, 2006, and on January 3, February 2, and March 5, 2007. (Exhibit 1.) The only actual meter readings and bills during this entire period were issued on May 4, June 2, August 3, and November 30, 2006. (Exhibit 1.) As discussed below, the number of estimated billings contributed to the inaccuracy of the estimated bills issued to Mr. Van Fossen.

Mr. Van Fossen contributed to the situation by not restraining one of his dogs, and later, when he got a new dog, by not restraining two of his three dogs when the meter readers were coming to read his meter. (Tr. 38, 41, 80, 109-112, 175-184, 249-256; Exhibit 200, Schedules M, N, O, P; Informal complaint file.) It was entirely reasonable for IPL to adopt its policy telling employees not to read meters when unrestrained animals were present to protect its own employees. IPL had an increase of injuries to employees related to unrestrained dogs. (Tr. 176.) IPL employee Mr. Lyle Henning testified he was bitten by a friendly dog, although not by Mr. Van Fossen's dogs. (Tr. 150.) IPL is correct that it has an obligation to protect the safety of its employees.

Since April 2007, IPL has read Mr. Van Fossen's electric meter each month and has not estimated his electric bills. (Exhibit 1; Informal complaint file.) Although the undersigned appreciates Mr. Schultz's willingness to read Mr. Van Fossen's

meter once he became familiar with them in order to obtain actual readings, this is in violation of IPL's policy and is not acceptable to IPL. In addition, it is not an appropriate long-term solution and could compromise the safety of IPL employees.

However, it appears that in some of the months, IPL had to estimate Mr. Van Fossen's meter readings because IPL had inadequate staff in the Dubuque office to read its customers' meters during the required dates. (Tr. 139-152, 214-216, 238; Exhibits 4, 5, 102.) Although some of this staffing problem may have been due to extreme weather in February 2007, it does not appear that this was the cause during all of the months. (Tr. 139-152, 168-181, 214-216, 225-228, 238; Exhibits 4, 5, 101, 102; Informal complaint file.) IPL is required by 199 IAC 20.3(6) to schedule readings of all meters used to determine customers' charges and billings at least monthly. IPL must ensure the Dubuque office has sufficient staff to be able to comply with this requirement.

At the hearing, the parties testified to various options that could be used to avoid IPL having to estimate Mr. Van Fossen's meter readings. (Tr. 115-116; 229-233.) Mr. Van Fossen could keep his dogs indoors or restrained on the scheduled meter reading dates. (Tr. 232-233.) Mr. Van Fossen can call in his meter readings. (Tr. 229.) On each electric bill, the date that IPL is to read his meter for the next month is stated on the bill. (Tr. 229; Exhibit 1.) Mr. Van Fossen can call the toll-free 800 customer service number provided on the bill before the date for the next reading and provide his meter reading. (Tr. 229.) Or Mr. Van Fossen could call the number

and request meter read cards, which IPL will send him to provide his own readings. (Tr. 229.) IPL would still need to make arrangements to have its meter reader read Mr. Van Fossen's meter at least once every 12 months, and preferably every six months. (Tr. 230.) Mr. Van Fossen testified he would be willing to read his own meter and send in a card if IPL provided him with the cards. (Tr. 115-16.) If he knew when the meter reader was coming, he testified he could be home to accompany the meter reader. (Tr. 116.)

It therefore appears that the cause of the estimated meter readings in this case was a combination of Mr. Van Fossen's unrestrained dogs, severe weather, and inadequate staff in IPL's Decorah office. It also appears that in the future, if they act responsibly, cooperatively, and in good faith, the parties have several ways they can avoid the use of estimated meter readings. The undersigned expects the parties to take responsibility for their own actions and work together cooperatively and in good faith to obtain actual meter readings whenever possible without violating IPL's policy on unrestrained animals. In addition, the undersigned expects the parties to work together so that IPL's meter readers may read Mr. Van Fossen's electric meter at least once every 12 months, preferably once every six months, and without violating IPL's policy on unrestrained animals.

## **II. Accuracy of Estimated Meter Readings and Subsequent Adjustments**

### **Mr. Van Fossen's position**

Mr. Van Fossen argues that IPL sent him wrongly calculated estimated bills deliberately to shift billings from lower summer rates into higher winter rates, thus hugely overcharging customers. (Informal complaint file; Tr. 35.) Mr. Van Fossen complains that IPL deceptively and wrongly estimated his electricity usage for the three consecutive months of January through March 2007, at 75 and 100 percent above his historic usage. (Informal complaint file; Tr. 22-23, 45, 70-71.) He argues that the estimated electric usages in his estimated bills from January through March 2007 were nearly double his historic usages from the year before. (Informal complaint file; Tr. 45, 70-71.) Mr. Van Fossen also complains that IPL deliberately underestimated his July through November 2006 electric usage (at 9.558 cents per kilowatt-hour (kWh)), and then collected the amount in the December 2006 bill at 15.663 cents/kWh, a 64 percent higher rate. (Informal complaint file; Tr. 45.) Mr. Van Fossen also complains that IPL deliberately overestimated his January through March 2007 usage by 75 percent, collecting for unused electricity at the much higher rate of 15.873 cents/kWh, to be adjusted in June at a much lower rate. (Informal complaint file; Tr. 45.)

Mr. Van Fossen argues that when an IPL manager read his electric meter on March 16, 2007, the actual meter reading confirmed that IPL had significantly overestimated his electric usage and overcharged him during the previous three

months. (Informal complaint file; Tr. 22-23, 45, 100.) He further argues that when IPL sent him a re-stated bill for March on March 22 based on the actual reading, IPL claimed it had actually read his meter on March 2. (Informal complaint file; Tr. 23, 45.) Mr. Van Fossen also argues that, because he had already paid his February bill, the March 22 bill double billed him for 839 units of electricity (for the meter interval 76416 to 77255) that he had already paid for, and that he had not yet used, because IPL had significantly overestimated his electric usage. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 100.) Therefore, Mr. Van Fossen paid only two cents to IPL on his March 22, 2007, bill. (Exhibit 1; Informal complaint file; Tr. 23, 36.)

Mr. Van Fossen also argues that if IPL's estimating algorithm cannot come any closer than it came in his case, it is worthless. (Tr. 70-71.) He also questions why, if the algorithm is consistent with the Board's rules and IPL's tariff, it was so wrong in calculating his estimated meter readings. (Tr. 81, 100.)

Mr. Van Fossen argues that his April 2007 bill incorrectly claims that IPL read his meter on April 2. (Informal complaint file; Tr. 25, 45.) He also argues that the April bill incorrectly states his daily usage amount and its billing is thoroughly messed up. (Informal complaint file, Tr. 45.) Mr. Van Fossen argues that his April, May, June, and July 2007 bills incorrectly carried forward the double billing from his March 22 restated bill. (Informal complaint file.)

### **IPL's position**

IPL states that it uses the following method to estimate bills that considers actual customer usage for similarly situated customers. (Informal complaint file; Tr. 162-163.) IPL derives a factor by examining actual customer usage from customers in the same geographic area who have similar kWh consumption and similar usage, such as electric or non-electric heating. (Informal complaint file; Tr. 162-163.) IPL then applies this factor to the customer's prior month's usage to estimate the customer's current month's usage. (Informal complaint file; Tr. 162-163.) IPL argues that an over or under estimation in subsequent months can occur if the prior month's usage is unusually high, due to weather or a previous under-read or under-estimation. (Informal complaint file; Tr. 170.) However, IPL argues, this over or under estimation is neither intentional nor a deliberate attempt to increase revenues. (Informal complaint file; Tr. 172.) IPL argues that once it has obtained an actual reading, it adjusts the customer's billed usage over the estimated period if the estimated uses were significantly higher or lower than the actual usages. (Informal complaint file; Tr. 163, 172.) IPL argues that any revenue gained in one month would be corrected in subsequent months. (Informal complaint file.) IPL argues that this adjustment levels out accounts that had been assigned significant amounts of usage on a seasonal rate in which the usage probably did not occur. (Informal complaint file.) IPL argues its method to estimate meter readings is consistent with Board rules and IPL's approved electric tariff. (Tr. 163.)

IPL argues that it followed this methodology to estimate and to correct Mr. Van Fossen's billings. (Informal complaint file; Tr. 170-175, 220-224, 241-244.) Mr. Oleksa testified Mr. Van Fossen's electric use was underestimated in the months of September, October, and November 2006. (Tr. 170-172.) He testified that Mr. Van Fossen's December 2006 usage, based on an actual reading, was used as the basis of the estimated usages in January, February, and March 2007. (Tr. 170.) He testified Mr. Van Fossen's December 2006 usage was higher than previous Decembers and for a billing period of 29 days. (Tr. 170.) Mr. Oleksa testified this December 2006 use resulted in estimated uses in January, February, and March 2007 that were amplified higher than the actual usage. (Tr. 170.) IPL's system did not indicate these estimated uses were abnormally high. (Tr. 171.)

Mr. Oleksa testified that if a customer believes his or her estimated usage is abnormally high, the customer can call IPL's customer service center. (Tr. 171.) He testified Mr. Van Fossen did not call IPL's customer service center in January, February, or March 2007. (Tr. 171; Exhibit 200, Schedule F.)

IPL states it obtained an actual meter reading at Mr. Van Fossen's residence on March 16, 2007. (Informal complaint file; Tr. 172.) It further states that this actual read showed that Mr. Van Fossen's prior estimated readings for January through March 2007 had been over-estimated. (Informal complaint file; Exhibit 1; Tr. 172.) Using the factor described above, IPL states it adjusted Mr. Van Fossen's usage over the period using weather data. (Informal complaint file; Tr. 172; Exhibits 1, 200,

Schedule H.) In its response in the informal complaint file, IPL states it reduced his usage by 1,037 kWh and reduced his billed amount by \$88.85. (Informal complaint.) IPL provided details of how it recalculated Mr. Van Fossen's usage and billings with its response to the informal complaint and in testimony and exhibits. (Informal complaint file; Tr. 170-175, 241-244; Exhibit 200, Schedule H.) IPL states it issued a corrected bill to Mr. Van Fossen on March 22, 2007, which included reductions for 839 kWh and credits to him that totaled \$77.63 for the January and February 2007 estimated bills. (Tr. 172-175, 220, 241-244; Informal complaint file; Exhibit 1.) Mr. Oleksa testified IPL also reduced Mr. Van Fossen's March 2 estimated bill by 198 kWh and \$16.80. (Tr. 172-175, 220-224, 241-244.) IPL argues this billing adjustment was the result of the differences in the amounts initially billed from the adjusted billing and usage amounts for the periods of November 29, 2006, through January 2, 2007, and January 3, 2007, through February 1, 2007. (Informal complaint file; Tr. 172-175, 220-224, 241-244.) IPL argues it reduced the number of kWh billed in each billing period to more closely match actual consumption based on the actual reading taken on March 16, 2007. (Informal complaint file; Tr. 170-175, 220-224, 241-244.)

IPL argues it billed Mr. Van Fossen in a manner consistent with billing adjustments made to all IPL customers. (Informal complaint file; Tr. 172-175, 220-224, 241-244.) It further argues its billing adjustment method was reasonable and was in compliance with 199 IAC 20.4(14)"e" and its electric tariff. (Informal complaint

file; Tr. 170-175, 220-224, 241-244; Exhibit 200, Schedules A, G, H.) IPL argues that to bill Mr. Van Fossen in the manner he requests would be to grant him an unreasonable preference over other customers and would be inconsistent with IPL practices and Board rules. (Informal complaint file.) IPL argues it correctly billed Mr. Van Fossen and his assertion to the contrary is incorrect. (Informal complaint file; Tr. 170-175, 220-224, 241-244.) Mr. Oleksa testified that Mr. Van Fossen's payment of \$0.02 on his adjusted March 22, 2007, bill did not reflect the cost of the service provided to him. (Tr. 175.)

IPL argues that Mr. Van Fossen's assertion that it did not read his meter on April 2 is incorrect. (Tr. 163-164; Informal complaint file.) It states that its meter readers' hand-held data loggers record the date and time each meter is read, and the data logger shows that Mr. Van Fossen's meter was read on April 2, 2007. (Tr. 164; Informal complaint file.)

In addition, argues IPL, its residential electric rate that applies to Mr. Van Fossen's account has a higher summer rate from June 16 through September 15 of each year. (Informal complaint file.) IPL states the summer rate applicable to Mr. Van Fossen's account is 7.939 cents per kWh. (Informal complaint file.) It states the winter rate is a declining block rate. (Informal complaint file.) The first 16.438 kWh per day or the first 500 kWh per month is 6.868 cents per kWh, and the next 23.014 kWh per day or next 700 kWh per month is 5.825 cents per kWh. (Informal complaint file.) IPL argues its applicable electric rates are lower in the winter period than in the

summer and it is unable to determine how Mr. Van Fossen calculated a higher cost for electric use during the winter months in the attachment to his original complaint letter. (Informal complaint file.) IPL argues Mr. Van Fossen's allegation of a pattern of higher rates per kWh in winter is not supported by actual billing data and his assumption that rates are higher in the winter is incorrect. (Informal complaint file; Exhibit 1.) Therefore, argues IPL, Mr. Van Fossen's assertions that IPL is using estimated meter readings and winter rates to generate additional income are erroneous. (Informal complaint file.)

### **Analysis**

There is no persuasive evidence to support Mr. Van Fossen's allegation that IPL deliberately under estimated and over estimated his electric usage or that billings were deliberately shifted from lower rate months to higher rate months. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.)

The persuasive weight of the evidence in this case is that under ordinary circumstances, IPL's system of estimating readings and billings is in compliance with Board requirements and IPL's tariff and appears to be reasonable. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.) 199 IAC 20.3(6); 199 IAC 20.4(14)"e" and "g." However, in this case, the excessive number of estimated meter readings in a very short period of time contributed to estimated readings and billings

that were significantly inaccurate and overcharged Mr. Van Fossen on his January, February, and March 2, 2007, electric bills. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.)

The persuasive weight of the evidence in this case shows that IPL's system reasonably corrects estimations if customers are erroneously overcharged due to estimated readings and billings and that its system is in compliance with Board rules and IPL's tariff. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.) 199 IAC 20.3(6); 199 IAC 20.4(14)"e" and "g." In addition, the evidence shows that IPL's system functioned correctly and IPL appropriately credited Mr. Van Fossen's account for the over estimations and charges on his January, February, and March 2, 2007, electric bills, when it issued him the corrected bill on March 22, 2007, with one possible exception. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.)

The evidence is clear that IPL credited Mr. Van Fossen's account for the over estimations and charges on his January and February 2007 electric bills. (Informal complaint file; Tr. 22-23, 35-36, 45, 51, 70-71, 81, 100, 162-163, 170-175, 220-224, 241-244; Exhibits 1, 101, 200, Schedules A, G, H.) Although Mr. Oleksa testified that IPL reduced Mr. Van Fossen's March 2, 2007, estimated bill by 198 kWh and \$16.80, it is not immediately apparent from the March 22 corrected bill, the April 3, 2007, bill,

and Mr. Oleksa's testimony and exhibit that this credit was given. (Tr. 172-175, 220-224, 241-244; Exhibits 1, 200, Schedule H.) Board rule 199 IAC 20.4(14)"g" requires that credits due a customer because of errors in billing shall be separately identified, and it does not appear that this was done with regard to the \$16.80 amount.

In addition, Mr. Van Fossen paid only \$0.02 on his corrected March 22, 2007, bill, which IPL states did not cover the cost of his service, and which was clearly incorrect given the refund provided by IPL on the March 22 corrected bill. (Exhibit 1; Tr. 175.) These factors add to the uncertainty regarding the amount in dispute in this case that is attributable to amounts other than the disputed late fees discussed below.

### **III. Payment Due Dates**

#### **Mr. Van Fossen's position**

Mr. Van Fossen argues that IPL intentionally advanced his payment due dates so that it could charge additional late fees when he made late payments. (Informal complaint file; Tr. 20-21, 35-38, 68-71, 81, 106-109, 124-125.) He argues that historically, he paid his electric bill at the office of IPL's predecessor utility in Decorah on about the first of each month. (Informal complaint file; Tr. 20, 107; Exhibit 1.) At that time, he testified, his bill due date was normally between the fourth and the eighth of each month. (Informal complaint file; Exhibit 1; Tr. 20.) Therefore, he stated, he normally paid his electric bill four to eight days early. (Informal complaint file; Tr. 20; Exhibit 1.) However, he argues, after Wisconsin Power & Light acquired

IPL, the utility closed the Decorah office and he had to first make his payments at local banks, and then mail his payments. (Informal complaint file; Tr. 20, 68-69, 107.) Mr. Van Fossen complains that soon after this, the utility began advancing his payment due date, gradually advancing it to between the seventeenth and the twentieth of each month, so that now his regular first-of-the-month payments were "late," and IPL charged him usurious interest charges. (Informal complaint file; Tr. 20-21, 36-37, 51, 68-70, 81, 106-109, 124-125.) He complained that these charges as of March 8, 2007, totaled \$31.40. (Informal complaint file.)

Mr. Van Fossen argues that he attempted for five years to have IPL move his due date back and IPL could have given him a due date of the fifth of the month long before he filed his complaint. (Informal complaint file; 69-70, 83-84, 126-127.) He testified that he filed a complaint with the Board in 2004 regarding this issue, but his son became sick and he did not pursue the issue. (Tr. 21.)

### **IPL's position**

IPL argues it has not advanced the due date on the bills so it can charge additional late fees. (Informal complaint file; Tr. 161, 185-188.) Mr. Oleksa testified that beginning in 1998, IPL slowly began moving meter reading dates to earlier days in the month. (Tr. 185-189; Exhibit 200, Schedule Q.) He testified this was the result of shortening the windows for meter reading and the period to complete all billing cycles, which was done to accommodate more customers who requested billing on a calendar basis and to provide a single bill to customers with multiple locations. (Tr.

187.) IPL argues that 199 IAC 20.3(6) and its approved electric tariff Section 10 require it to read a customer's meter on corresponding dates each month, but do not require IPL to read the meter on exactly the same day each month. (Informal complaint file; Tr. 161, 185-188; Exhibit 200, Schedule A.) IPL also states that, pursuant to 199 IAC 20.4(12), a customer's bill due date must be no less than 20 days after the bill is sent to the customer. (Tr. 185; Informal complaint file.) Therefore, IPL states, a customer's due date can fluctuate depending on when the meter is read each month. (Tr. 185; Informal complaint file.)

Mr. Oleksa testified that Mr. Van Fossen's due dates have fluctuated over the 25-year period from 1973-1998. (Tr. 188-189; Exhibit 200, Schedule Q.) IPL argues that from August 2002 through March 2007, Mr. Van Fossen's bill due dates have been between the twentieth and the twenty-eighth of each month. (Tr. 90; Informal complaint file; Exhibit 1.) Additionally, IPL states that Mr. Van Fossen has received no more than 12 billings over a one-year period. (Informal complaint file; Exhibit 1.)

Residential customers may select a due date if the customer requests one in writing or over the telephone. (Tr. 189-191; Exhibit 200, Schedule A.) IPL states that it twice tried to resolve Mr. Van Fossen's issue with payment due dates by offering to set a consistent due date that would apply each month. (Tr. 189-190; Informal complaint file.) However, IPL states, it was unable to come to an agreement on this with Mr. Van Fossen because IPL did not have his telephone number and he did not respond to IPL's letter, so no consistent due date was set. (Tr. 189-190; Exhibit 200,

Schedules R, S, T; Informal complaint file.) After Mr. Van Fossen filed his complaint on March 27, 2007, IPL witness Mr. Oleksa set a consistent payment due date of the fifth of each month without talking with Mr. Van Fossen, in an attempt to resolve the issue. (Informal complaint file; Exhibit 1; Tr. 24, 117, 190-191.)

IPL argues it charged Mr. Van Fossen late fees at a monthly rate of one and one-half percent in accordance with Board rules and IPL's electric tariff. (Tr. 191-196; Exhibit 200, Schedule A; Informal complaint file.) IPL argues that Mr. Van Fossen has not paid his bills by the due date, even prior to 2002. (Tr. 194-195; Exhibits 1, 200, Schedule U.) IPL argues that granting Mr. Van Fossen's request that it not charge him late fees would violate Iowa Code § 476.5, which states that rate-regulated utilities such as IPL must follow their own tariffs and cannot grant an unreasonable preference or advantage as to rates or services to any person. (Informal complaint file.)

### **Analysis**

Mr. Van Fossen has regularly paid for his current electric usage approximately around the first of each month. (Informal complaint file; Exhibit 1; Tr. 20-21, 37, 106-109, 119, 124-125.) However, Mr. Van Fossen has made this payment when he wishes, not necessarily by the due date on the bill. (Informal complaint file; Exhibit 1; Tr. 20-21, 106-109, 124-125.) Because he has not paid the monthly bills by the due date, IPL has frequently charged him a late fee. (Exhibit 1; Tr. 21.) These late fees have accumulated and are in dispute in this case. (Exhibit 1; Informal complaint file;

Tr. 21, 108.) Although Mr. Van Fossen has regularly paid for his current electric usage, he has not paid the accumulated past due amounts on his bills unless threatened with disconnection. (Exhibit 1; Informal complaint file; Tr. 20-21, 108.) When asked why he did not pay the past due amounts, he testified it was because he was paying earlier than he had before, he kept writing notes to IPL asking them not to charge late fees, IPL kept advancing the payment due date, and he kept paying close to the first of each month. (Tr. 108-109, 124-125.) Mr. Van Fossen testified part of the reason was budgeting, part was habit, and part was because he pays his bills at the first of the month, which is convenient to him. (Tr. 109.)

The exact amount of the accumulated past due disputed fees is unclear. (Exhibit 1; Informal complaint file; Tr. 76, 119, 204-205, 237-238.) After the hearing, the parties filed statements that say they will treat the total amount in dispute as \$43.30. (Posthearing filings.)

The persuasive weight of the evidence is that IPL followed all requirements with regard to the billing due dates and did not intentionally advance the billing due dates to charge additional late fees, although it did gradually change billing due dates over the years so Mr. Van Fossen's due date was frequently prior to the first of the month. (Informal complaint file; Exhibits 1, 200, Schedules A, Q, U; Tr. 20-21, 35-38, 51, 68-71, 76, 81-84, 90, 106-109, 119, 124-127, 161, 185-196, 204-205, 237-238.) 199 IAC 20.3(6); 199 IAC 20.4(12).

Starting with Mr. Van Fossen's April 3, 2007, bill, IPL set the due date for Mr. Van Fossen's electric bills as the fifth of each month. (Exhibit 1; Tr. 24, 117-118.) Since then, Mr. Van Fossen has paid the amount due for current electric usage (minus \$8 during the summer months as discussed below) on his monthly utility bills on time. (Exhibit 1; Informal complaint file; Tr. 118-119.) Mr. Van Fossen testified that this due date is acceptable to him and he does not want another due date. (Tr. 117-118.) Mr. Van Fossen also testified that if the past due amount in dispute is set at zero, and if IPL continues to bill him consistently with a due date of the fifth of each month, he will pay his electric bills on time. (Tr. 118-119.) It appears that the parties have resolved this issue, as long as the bill due date is set as the fifth of each month. (Tr. 117-119.) Mr. Oleksa is to be commended for taking action to set a regular monthly due date and the parties are to be commended for resolving this issue.

#### **IV. Interest Rate of Late Fees**

##### **Mr. Van Fossen's position**

Mr. Van Fossen complains that IPL charges him usurious late fees on his electric bills. (Informal complaint file; Tr. 19, 22, 34-35, 46, 50, 63-65, 85-86, 97-98.) He argues that the interest rate of the late fees amounts to a nominal annual interest rate of 547.5 percent because IPL charges a one and one-half percent late fee even if the payment is only one day late. (Informal complaint file; Tr. 22, 34, 36, 64-65.) He complained that sometimes the interest rates charged are as high as 1241 percent, because IPL charges the late fee on prior late fees if the customer did not

pay them on time. (Informal complaint file.) Mr. Van Fossen also complains that IPL charges late fees on estimated bills, which, because they were incorrectly calculated, charged him for electricity he had not yet used. (Informal complaint file; Tr. 19, 22-23, 50, 63-64.) Mr. Van Fossen argues that IPL has a financial incentive to have its customers pay late. (Informal complaint file.)

Mr. Van Fossen further argues that IPL's fees violate Iowa Code § 535.4, which defines and prohibits usury in Iowa. (Tr. 19, 35, 52.) He argues that the interest rates charged by IPL exceed by orders of magnitude any allowed interest rates in Iowa. (Tr. 19, 35.) He argues that Iowa Code § 535.11(3) limits the finance charge on accounts receivable, and Iowa Code § 537.2510, which requires a rebate on prepayments of such amounts, states in subsection (3)(b): "If prepayment is in part, the creditor may not collect or retain a minimum charge." (Tr. 19-20, 22, 35.) Mr. Van Fossen argues that IPL has never made any such rebate to him. (Tr. 20, 35.) Mr. Van Fossen argues that IPL's interest rate of 547.5 percent is more than 84 times the current 6.5 percent usury rate set for banks and credit unions as posted on the Iowa State Treasurer's Web site, and is 26 times the 21 percent maximum interest rate allowed on accounts receivable by Iowa Code §§ 535.11(3) and 537.2201. (Tr. 22; Exhibit 3.) Mr. Van Fossen argues that his calculations show that IPL's application of the late fee to full payments that are one day late violate the Iowa Code § 535.4 prohibition on usury. (Tr. 22; Exhibit 3.)

### **IPL's position**

IPL argues it charges its customers a late penalty in accordance with Iowa Code § 476.54, 199 IAC 20.4(12)"b," and its electric tariff, Section 7.12. (Informal complaint file; Tr. 193-196; Exhibit 200, Schedules A, V.) It states this rate is one and one-half percent per month. (Informal complaint file; Tr. 193-196.) IPL argues that Mr. Van Fossen incorrectly calculates the late fee as if it were compounded on a daily basis. (Informal complaint file; Tr. 195-196.) However, IPL argues, this is not the case, and the late fee percentage of one and one-half percent remains the same each month, whether the arrears is one day past due or 30 days past due. (Informal complaint file; Tr. 193-196.) IPL also argues that Mr. Van Fossen's calculation of a 1241 percent interest rate on late payments is incorrect. (Informal complaint file.)

### **Analysis**

Iowa Code chapters 535 and 537 are general credit and consumer credit statutes. They do not apply to the late payment fees charged by utilities when they bill their customers. Instead, there is a statute that specifically regulates late payment fees charged by utilities: Iowa Code § 476.54.

Iowa Code § 476.54 and Board rule 199 IAC 20.4(12) state that utilities may not apply late payment charges to a customer's account if the scheduled payment is made by the customer within 20 days of the date the bill was sent to the customer. IPL complied with this requirement. Each of the bills sent to Mr. Van Fossen included a payment due date that was at least 20 days after IPL sent the bill to Mr. Van

Fossen. (Exhibit 1; Informal complaint file.) IPL did not charge a late fee so long as the payment was made by the due date. (Exhibit 1; Informal complaint file.) In addition, as required by Board rule 199 IAC 20.4(12)"d," IPL allows its customers to make one late payment per year without incurring a late payment charge. (Exhibit 1; Informal complaint file.)

Iowa Code § 476.54 and 199 IAC 20.4(12)"b" also state that late payment charges on a customer's account cannot exceed one and one-half percent per month of the past-due amount. IPL complied with this requirement. (Exhibit 1; Informal complaint file.) It charged late fees of one and one-half percent per month of the past due amount. IPL did not do what Mr. Van Fossen argues it did: it did not charge a late fee of one and one-half percent per day. Mr. Van Fossen is correct that even if his payment was one day late, IPL charged him one and one-half percent on the past due amount. However, it is also true that IPL does not charge a greater fee if the payment is more than one day late. Therefore, Mr. Van Fossen's argument that IPL charged him a late fee of 547 percent per year, or over 1200 percent per year, is incorrect. There is nothing in the statute or rule that prevents IPL from charging a late fee on prior late fees that are included in a past due balance. Iowa Code § 476.54; 199 IAC 20.4(12). There is also nothing in the statute or rule that requires IPL to charge a late fee, although IPL's tariff Section 7.12 states that IPL shall charge a late payment charge to cover the costs of collection. (Exhibit 200, Schedule A.)

The amounts of the late fees IPL charged Mr. Van Fossen complied with the requirements of Iowa Code § 476.54 and Board rule 199 IAC 20.4(12).

Mr. Van Fossen also argues that IPL should not be allowed to charge him a late fee on his estimated bills for January, February, and March 2007, because those estimated bills were incorrectly calculated and charged him for electricity he had not yet used. (Tr. 19, 22, 45-46.) There is no statute, rule, or IPL tariff that states a utility cannot charge a late fee on an estimated bill. Therefore, IPL did not violate any statute, rule, or tariff provision when it charged a late fee on the estimated bills sent to Mr. Van Fossen for January, February, and March of 2007, even though the estimated bills significantly overstated his electric usage.

Customers, including Mr. Van Fossen, must pay their electric bills by the due date on the bill. Mr. Van Fossen was not justified in paying his electric bills when he chose, around the first of each month, even when the due date on the bill fluctuated somewhat. There is no evidence in the record that Mr. Van Fossen cannot afford to pay his electric bills. Rather, the evidence in the record shows that Mr. Van Fossen chose not to pay his electric bills by the due date on the bills. Customers of IPL who are unable to pay their entire electric bills have options available from IPL, such as payment agreements and level payment plans, but they must initiate this process by contacting IPL's customer service number printed on their electric bills. 199 IAC 20.4. Eligible customers may also apply for low-income energy assistance by contacting their local community action agency or the Division of Community Action

Agencies at the Iowa Department of Human Rights. 199 IAC 20.4. A copy of the "Customer Rights and Responsibilities to Avoid Shutoff of Electric Service for Nonpayment" contained in Board rule 199 IAC 20.4(15) is attached to this order. Additional information is contained in the Board's rule 199 IAC 20.4, which may be accessed through the Board's Web site at [www.state.ia.us/iub](http://www.state.ia.us/iub). There is nothing in the record that indicates Mr. Van Fossen has requested any of these types of assistance, and when asked whether it would help him to have a level payment plan so that his payment amounts are the same each month, Mr. Van Fossen testified it would not. (Tr. 118.)

IPL complied with all applicable requirements in its assessment of late fees to Mr. Van Fossen. (Exhibits 1, 200, Schedules A, U, V.) Iowa Code § 476.54; 199 IAC 20.4(12).

Mr. Van Fossen also argues that even if IPL complied with the applicable statutes, rules, and tariffs, the combination of circumstances and IPL's treatment of him in this case meant that the effect of IPL's actions were not reasonable with respect to him. This will be discussed later in this decision.

## **V. Disconnection Notices**

### **Mr. Van Fossen's position**

Mr. Van Fossen complains that IPL threatened to disconnect his service for what IPL characterized as a past due balance of \$31.40, which he claims he did not owe, amidst several weeks of sub-zero temperatures. (Informal complaint file; Tr. 19,

21-23, 51, 72-75, 98-100; Exhibit 1.) He argues that the \$31.40 is entirely from accumulated late fees. (Informal complaint file; Tr. 21, 23, 61-62.) Mr. Van Fossen argues that he has paid for his monthly electric usage in full on the first of every month for the last 34 years, and if IPL had not wrongly estimated his electricity usage, IPL would owe him far more than \$31.40. (Informal complaint file; Tr. 19.) He argues that IPL threatened to disconnect his electric service during a period of sub-zero temperatures for failure to pay an amount that he did not owe, during a time when he was paying for electricity that he had not even used, because IPL had seriously overestimated his electric usage. (Informal complaint file; Tr. 19, 22-23, 45-46, 98-100; Exhibit 1.) Mr. Van Fossen complains that IPL sent him seven disconnect notices, including some in sub-zero weather, without any investigation, despite the fact there had been no change in his 34+ year payment history and the amounts supposedly owed consisted entirely of usurious interest charges on supposedly late payments, and for past due amounts as low as \$15.17. (Tr. 46, 59-63; Exhibit 1.)

Mr. Van Fossen argues that the requirement that IPL not disconnect his service if temperatures are forecast to be 20 degrees or below provides little comfort, because people get pretty cold at 20 degrees, because temperatures could drop to below 20 degrees after IPL disconnects service and there is no requirement that IPL reconnect service if this happens, and because people do not know of this requirement. (Informal complaint file; Tr. 98-100.) He argues that if there are not

rules in Iowa that prevent the issuance of disconnect notices in winter, there should be. (Tr. 88-89.) Mr. Van Fossen argues there is nothing that requires IPL to issue disconnect notices and the company should behave more responsibly. (Tr. 89.) He argues that sending disconnect notices in winter is intimidating to elderly and low income customers. (Tr. 99-100.) Mr. Van Fossen testified he bought a generator to be able to operate his furnace and his disabled son's C-PAP machine in anticipation that IPL would disconnect his electric service. (Informal complaint file.)

### **IPL's position**

IPL argues that Mr. Van Fossen has regularly declined to make payment by the due date on his account since 2002. (Informal complaint file; Tr. 200.) Therefore, IPL argues, it has applied late fees to Mr. Van Fossen's account, and these have accumulated because Mr. Van Fossen has not paid them. (Informal complaint file; Tr. 200.) IPL argues that any unpaid balance is ground for disconnection of service pursuant to 199 IAC 20.4(15)"d" and its electric tariff. (Tr. 200.) It argues that the late fees charged to Mr. Van Fossen are proper, authorized charges pursuant to IPL's approved electric tariff, Section 7.12 and Board rules. (Informal complaint file; Tr. 200.) Since Mr. Van Fossen has chosen not to pay this portion of his billing for the past few years, IPL argues it was appropriate for it to issue disconnection notices to him on January 30 and March 2, 2007, for the unpaid balances of \$146.58 and \$31.40. (Informal complaint file; Tr. 200-203.) IPL states it also issued 14 disconnection notices to Mr. Van Fossen from January 1993 through June 2002 for

unpaid balances, and issued nine orders to disconnect service during that time. (Tr. 202-203.)

IPL argues there are no requirements in the Iowa Code or the Iowa Administrative Code that prohibit a utility from issuing a disconnection notice in the winter months. (Tr. 201.) IPL argues it does not issue disconnect notices to customers who have qualified for winter energy assistance or weatherization funds and are granted protection from disconnection pursuant to IPL's electric tariff Section 4.18C(7)f and Board rule 199 IAC 20.4(15)"d"(10). (Tr. 201; Exhibit 200, Schedule A.) However, IPL argues, Mr. Van Fossen did not qualify for winter energy assistance or weatherization funds from November 1, 2002, through April 1, 2007. (Tr. 201.) IPL argues there are other protections for residential customers during the winter months, such as prohibiting disconnection of electric service if electric service is the primary heat source or the resident has certain health issues. (Tr. 201-202; Exhibit 200, Schedule A.) IPL further argues that disconnection of service after issuance of an approved disconnection notice during winter months is restricted by 199 IAC 20.4(16) and 20.4(17). (Informal complaint file.) It states that utilities must include a copy of the "Customer Rights and Responsibilities to Avoid Shutoff of Electric Service for Nonpayment" information with disconnection notices sent to customers as required by 199 IAC 20.4(15). (Informal complaint file; Tr. 202.) IPL states that this notice explicitly states the utility will not disconnect service under certain circumstances, such as a doctor-verified medical necessity or if the

temperature is forecasted to be 20 degrees or colder during the following 24-hour period. (Informal complaint file; Tr. 201-202.) Therefore, argues IPL, Mr. Van Fossen had notice that the threatened disconnection of electric service would not take place if certain specific circumstances existed. (Informal complaint file; Tr. 201-202.) In addition, IPL argues, it has an internal policy that it will hold disconnection of service if the temperature within 24 hours following disconnection will be below 32 degrees Fahrenheit. (Informal complaint file.) IPL admits that it is understandable that Mr. Van Fossen would not have known of this internal policy. (Informal complaint file.)

### **Analysis**

Iowa Code § 476.20 and Board rule 199 IAC 20.4(15) govern disconnection of service by utilities in Iowa. The Board has adopted very specific requirements that govern utility disconnection at 199 IAC 20.4(15). These rules include a statement of "Customer Rights and Responsibilities to Avoid Shutoff of Electric Service for Nonpayment." A copy of this statement is attached to this proposed decision. In addition, IPL has adopted Section 4.18 of its tariff that governs customer disconnection. (Exhibit 200, Schedule A.)

The undersigned agrees with Mr. Van Fossen when he states that issuance of a disconnection notice and disconnection of electric service is frightening and upsetting to customers, particularly in winter months. However, as discussed above, although he consistently paid an amount to cover his current electric usage, Mr. Van

Fossen consistently did not pay his electric bills on time, and he consistently did not pay the entire amount due. There are protections in place for customers regarding disconnection in the Board's rule and some that apply during low temperatures. Mr. Van Fossen did not call IPL's customer service number printed on his bills to request any of these protections or to dispute the amount on the bill.

When the disconnection issue is considered in isolation, IPL followed the requirements of Iowa Code § 476.20, Board rule 199 IAC 20.4(15), and its tariff Section 4.18 when it issued the disconnection notices to Mr. Van Fossen. (Informal complaint file; Tr. 19, 21-23, 51, 61-62, 72-75, 88-89, 98-100, 200-203; Exhibits 1, 101, 200, Schedule A.)

However, Mr. Van Fossen argues that even if IPL complied with Board requirements and its tariff, the effect of the combination of circumstances, including the issuance of the disconnection notices, made IPL's actions unreasonable. This will be discussed below.

## **VI. Appliance Cycling Program Credits**

Mr. Van Fossen complains that IPL did not correctly apply his appliance cycling payments to his account. (Informal complaint file; Tr. 121-123.) He argues that IPL incorrectly applied the \$8 per month credits to the disputed past due amounts on his bills, which he argues were the result of IPL's double-billing and late fees, rather than to the amounts due for current electric usage. (Informal complaint file; Tr. 121-123.) During the summer months of 2006 and 2007, Mr. Van Fossen

deducted an additional \$8 per month from the amount due for current electric usage, despite the fact that IPL had already deducted \$8 each month from the past due amounts for the appliance cycling credit. (Exhibit 1; Tr. 122-123.) Mr. Van Fossen testified that if IPL removed the disputed past due balance and started him with a zero balance, this would solve the problem. (Tr. 123.)

IPL credited Mr. Van Fossen's account \$8 per month during the summer months of 2006 and 2007. (Exhibit 1; Tr. 121-123; Informal complaint file.) Mr. Van Fossen is correct that IPL applied the \$8 credits to the past due amounts on the bills during 2006 and 2007. (Exhibit 1; Tr. 121-123; Informal complaint file.) It does not matter to the total amount owed whether the credit was applied to disputed past due amounts or to current electric usage. (Exhibit 1; Tr. 121-123; Informal complaint file.) IPL did credit his account \$8 each month during the applicable months as required. (Exhibit 1; Tr. 121-123; Informal complaint file.) Therefore, IPL correctly applied the appliance cycling program credits to Mr. Van Fossen's account. (Exhibit 1; Informal complaint file.) Mr. Van Fossen was not entitled to deduct an additional \$8 from the amount due for his current electric usage during each summer month. (Exhibit 1; Tr. 121-123; Informal complaint file.)

## **VII. Customer Notes on Bill Stubs**

Mr. Van Fossen testified that he wrote messages to IPL on his bill payment stubs when he made his payments, but IPL ignored his messages. (Tr. 21, 27, 46, 95-96, 106, 126-127; Exhibit 1.) He also testified that he included other notes to IPL

with his payments, which were also ignored. (Tr. 27, 46, 95-96.) Mr. Van Fossen's Exhibit 1 bills show messages written on the bills. The bill stubs in IPL's answer to Mr. Van Fossen's Data Request No. 2 also show messages written on the bill stubs he sent to IPL. Mr. Van Fossen did not provide copies of any of the other notes he said he sent to IPL.

IPL uses an automated bill processing system to read customers' bill payment stubs and payments. (Tr. 199.) Therefore, the system does not read messages written on the bill payment stubs. (Tr. 199.) The system weighs the payments as they come in, and if the letter weighs more than the average bill payment stub and check, the letter is kicked out of the system to be read manually. (Tr. 233-234.) In this way, if a customer adds a letter to his or her bill payment, IPL should be able to receive it. (Tr. 233-234.) This did not occur in Mr. Van Fossen's case and it is not clear why. (Tr. 233-234.)

The following message is included on each bill IPL sends to customers:

For answers to your questions, call us at 1-800-ALLIANT (255-4268) or write us at P.O. Box 351, Cedar Rapids, IA 52406-0351. If Alliant Energy – IP&L does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515) 281-3839 or toll-free (877) 565-4450, or by writing to 350 Maple Street, Des Moines, Iowa 50319 or by e-mail to IUBCUSTOMER@IUB.STATE.IA.US.

(Tr. 235.)

At the hearing, IPL witness Mr. Oleksa testified that IPL would be willing to add a statement to this message to clarify that IPL bills are read by an automated bill

processing system so notes written on the bill payment stubs will not be seen by IPL and customers must send messages to the address listed for them to be read by IPL. (Tr. 235-237.) He testified there would not be a significant cost for this if the message were not a long one. (Tr. 236.)

As ordered below, IPL must add the clarification to its customer message. The exact wording on the bill message is left to the discretion of IPL so long as it provides the required clarity.

**DID IPL PROVIDE REASONABLY ADEQUATE SERVICE GIVEN THE EFFECT OF IPL'S ACTIONS WHEN CONSIDERED TOGETHER?**

**Mr. Van Fossen's position**

Mr. Van Fossen argues that even if IPL is following the requirements of its tariffs and Board requirements, the company's treatment of him has been heavy handed and abusive. (Tr. 57-58, 65-68, 71-75, 81, 103-105.) He testified he is not challenging IPL's tariff, but is challenging the consequences of it. (Tr. 82-88, 96-100.) Mr. Van Fossen argues that IPL was indifferent to his concerns and this situation could have ended if the company practiced good customer relations. (Tr. 96.) He questioned why anyone should have faith in IPL's system when it was so inaccurate in his case. (Tr. 239.) He testified he does not believe IPL provided him with reasonably adequate service. (Tr. 102-103.) He testified he has had reasonably adequate customer service lately, but is concerned that this is because he complained to the Board, and many people do not complain. (Tr. 103.)

Mr. Van Fossen argues that the so-called arrearage that IPL claims he owes is entirely made up of late fees imposed as a consequence of IPL unilaterally advancing his due date. (Informal complaint file; Tr. 19-21, 45-47, 57-58.) He also argues that this arrearage includes "late" payment charges during the period of January through March 2007, when IPL owed him money because he had already paid for grossly over-estimated electric usage prior to the time he actually used the electricity. (Informal complaint file; Tr. 22-23, 45, 57-58.) Mr. Van Fossen argues it was unreasonable for IPL to issue him disconnect notices under these circumstances. (Informal complaint file; 46, 58.) Mr. Van Fossen testified he is not asking IPL to refund amounts he has paid in the past, but is asking IPL to remove any amount from his account that IPL currently claims is an outstanding balance owed to IPL. (Tr. 76.)

### **IPL's position**

IPL argues that it estimated Mr. Van Fossen's meter only when certain circumstances prevented a physical reading, and it has not exceeded the three consecutive estimated readings allowed by the Board's rules. (Informal complaint file; Tr. 139-152, 161-185, 212, 216, 225-228, 238, 247-256; Exhibits 1, 4, 5, 101, 102, 200, Schedules A, I, M, N, O, P.) IPL argues it has complied with the Board's regulations regarding estimated meter reading, it has appropriately calculated estimated usage based on an appropriate factor, and it adjusted Mr. Van Fossen's account appropriately after actual meter readings were taken. (Informal complaint

file; Tr. 139-152, 161-185, 212, 216, 225-228, 238, 247-256; Exhibits 1, 4, 5, 101, 102, 200, Schedules A, I, M, N, O, P.) IPL further argues that because Mr. Van Fossen's payments are not received by the due dates, IPL must apply the authorized late payment charge of one and one-half percent. (Informal complaint file; Tr. 193-196, Exhibit 200, Schedules A, V.) IPL argues that if it did not do so, it would be granting Mr. Van Fossen an unreasonable preference not available to other customers on IPL's system. (Informal complaint file.) IPL argues that since Mr. Van Fossen maintains an arrearage on his account, IPL will periodically issue a disconnection notice, as it would for any other customer. (Informal complaint file; Tr. 200-203; Exhibit 200, Schedule A.) It argues that the disconnection notices were issued in compliance with 199 IAC 20.4(15) and its own tariff. (Informal complaint file; Tr. 200-203; Exhibit 200, Schedule A.) IPL states that disconnection of electric service during severe cold weather is restricted by IPL's policies and the requirements of 199 IAC 20.4(15). (Informal complaint file; Tr. 200-203; Exhibit 200, Schedule A.) IPL argues that Mr. Van Fossen's individual experience does not mean there is a systematic problem with IPL's meter reading and billing system. (Tr. 241.)

IPL argues it has been reasonable with Mr. Van Fossen in regard to his meter reading, estimated billing, late fees, and due dates. (Informal complaint file.) It further argues that if a customer will not work with IPL to address his or her concerns, it is not reasonable for IPL to unilaterally make exceptions to tariffed requirements for the benefit of that one customer. (Informal complaint file.) IPL argues it has a

customer service center staffed 24 hours per day, seven days per week, and it provides a toll-free number to call. (Tr. 196.) Mr. Oleksa testified the number is listed on Mr. Van Fossen's bill statements each month. (Tr. 196; Exhibit 1.) IPL argues that if Mr. Van Fossen had called its customer service center in the first few months of 2007, many of his concerns could have been addressed. (Tr. 198.)

### **Analysis**

Iowa Code § 476.5 states that rate-regulated utilities such as IPL may not grant unreasonable preferences or advantages as to rates or services to a customer. However, this does not mean that IPL must be inflexible and cannot take individual circumstances into account when deciding what to do with respect to a particular customer.

As discussed above, IPL issued estimated bills to Mr. Van Fossen on April 5, June 30, September 1, October 5, and November 2, 2006, and on January 3, February 2, and March 5, 2007. (Exhibit 1.) During that period, IPL also issued disconnection notices to Mr. Van Fossen on September 6 and November 3, 2006, and on January 30 and March 2, 2007. (Exhibit 1; Tr. 63.) As discussed above, the cause of the estimated billings is attributable to both IPL and Mr. Van Fossen and to the weather. As discussed above, the number of estimated billings contributed to the inaccuracy of the estimated bills issued to Mr. Van Fossen in January, February, and March 2007. The estimated bills issued to Mr. Van Fossen in January, February, and March 2007 significantly overestimated his electric usage and charged him for

electricity he had not yet consumed. Although the overestimated usage and charges were later corrected by IPL, at least with respect to the January and February 2007 bills, the number and inaccuracy of the estimated bills, in combination with the timing of the disconnection notices issued to Mr. Van Fossen in January and March 2007, had the effect of providing billing service that was not reasonably adequate.

However, as discussed above, Mr. Van Fossen shares responsibility for this situation. He did not keep his dogs restrained. This contributed to the number of estimated meter readings, although was not the sole cause of the number of estimated meter readings. Mr. Van Fossen consistently did not pay his bills by the due date. Although Mr. Van Fossen is correct that the due dates on his bills fluctuated, this does not excuse his failure to pay his bills by the due dates. He only paid for his current electric use, not the entire amounts on the bills, and did not call the customer service number listed on his bills to talk about the amounts he disputed. He did not call the customer service number during January, February, and March 2007 to tell IPL he thought the estimated bills were significantly overestimating his usage and therefore overcharging him.

Prior to March 2007, neither IPL nor Mr. Van Fossen worked very hard to communicate with each other and resolve their differences.

The parties now have an opportunity to make a fresh start and work together to avoid the use of estimated meter readings without violating IPL's unrestrained animal policy, to allow Mr. Van Fossen to pay his bills around the first of the month on

time because his due date is set at the fifth of each month, and to thereby avoid late payment fees and disconnection notices. At the hearing, Mr. Van Fossen committed to paying his electric bills on time if the past due amount is set at zero and his due date remains the fifth of the month. In order to allow the parties the best chance of success going forward, and because it is unclear what the correct amount of the disputed charges is, the undersigned will order IPL to set the past due amount on Mr. Van Fossen's electric bill at zero. Although the parties filed posthearing documents indicating the amount in dispute to be \$43.30, this is not based on a specific obviously correct calculation. It will not serve the purpose of the parties to start fresh unless IPL sets Mr. Van Fossen's past due amount at zero. Therefore, this will be ordered. Doing so will not provide Mr. Van Fossen with an unreasonable preference or advantage within the meaning of Iowa Code § 476.5.

#### **FINDINGS OF FACT**

1. As discussed above, IPL did not violate 199 IAC 20.3(6) in the number of estimated meter readings issued to Mr. Van Fossen because it never issued more than three consecutive estimated bills to him. However, even though it did not violate this rule, its use of estimated meter readings and billings was excessive in this case. The causes of the estimated meter readings in this case are attributable to both parties and the weather. Readings were estimated due to a combination of Mr. Van Fossen's unrestrained dogs, inadequate staff in IPL's Decorah office, and severe weather. As discussed above, the parties have a number of ways to avoid the use of

estimated readings and bills in the future if they act responsibly, cooperatively, and in good faith, and this may be done without violating IPL's policy on unrestrained animals.

2. As discussed above, there is no persuasive evidence to support Mr. Van Fossen's allegation that IPL deliberately under estimated and over estimated his electric usage, or that billings were deliberately shifted from lower rate months to higher rate months.

3. As discussed above, the persuasive weight of the evidence in this case is that under ordinary circumstances, IPL's system of estimating readings and billings is in compliance with Board requirements and IPL's tariff and appears to be reasonable. However, in this case, the excessive number of estimated meter readings in a very short period of time contributed to estimated readings and billings that were significantly inaccurate and overcharged Mr. Van Fossen on his January, February, and March 2, 2007, electric bills.

4. As discussed above, the persuasive weight of the evidence in this case shows that IPL's system reasonably corrects estimations if customers are erroneously overcharged due to estimated readings and billings and that its system is in compliance with Board rules and IPL's tariff.

5. As discussed above, the evidence shows that IPL's system functioned correctly and IPL appropriately credited Mr. Van Fossen's account for the overestimations and charges that had been made on his January, February, and

March 2, 2007, electric bills when it issued him the corrected bill on March 22, 2007, with one possible exception. The evidence is clear that IPL credited Mr. Van Fossen's account for the overestimations and charges on his January and February 2007 electric bills. The evidence is not clear that IPL reduced Mr. Van Fossen's March 2, 2007, estimated bill by 198 kWh and credited his account \$16.80.

6. As discussed above, Mr. Van Fossen paid only \$0.02 on his corrected March 22, 2007, bill, which did not cover the cost of his service, and which was clearly incorrect, given the refund provided by IPL on the March 22 corrected bill. As also discussed above, Mr. Van Fossen incorrectly deducted \$8 per month from the amounts he paid during the summer months because he disputed IPL's practice of applying the appliance recycling credit to the past due amounts on his bills. These actions and the amount discussed in finding of fact five contribute to the uncertainty regarding the amount in dispute in this case that is attributable to factors other than the disputed late fees.

7. As discussed above, the persuasive weight of the evidence is that IPL followed all requirements with regard to the billing due dates and did not intentionally advance the billing due dates to charge additional late fees, although it did gradually change billing due dates over the years so Mr. Van Fossen's due date was frequently prior to the first of the month. As discussed above, starting in April 2007, IPL set Mr. Van Fossen's due date as the fifth of each month, and this appears to have resolved this issue.

8. As discussed above, IPL complied with all applicable requirements in its assessment of late fees to Mr. Van Fossen. (Exhibits 1, 200, Schedules A, U, V.) Iowa Code § 476.54; 199 IAC 20.4(12).

9. As discussed above, if the disconnection issue is considered in isolation, IPL followed the requirements of Iowa Code § 476.20, Board rule 199 IAC 20.4(15), and its tariff Section 4.18 when it issued disconnection notices to Mr. Van Fossen. (Informal complaint file; Tr. 19, 21-23, 51, 61-62, 72-75, 88-89, 98-100, 200-203; Exhibits 1, 101, 200, Schedule A.)

10. As discussed above, IPL correctly applied the appliance cycling program credits to Mr. Van Fossen's account during the summers of 2006 and 2007. Mr. Van Fossen was not entitled to deduct an additional \$8 from the amount due for his current electric usage during each summer month.

11. As discussed above, IPL uses an automated bill processing system to read customers' bill payment stubs and payments and the system does not read messages written on the bill payment stubs. Therefore, IPL did not see the messages Mr. Van Fossen wrote on his bill payment stubs until after the complaint was filed in this case. As discussed above and ordered below, IPL will add a clarifying statement to the customer message on the bills so customers know more clearly how to communicate with IPL.

12. As discussed above, the actions of both IPL and Mr. Van Fossen contributed to the situation between the parties.

13. As discussed above, the amount in dispute in this case cannot be calculated and is unclear. Setting the past due amount on Mr. Van Fossen's account at zero will give the parties a fresh start and the opportunity to work together to avoid the use of estimated meter readings without violating IPL's unrestrained animal policy, to allow Mr. Van Fossen to pay his bills around the first of the month on time because his due date is set at the fifth of each month, and to thereby avoid late payment fees and disconnection notices.

### **CONCLUSIONS OF LAW**

1. Pursuant to 199 IAC 6.7, the written complaint and all supplemental information from the informal complaint proceeding, identified as informal complaint file C-07-147, are part of the record of this formal complaint proceeding.

2. As discussed above, 199 IAC 20.3(6) regulates the use of estimated meter readings and billings and states that a utility may not render more than three consecutive estimated bills to a customer unless there are unusual circumstances or approval is obtained from the customer.

3. As discussed above, in general, IPL's method of estimating electric usage and crediting customer accounts when mistakes are made complies with applicable Board rules. 199 IAC 20.3(6); 199 IAC 20.4(14)"e" and "g." However, 199 IAC 20.4(14)"g" requires that credits due a customer because of errors in billing shall be separately identified, and it does not appear that this was done with regard to the \$16.80 amount discussed in finding of fact five.

4. As discussed above, IPL complied with the requirements of 199 IAC 20.3(6) and 199 IAC 20.4(12) with respect to the billing due dates it set for Mr. Van Fossen.

5. Iowa Code § 476.54 and 199 IAC 20.4(12) allow IPL to assess a late fee on delinquent customer bills in an amount not to exceed one and one-half percent per month. These sections also state that IPL may not apply a late fee if the customer makes the scheduled payment within 20 days from the date the bill was sent to the customer. As discussed above, IPL complied with these requirements.

6. Iowa Code § 476.20 and 199 IAC 20.4(15) govern disconnection of service by utilities in Iowa. As discussed above, 199 IAC 20.4(15) governs utility disconnection and contains very specific requirements. There are certain protections in place for customers regarding disconnection in the Board's rule and some that apply during low temperatures and under certain circumstances listed in the rule. The rule includes a statement of "Customer Rights and Responsibilities to Avoid Shutoff of Electric Service for Nonpayment." A copy of this statement is attached to this proposed decision.

7. Iowa Code § 476.5 states that rate-regulated utilities such as IPL may not grant unreasonable preferences or advantages as to rates or services to a customer. However, this does not mean that IPL must be inflexible and cannot take individual circumstances into account when deciding what to do with respect to a particular customer. Given that the amount in dispute cannot be reasonably

calculated, it will not give Mr. Van Fossen an unreasonable preference or advantage to set his past due amount at zero.

**IT IS THEREFORE ORDERED:**

1. As discussed in the body of this decision, IPL must add a clarifying statement to the customer message on the bills so customers know more clearly how to communicate with IPL.

2. As discussed in the body of this decision, as soon as reasonably possible, IPL must set the past due amount on Mr. Van Fossen's electric account at zero.

3. This proposed decision will become the final decision of the Board unless, within fifteen (15) days after the proposed decision is issued, a party files written notice of appeal with the Board or the Board votes to review the proposed decision on its own motion. Iowa Code § 17A.15(3); 199 IAC 7.26(2).

**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 25<sup>th</sup> day of April, 2008.

## **CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT**

### **1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?**

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

### **2. How do I go about making a reasonable payment plan? (Residential customers only)**

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

**3. How do I apply for low-income energy assistance? (Residential customers only)**

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515) 281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.
- d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

**4. What if someone living at the residence has a serious health condition? (Residential customers only)**

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement

to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

**5. What should I do if I believe my bill is not correct?**

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

**6. When can the utility shut off my utility service because I have not paid my bill?**

- a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
- b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

#### **7. How will I be told the utility is going to shut off my service?**

- a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.
- b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.
- c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

#### **8. If service is shut off, when will it be turned back on?**

- a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

- b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.
- c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

**9. Is there any other help available besides my utility?**

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at [iubcustomer@iub.state.ia.us](mailto:iubcustomer@iub.state.ia.us). Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.