

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>GATEWAY PET PRODUCTS, INC.,</p> <p style="padding-left: 40px;">Complainant,</p> <p style="padding-left: 80px;">vs.</p> <p>CASCADE MUNICIPAL UTILITIES,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. C-08-99</p>
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**ORDER DENYING REQUEST FOR FORMAL COMPLAINT PROCEEDINGS**

(Issued November 4, 2008)

On August 25, 2008, Gateway Pet Products, Inc. (Gateway), filed a written complaint with the Utilities Board (Board). The complaint related to the alleged failure of Cascade Municipal Utilities (Cascade) to provide proper notice of a deposit requirement and for disconnection of electric service to Gateway in violation of the Board's rules.

On September 15, 2008, Cascade filed a response. Cascade said it sent Gateway a 12-day request for deposit on February 25, 2008; the request indicated the deposit was to be paid by March 10, 2008. Cascade stated the deposit was requested because of Gateway's poor payment history and a bank's revocation of Gateway's letter of credit. Cascade noted that Mr. Ryan Burk of Gateway personally visited Cascade's offices on March 10, 2008.

On September 25, 2008, Board staff issued a proposed resolution to Gateway's complaint. The proposed resolution found that Cascade sent a 12-day disconnection notice to Gateway, complying with 199 IAC 20.4(3)"b." The proposed resolution also noted that 199 IAC 20.4(15)"d" provides, among other things, that service may be disconnected after proper notice for nonpayment of a bill or deposit.

On September 30, 2008, Gateway responded to the proposed resolution by providing additional information. Gateway said it did not receive a 12-day disconnection notice. Gateway also provided some notices it had received from Cascade, which Gateway describes as a February 21, 2008, disconnection notice if payment of \$3,932.24 was not received by March 4, 2008, a February 28, 2008, notice requiring a deposit of \$9,120.00 with no disconnection or due date,<sup>1</sup> and a notice from Cascade dated March 11, 2008, stating that disconnection would occur at 1 p.m. if a \$9,120.00 deposit was not paid by noon that day. Gateway indicated it met with Cascade on March 10, 2008, in an attempt to resolve the issues, but the parties did not reach agreement.

On October 1, 2008, Board staff issued a second proposed resolution. The second resolution stated that the supplemental information provided by Gateway did not change the initial resolution and that the February 25, 2008, disconnection notice provided by Cascade required payment of the deposit by March 10, 2008. The

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<sup>1</sup> Gateway's description of this notice is incorrect. The notice is a request by Cascade for a letter of credit in lieu of a cash deposit.

second resolution also noted that pursuant to the Board's rules, the disconnection notice is rendered once deposited in the United States mail.

Gateway filed a timely request for a formal complaint proceeding on October 15, 2008. Gateway said it did not receive a copy of the February 25, 2008, disconnection notice, noting that it received all other mail from Cascade over the past two years. On October 21, 2008, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to Gateway's request for formal proceedings. Consumer Advocate said there did not appear to be significant disputed facts to justify a hearing.

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

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

There is no information in the complaint file to indicate that formal proceedings should be held. The issue raised by Gateway in its request for formal proceedings is whether proper disconnection notice was provided.

The record of the informal proceedings indicates that Gateway had previously obtained a letter of credit in lieu of a cash deposit. Subrule 199 IAC 20.4(3) provides that a utility may accept the written guarantee of a surety in lieu of a cash deposit, but the subrule also provides that if the guarantee contract is terminated, a cash deposit of new or additional guarantee may be required for good cause upon reasonable written notice.

Here, there is no dispute that Cascade was notified of the lender's decision to revoke Gateway's letter of credit. Gateway also does not dispute that it was delinquent in paying its bill each of the 12 months prior to February 2008 and that it received monthly notices demanding payment which contained a statement that the utility may request a deposit. Cascade provided a copy for this proceeding of the 12-day disconnection notice dated February 25, 2008, which required payment of the deposit before March 10, 2008.

The Board's rule at 199 IAC 20.4(12) states that a bill is considered rendered to a customer when deposited in the mail with postage prepaid. Notices are also rendered to a customer when deposited in the mail, unless there are more specific requirements set forth in a particular rule, such as requiring certified delivery; there are no such special mandates with respect to the 12-day notice. Cascade's responsibility ends with the deposit of the notice in the United States mail, postage prepaid, in good faith.

While no one had stated that they actually saw Cascade mail the notice, Cascade followed its normal mail handling procedures and retained a copy of the notice for its records; moreover, Mr. Burk of Gateway visited Cascade's offices on March 10, 2008, to discuss the deposit on the date due, indicating that the notice was received. There is no reasonable basis to conclude that Gateway might have been unaware of the pending disconnection or that proper notice was not given.

The Board concludes that there is no reasonable ground for instituting formal complaint proceedings on any of the issues raised by Gateway. Cascade provided documentation that demonstrates the proper disconnection procedures were followed. The request for formal complaint proceedings will be denied.

**IT IS THEREFORE ORDERED:**

The request for formal complaint proceedings filed by Gateway Pet Products, Inc., on October 15, 2008, is denied.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 4<sup>th</sup> day of November, 2008.