

**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-<u>0013</u>-0004
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WAIVER REQUEST

Ironwood Development, LC (“Ironwood”) and Professional Property Management, Inc. (“PPM”) (collectively the “Applicants”), pursuant to 199 IAC 1.3, request that the Iowa Utilities Board (“Board”) issue an order permanently waiving the provisions of 199 IAC 20.3(1)(b). In support of this permanent waiver request, the Applicants state as follows:

1. Ironwood Development, LC owns the Altoona Towers multifamily housing project under construction on Adventureland Drive in Altoona, Iowa. Altoona Towers is comprised of 2 buildings containing 103 residential apartment units plus 17 corporate apartments for a total of 120 apartment units. PPM manages the apartments located at Altoona Towers. Ironwood and PPM are both owned solely by the property developer, Keith Denner. The specific addresses for the new apartment buildings located at Altoona Towers are attached hereto as Exhibit A.

2. PPM manages 53 multifamily housing buildings in central Iowa totaling almost 1,500 apartment units. The Applicants are committed to energy efficiency as

evidenced by a recent Energy Efficiency Demonstration project at the Sun Prairie Apartment complex which reduced electric, natural gas and water consumption by 10.1%, 8.5%, and 54.2% respectively. The Applicants have a long track record of designing and managing energy efficient and cost effective residential rental properties. They have been documenting energy use and savings for over 30 years.

3. In light of the success of prior energy efficient projects, the Applicants now wish to expand energy savings strategies to Altoona Towers. However, in order to make the purchase of high efficiency, Energy Star rated equipment and other energy conservation features economically feasible, the Applicants would like to implement master metering. Specifically, as discussed in detail in the Technical Report attached hereto as Exhibit B, the implementation of master metering would allow the Applicants to recover the costs associated with implementing energy efficiency strategies such as: high performance windows, sliding glass doors and building insulation systems; high efficiency LED and fluorescent lighting systems and controls; installing high efficiency appliances, supplying high performance fluorescent and LED lighting to tenants; installing high efficiency mini-split air source heat pumps for residential apartments; and providing low water flow showerheads and aerators in kitchen and bathroom sink faucets, among other things. See Technical Report attached as Exhibit B. If master metering is not used, the Applicants would not be able to recover their initial investment in the above energy efficiency strategies, (totaling approximately \$300,000) causing the Applicants undue hardship if they decide to continue with their plans to install energy efficient strategies or making it impossible for the Applicants to continue their plans to

implement the energy efficiency strategies. For the reasons discussed below, the Applicants request that they be granted a permanent waiver of 199 IAC 20.3(b).

4. Rule 199 IAC 20.3(b) prohibits master metering for multi-occupancy premises within a single building where units are separately rented or owned. However, there are exceptions to the general rule when individual metering is “impractical” including when “the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.” In this case, master metering would allow for greater reduction and controlled energy consumption than individual metering.

5. 199 IAC 1.3 provides that a request for waiver of a Board rule can be granted based on clear and convincing evidence that:

- a. Application of the rule to be waived would pose an undue hardship on the person seeking the waiver.
- b. The waiver would not prejudice the substantial legal rights of any person.
- c. The provisions of the rule to be waived are not specifically mandated by statute or other provision of law.
- d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule to be waived.

6. **199 IAC 20.3(1)(b) would pose an undue hardship on Ironwood.** As discussed above and set forth in Exhibit B attached hereto, requiring the Applicants to install individual tenant metering would increase energy consumption in the Altoona Towers and pose an undue hardship on the Applicants.

The purpose of rule 199 IAC 20.3(1)(b) is to promote energy efficiency. Master Metering of Gas and Electric Service, Docket No. RMU-78-7, "Order Adopting Rules," October 4, 1978. Traditionally it was believed that if individual metering was used and the tenant was responsible financially for the electric use of appliances and lighting fixtures this fact alone would make the tenant more conscious about energy consumption and a tenant's energy use would decrease. However, it has been proven that while a tenant may reduce his or her energy use through individual metering, maximum energy efficiency was not achieved with individual metering for two reasons. First, in a rental housing situation, a tenant does not have an incentive to properly maintain appliances and fixtures and over time appliances become less energy efficient. The tenant's failure to maintain appliances offsets any energy savings achieved through the tenant's awareness of his/her energy use via individual metering. The property owner likewise has little incentive to maintain the energy efficiency of appliances because it does not receive the financial benefit of lower energy use. Rather, because the tenant pays its energy bill directly through individual metering, any cost savings for increased energy efficiency use flows through to the tenant, not the property owner.

Second, it has been shown that energy savings are achieved simply by the tenant having access to energy efficient devices. However, a tenant does not have incentive to purchase energy efficient fixtures and appliances in a rental home. In the same manner, the property owner does not have incentive to purchase the higher priced energy efficient appliances if the tenant receives the benefit of lower energy use through individual metering and the property owner is not allowed to recover the costs associated with lower energy use. As a result of this split incentive between the tenant

and property owner, energy efficient appliances and fixtures are not installed in multifamily housing developments and energy conservation is not achieved. See Technical Report attached as Exhibit B.

However, as demonstrated in Exhibit B, master metering solves the above issues by allowing the property owner to recover its costs associated with implementing energy efficient strategies. Here, the Applicants are committed to installing energy efficient building systems and appliances. However, the Applicants will incur costs associated with installing such energy efficient systems of more than \$300,000. The only way the Applicants may recover such costs is through master metering which allows them to receive the financial benefit of lower energy usage. See Report attached as Exhibit B. Therefore, allowing master metering in this case would promote energy efficiency and eliminate the financial burden that would be incurred by the Applicants for implementing energy efficiency strategies.

The Board should note that the risk that other multi-occupancy property owners will seek a waiver if the Board decides to grant the Applicants' waiver is minimal. Applicants are not seeking a change in the Board's rules, but only a waiver as it relates to their Altoona Towers project. In addition, Applicants are unique in that they incorporate energy saving features as part of their initial design that provides for energy savings of up to forty percent. Indeed, the proposed new Altoona Towers buildings meet or exceed applicable Energy Star Multifamily housing energy performance targets and prerequisites and show a performance rating of 36 kBtu per square foot. The Applicants have an established record of providing energy efficiency strategies and have built their business model around energy efficient buildings. Conversely, other

property owners will be resistant or reluctant to install energy systems that meet or exceed a recognized energy performance benchmark, or Energy Star performance standards due to the cost involved in installing such energy systems. Thus, other property owners will be unable to promote the purpose of the individual metering rule, i.e., to promote energy efficiency.

Accordingly, if Applicants are not granted a waiver and instead must incur the costs associated with energy efficiency strategies without the prospect of recovering such costs, they will be crippled in their ability to implement comprehensive energy planning and integrated energy efficiency strategies. Therefore, the failure to grant a waiver in this situation would pose an undue hardship on the Applicants.

7. **Waiver of 199 IAC 20.3(1)(b) would not prejudice the substantial legal rights of any person.** The Applicants are unaware of any substantial legal rights of any person that would be prejudiced by the requested waiver. The Board has expressly recognized that the primary purpose of the rule is ‘to promote the conservation of energy through the process of informing gas and electric customers of their energy consumption and billing such customers for that consumption.’ Master Metering of Gas and Electric Service, Docket No. RMU-78-7, “Order Adopting Rules,” October 4, 1978. However, as demonstrated in Exhibit B attached hereto, in this case, the conservation of energy consumption is better achieved by making it cost effective for the property owner to implement energy efficient strategies in the apartment complex. Specifically, as the materials in Exhibit B demonstrate, the Applicants are going to provide replacement high efficiency lamps for tenants without charge for the duration of their rental agreement. This service educates tenants about the conservation of energy but

is only cost effective under the master metering proposal discussed in Exhibit B. Moreover, tenants do not make energy efficient investments in property they do not own. By providing tenants with energy efficient appliances and lighting fixtures, tenants will be educated regarding efficiency through their use of the products and energy conservation is promoted. However, it is not cost effective for the Applicants to purchase energy efficient appliances and lighting unless they are allowed to master meter. Therefore, the purpose of Rule 199 IAC 20.3(1) is better and more efficiently met by allowing master metering of the properties listed in Exhibit A.

In addition, unlike previous cases where a waiver of Rule 199 IAC 20.3(1) was denied because the requested waiver would provide no benefit to the consumer or the energy provider, in this case, the Applicants will be increasing energy efficiency and energy control. In Re: Plymouth Energy, LLC and Plymouth Oil Company, LLC, Docket No. WRU-08-46-3900, "Order Denying Request for Waiver", February 10, 2009. Further, the Applicants are going to include the cost associated with electric usage as an undefined portion of the tenant's rent as required under the Rule and will not exceed the amount billed to the owner by the utility at the master meter. In Re: Business Properties, Docket No. WRU-00-57, "Order Granting Waiver," November 9, 2000. Consequently, the Applicants will not be performing acts traditionally undertaken by public utilities and will not prejudice the rights of any person.

Moreover, tenants will not forfeit any rights to public economic support programs by the granting of the requested waiver. There has been concern expressed in prior waiver requests that residents will not have the benefit of low income support programs offered by utility companies because the property owner is the customer of the utility,

not the tenants. However, such concern is not applicable in this case. There are three low income assistances support programs available to Iowa residents and none of the programs are applicable in this case. The first program, Low-Income Home Energy Assistance Program (“LIHEAP”), is designed to help qualifying households in paying a portion of their heating costs for the winter heating season. The LIHEAP program would not be applicable to the residents at Altoona Towers, because the cost of heating their apartment homes is included in their rental payments. Moreover, the Applicants have established a minimum income that must be met before a tenant would be considered for a rental apartment. The income requirement to qualify for Altoona Towers exceeds the income requirement for the LIHEAP program. Therefore, the residents of Altoona Towers would not be candidates for the LIHEAP program even if the heating costs were not incorporated into their rental payments. The second program, Weatherization Assistance Program, assists low-income families to improve the energy efficiency of their homes. Because Altoona Towers is a rental housing project, the weatherization assistance program is not applicable. Finally, there is a general prohibition on the disconnection of service to individuals for unpaid bills during the winter months. Such general protection from disconnection is not applicable in this case because the cost for heating is part of the tenant’s rental payments. Accordingly, the master metering proposed by the Applicants would not require the tenants to forfeit their right to low income assistance programs.

8. **No provisions of 199 IAC 20.3(1)(b) are specifically mandated by statute or other provision of law.** 199 IAC 20.3(1)(b) was adopted by the Board pursuant to the authority of Iowa Code §§ 17A.4, 476.1 and 476.2. “Order Adopting

Amendments and Closing Docket,” *In re Natural Gas and Electric Master Metering*, Docket No. RMU-02-6, at 1 (IUB Dec. 27, 2002). None of the above statutes specifically mandate the use of individual metering for multi-occupancy premises, particularly, as it is in this case, when the use of master metering provides greater control over energy consumption and provides for increased energy efficiency. See Exhibit B attached hereto.

In addition, the Applicants are aware of no other statutes or other provisions of law that specifically prohibit the use of master metering for multi-occupancy premises when master metering provides greater energy efficiency and controlled energy consumption. The Applicants are aware that the Public Utility Regulatory Policies Act (“PURPA”) generally prohibits master metering. However, PURPA contains an exception to its general prohibition of master metering if “the long-run benefits to the electric consumers in [buildings where tenants have control over the electric energy used] exceed the costs of purchasing and installing separate meters in such buildings.” 16 U.S.C. § 2625(d). As discussed herein, in light of the split incentive barrier inherent in multifamily rental housing, energy efficiency is better achieved through master metering because it allows the Applicants to recover their costs associated with implementing energy efficiency strategies. See Exhibit B. As discussed in Exhibit B, there are additional direct and indirect costs for installing separate meters, however, the use of energy efficient strategies provides long run benefits to electric consumers and benefits the public health and welfare by creating less CO₂, reducing electrical demand, and reduces the need for power plants. Specifically, the energy efficiency strategies proposed by the Applicants would reduce energy consumption by 62.5 billion BTU or

\$860,000 over a 20 year life cycle for the apartment complex. Accordingly, the benefits to consumers and the public health and welfare are better achieved through master metering at Altoona Towers.

9. **Substantially equal protection of public health, safety, and welfare will be afforded by a means other than applying 199 IAC 20.3(1)(b).** As discussed above, the reason for the requirement to have individual metering is to promote reduced and controlled energy consumption. However, Rule 199 IAC 20.3(1)(b) acknowledges that there are cases where the benefits and purposes for individual metering (controlled energy consumption) are better met by master metering. As set forth in Exhibit B attached hereto, the Altoona Towers meets the purpose of Rule 199 IAC 20.3(1) for reduced and controlled energy consumption more effectively through a master meter arrangement. Therefore, the rule itself contemplates that public health, safety, and welfare may be afforded in means other than individual metering and granting the Applicants a waiver of 199 IAC 20.3(1)(b) will afford equal protection of public health, safety, and welfare.

In addition, there are a number of indirect benefits that would result from the Applicants' use of master metering. For example, the reduction in energy use proposed by the Applicants in their Altoona Tower project will indirectly reduce CO2 emissions. The reduction in CO2 emissions results in reduction in global greenhouse gas emissions of 514 metric tons of carbon dioxide equivalent, or equal to over 100 passenger vehicles or 47 homes. Further, the increased energy efficiency obtained through the strategies proposed by the Applicants would reduce electrical demand and

the need for new power plants. This likewise serves to increase public health, safety and welfare.

10. The Applicants are requesting a permanent waiver to allow them to master meter and recover costs associated with implementing energy efficient strategies. For the reasons stated above, a temporary waiver would be impractical primarily because a temporary waiver would not allow the Applicants to recover their costs associated with implementing energy efficient strategies. The Applicants request that the Board view this waiver as an experiment as to whether waivers of the master metering rule will encourage and provide incentives to other property owners and apartment landlords to install energy efficiency strategies. The Applicants would be happy to share the results and data they obtain from the master metering that they implements at Altoona Towers with the Board.

11. As seen in Exhibit B attached hereto, the requested permanent waiver allows the Applicants to more effectively achieve the goals of Rule 199 IAC 20.3(1)(b) by providing controlled energy consumption and energy savings. Accordingly, the requested waiver should be granted.

WHEREFORE, Ironwood Development, LC and Professional Property Management, Inc. request that the Board issue an order permanently waiving the provisions of 199 IAC 20.3(1)(b) which would allow them to use master metering for the properties listed on Exhibit A.

Dated: September 11, 2014.

Respectfully submitted,

/s/ Rachel T Rowley

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