

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE: IRONWOOD DEVELOPMENT, LC and PROFESSIONAL PROPERTY MANAGEMENT, INC.	DOCKET NO. WRU-2014-0013-0004
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RESPONSE OF THE OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, responds to the waiver request filed with the Iowa Utilities Board (Board or IUB) by Ironwood Development, LC and Professional Property Management, Inc. (collectively, “Developer”) on September 11, 2014, and states as follows:

1. Developer requests a waiver of the requirement for individual metering set forth in 199 IAC 20.3(1)(b). (Waiver ¶ 1). As explained below, OCA does not oppose developer’s waiver request. In the alternative, OCA notes that the evidence already submitted by Developer regarding the proposed energy efficiency measures and the benefits of master metering is sufficient to support a finding that Developer does not need a waiver because the proposed apartment project meets the exception to the general individual metering requirement set forth at IAC 199.20.3(1)(a)(4)¹.

¹ Board Rule 20.3(1)(b)(4) provides an exception to the master-metering requirement “where individual metering is impractical.” Clauses (1) through (3) of the subsection provide examples of impracticality. Therefore, clauses (1) through (3) of subsection 4 effectively provide three separate exceptions to the general master-metering requirement. In particular, Clause (3) provides an exception to the individual-metering requirement “where the benefits of individual metering (*reduced and controlled energy consumption*) are more effectively accomplished through a master meter arrangement.”

2. The Board's rule regarding waivers is set forth at 199 IAC 1.3 and provides as follows:

[T]he board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

3. The Board could find that Developer has presented sufficient evidence and justification to find that the requirements for waiver set forth at 199 IAC 1.3 have been satisfied. OCA finds Petitioner's evidence, particularly the Technical Report prepared by Mr. Curtis J. Klaassen, PE, regarding the energy efficiency benefits made possible by master metering in this case to be thorough and compelling.

4. As an alternative to granting a waiver, the Board could find that Petitioner's evidence has established that its proposed project does not need a waiver because it meets the impracticability exception to the general master metering requirement set forth at 199 IAC 20.3(1)(b)(4). OCA finds Mr. Klaassen's report to be thorough and compelling evidence that master metering would allow for greater reductions in energy use than individual metering.

5. It is critically important for the Board's rules to accommodate and not hinder efforts by owners of multioccupancy residential buildings to make their buildings as energy efficient as possible. As Mr. Klaassen explains in his report, the split-incentive problem presents a barrier to meaningful energy efficiency gains in multioccupancy residential rental properties.

The master meter arrangement would solve this problem for Developer and give Developer the proper economic incentives to pursue energy efficient design and construction.

WHEREFORE, OCA respectfully requests that the Board issue an order 1) waiving the individual metering requirement of IAC 199.20.3(1)(a)(4) for Developer's proposed project, or, in the alternative, 2) finding that Developer does not require a waiver because the proposed project meets the impracticability exception to the general master metering requirement provided by 199 IAC 20.3(1)(b)(4).

Respectfully submitted,

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