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STATE OF IOWA
DEPARTMENT OF COMMERCE
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IN RE: **DOCKET NO. EEP-2012-0001**

INTERSTATE POWER
AND LIGHT COMPANY

BRIEF OF THE IOWA CUSTOMERS FOR ENERGY EFFICIENCY

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INTRODUCTION

The Iowa Customers for Energy Efficiency (ICEE) respectfully files this brief in the proceeding that was docketed to examine Interstate Power and Light Company's (IPL) request for the Iowa Utilities Board's (Board) approval of its 2014-2018 Energy Efficiency Plan.

The ICEE contends that in order to achieve greater energy efficiency savings for the State of Iowa, the Board should:

(1) approve making available opt-out provisions which would allow customers meeting certain criteria to not participate in or fund utility-sponsored energy efficiency programs and commence a rulemaking proceeding to develop the specific program parameters;

(2) adopt the partial settlement agreement to institute a cost-based change to the rate design for the collection of the non-residential Interruptible and residential Load Management programs costs that are allocated to the Large General Service (LGS) and Bulk Power classes;

(3) adopt the partial settlement agreement directing IPL to identify the Energy Efficiency Cost Recovery (EECR) charges on customers' bills; and,

(4) adopt the partial settlement agreement that IPL will track non-residential energy efficiency expenditures by rate class (GS, LGS, and Bulk Power), as well as by programs within its systems and consider that information in developing future EECR factors.

STATEMENT OF THE CASE

On November 30, 2012, IPL submitted its 2014-2018 Energy Efficiency Plan (EEP) seeking a determination that the proposed EEP met the criteria set forth in Iowa Code Section 476.6(14) and Iowa Admin. Code 199-Chapter 35. In addition to the Office of the Consumer Advocate (0CA), the following parties were granted intervention: Environmental Intervenors (EI), the Winneshiek Energy District (WED), Deere & Company (Deere), the Sustainable Living Coalition, and the Iowa Customers for Energy Efficiency (ICEE)

The parties filed prepared testimony, exhibits and a joint statement of issues pursuant to the Board's procedural schedule. After discussions, IPL, the OCA, the ICEE, the Environmental Intervenors, and Deere & Company filed a Non-unanimous Partial Settlement Agreement on July 26, 2013. The Settlement issues are set out in numbered sections and the parties who have agreed upon a specific issue are noted. The settled issues in which the ICEE participated are identified as Issues #16, #17, and #18. On July 29, 2013 and July 30, 2013, a hearing was held for the purpose of cross-examination of testimony. On July 31, 2013, the Board issued an order stating that the parties could submit comments regarding the Settlement at the time of filing briefs and could provide reply comments on August 28, 2013.

ICEE's comments regarding the Settlement issues #16, #17 and #18 are attached to this brief as an appendix.

ARGUMENTS

INDUSTRIAL OPT-OUT

The ICEE proposes an opt-out program for IPL's industrial customers. By working with interested parties in a rulemaking proceeding, the Board can create an energy efficiency program in which some of IPL's large industrial customers are allowed to opt-out of IPL's EEP and freed to use their own funds to implement the energy efficiency projects that work for their plants. This program will not reduce the amount of energy efficiency projects that industrial customers implement and could create a greater impact on energy usage in the state, furthering Iowa's goals. An opt-out program would include criteria customers must meet in order to opt-out of IPL's energy efficiency programs. The opt-out would apply only to the energy efficiency activities. All customers, including those who have opted out, would continue to pay for the demand response component of the energy efficiency charge.[1]

This opt-out program would further the Board's priority of implementing effective energy efficiency plans by utilities and providing the opportunity for customers to participate in and benefit from the energy efficiency plans. See, Iowa Admin. Code 199-35.1 (2013).

[1] When asked during discovery, ICEE Witness Brubaker stated that it would not be unreasonable for opt-out customers to continue to pay for certain general programs and, also, pay back a portion of the incentives they had received. (Tr.542-543).

IPL's industrial customers have already achieved 90% of the economic energy efficiency projects identified. Because an opt-out program will give large industrial customers the freedom to implement more productivity improvement initiatives, an opt-out program is consistent with Iowa's energy efficiency policy and will encourage economic growth in Iowa. The evidence shows that those who have experience with large industrial customers know that industrial customers are highly motivated to reduce their energy usage, are actively seeking ways to more energy efficiently perform their work, and are investing money in energy reduction projects at their plants. Industrial customers are experts in their own processes. They must be profitable to remain in business.

Iowa's industrial customers have harvested nearly all of the cost-effective energy-efficiency measures that have been identified by the Cadmus assessment. Iowa's industrial companies pay large amounts through the energy efficiency cost recovery charge (EECR), funding the mandated energy efficiency programs that many cannot use. The utility-managed energy efficiency programs in Iowa are based upon assumptions about cost of capital, access to cash, capacity for debt and availability of engineering and other resources that do not match the realities facing Iowa's industrial companies that compete in global markets. Some have experienced unfair competitive marketplace consequences created by the energy efficiency mandate by subsidizing competitors that have not aggressively implemented energy efficiency. Several states have recognized (1) the potential to achieve greater energy reduction; and, (2) the inequities that exist for industrial customers. These states have designed

programs for opt-out of the state-mandated programs for their industrial customers that meet certain criteria.

The ICEE requests the Board commence a rulemaking proceeding pursuant to Iowa Admin. Code 199- 3.4(1) to seek input from all interested parties in the design of the parameters of an opt-out program for Iowa's industrial customers.

A. Energy Reductions Will Be Greater if Industrial Customers are given the Option to Proceed Independently.

As will be discussed in more detail later, the industrial customer is often unable to participate in IPL's energy efficiency programs. [2] Although IPL provides programs for all of its customer classes, a large industrial customer, particularly an energy intensive process industry, has numerous specifications and other limitations that make the IPL offerings unworkable. Often an industrial customer has employed all known technological advances that can be done to make its process run more energy efficiently. (Tr. 134-135). Much of the work to reduce energy involves large and expensive projects that cannot be repeated annually. Much of the work to reduce energy usage is imbedded in the every day

[2] Of course, all of IPL's 3,000 large industrial customers are not the same. Some corporations have access to more resources than other corporations. Some processes are more dependent on natural gas than electricity. Depending on the criteria the Board adopts, it is unlikely that most of IPL's 3,000 industrial customers would seek to opt-out of IPL's EEP. Even under the criteria originally proposed by ICEE Witness Brubaker, only 78, a small number of industrial customers, would qualify. (Tr. 570, Exhibits 202, 203). When considering criteria for opt-out, the ICEE urges the Board to select criteria that are simple, clear and unambiguous in order to minimize controversy and disagreement. (Tr. 1071)

projects that take place at a plant. An industrial customer is more likely to conduct the larger and more effective energy efficiency projects on its own. (Tr. 1062,1064,1065, 1140-1141).

The money industrial customers who are not able to use IPL's energy efficiency programs pay through the EECR would be put to use to implement various productivity improvement initiatives including those that reduce their energy usage. This EECR capital expenditure could be used to implement large energy reduction projects internally and a resulting greater energy savings would benefit the state because it is reasonable to expect that more projects would be conducted. Further, all Iowans benefit when industry reduces its energy usage whether this efficiency is achieved through a utility energy efficiency program or improvements the customer does independently. As ICEE Witness Brubaker stated:

> To the extent that customers participating in utility-sponsored EE programs reduce the system peak demand, that benefits other participants as well as those who are not participating in utility- sponsored EE programs. By the same token, however, when customers outside of the utility-sponsored EE programs engage in EE activities, they provide reductions in system demand to their benefit, and to the benefit of the participants in the utility-sponsored EE programs.

(Tr. 1091).

In discussing whether an internal energy reduction project reduces energy usage in the same manner as a utility project, IPL Witness Haeri acknowledged:

> Q. Okay. And let me just refine that a little bit so we're comparing apples-to-apples. This program same peak, that program same peak, one is a utility-mandated program, one the customer does on

his own. Same thing; is that correct?
A. Yes.

(Tr. p. 325).

In many cases, industrial customers are not able to participate in IPL's energy efficiency programs, incur costs through the EECR charge, and experience a rate increase. At least one large industrial customer in Iowa pays more than $2 million on an annual basis in EECR charges. (Tr. 538, 560). Only about 80% of the EECR charges pay for direct incentives, with the remaining 20% going primarily for overheads such as program administration, advertising and promotion. (Tr. 1085). Without this financial burden, industrial customers could use more dollars to use energy more efficiently. (*Id.*) ICEE Witness Brubaker explained the inequity in the industrial customer's situation:

> The primary beneficiary of any EE service is the customer who receives it directly, and as a result experiences a reduction in the quantity of electricity through the meter. ... When paid for by other customers, it is an even better deal. ... Customers who do not participate in the program, including those who have invested their own funds to improve efficiency, will be worse-off because they will pay higher rates and not receive the benefits of lower energy consumption.

(Tr. 1089-1090).

Witnesses Haeri recognized the inequity of the industrial customer's situation. Dr. Haeri characterized the inequity as "the ability of customers who may not be able to participate in the program, and they would be adversely affected by rate impacts." (Tr. 330).

B. Ninety Percent of Cost-Effective Utility Energy Efficiency Potential Has Been Implemented by Iowa Industry and Overall Industry's Use of Energy Has Decreased by 17%.

The Cadmus Report entitled "Assessment of Energy and Capacity Savings Potential in Iowa, dated February 28, 2012, reflects that as a percent of sales, the economic potential for the industrial class is less than10%. (Tr 328, 1066, Table 2). It is important to note that, as Witness Brubaker explained in his testimony, the Cadmus Report overstates the amount of energy efficiency that is practically achievable by industrial customers under real world conditions because it uses the societal test as the basis for evaluating economic potential. [3] (Tr. 319-320, 528,1142) Note that contrary to Mr. Crandall's contention, the Cadmus test uses the Societal Cost Test in its assessment not the Rate Impact Test. (Tr. 743, 319-320).

In comparison, the economic potential for the residential and the commercial classes is about 30%. (Tr. 1087,1112). Whether the measurement is viewed as a percent of sales or a percent of megawatt hours, the Cadmus report shows that there is less economic potential in the industrial sector. (Tr. 330).

The U.S Energy Information Administration published findings in March 2013 indicating what they termed large energy consumption decreases in the manufacturing sector from 2002 to 2010. During that period, manufacturing energy usage decreased by 17%, while manufacturing gross output declined by only 3% over the same period. (Tr.1084).

ICEE Witness Brubaker testified:

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[3] The cost of capital or discount rate used by industrial customers is higher than the social discount rate and the regulated utility's cost of capital. (Tr. 528).

> ... since industrial customers obviously have already done a better job of "wringing out" efficiencies, it is obvious that they have implemented a significant percentage of cost-effective measures and should be given greater latitude on funding and spending on EE measures that make sense in the context of their individual operations.

(Tr. 1088).

Seventy-two percent of the economic potential for energy efficiency reduction lies in the 48% of energy sold to residential and commercial customers. The findings of the Cadmus Report and the evidence from the U.S Energy Information Administration lead to the conclusion that the better energy efficiency course for Iowa to take is to focus its attention on providing strong energy efficiency programs for the customers in the residential and commercial sectors. (*Id*.).

C. The Efficient Use of Energy is a Priority for Industrial Customers.

An industrial customer's relationship with energy is different than that of residential and commercial customers. A corporation has an obligation to its shareholders, its customers, and society. (Tr. 109). A corporation provides employment for citizens and revenue and prosperity for the state. [4] A corporation's energy usage affects its obligation to society.

Based on his expert knowledge gained from working with industrial customers for more than forty years, ICEE Witness Brubaker testified:

> Electricity is a key input into the production of many

[4] Iowa ranks 3rd as the third highest state in the country in the percentage for which manufacturing accounted for total earnings of the state. In 2010, manufacturing accounted for 17.6% of Iowa's total earnings. U.S. Department of Commerce, Economics and Statistics Administration, "The Geographic Concentration of Manufacturing Across the United States;" www.esa.doc.gov.

> industrial products, and industrial customers have long recognized the benefits, indeed the necessity, of pursuing all cost-effective EE investments and practices. Efficient operations are a key to cost reduction and to achieving and maintaining a competitive position in the marketplace where they sell their products. The globalization of many markets has made the achievement of efficiency in the use of all inputs, including the use of energy, of paramount importance to industrial customers who have to compete in nationally and even globally competitive markets.
>
> Closer to home, there is competition among multiple facilities for new investment, production and jobs. The winning location(s) provide economic benefits to their states, while others miss out. While different types of industries and different types of processes exhibit various degrees of energy intensity, it is an important cost customers strive to manage, control and minimize within the constraints of their operations. Since these customers are unable to simply pass along costs to their customers, they must compete in the marketplace with other suppliers on price (as well as quality) and, if they are to be successful, they must sell products and services that customers want at prices they are willing to pay.

(Tr. 1082-1083).

Industry in Iowa would likely have difficulty operating in the "no-holds barred/rate impact does not matter" regulatory environment the Environmental Intervenors urge the Board to adopt. (Tr. 677, 788, 789). Industry exists in a competitive environment and may, depending on the economic situation at the time, demand shorter payback periods for its investments than the environmental community expects residential customers to use. (Tr. 783-786).

The assumptions used to craft Iowa's energy efficiency rules, particularly, the definition of "cost-effective" do not take into account the real constraints faced by industrial customers in an era of global completion – real cost of capital, access to cash, limitations on debt capacity and access to engineering and other resources. Environmental Intervenor Witness Crandall acknowledged the reality industrial customers face when he cited the testimony John Seryak made before

the Ohio Senate, Mr Crandall stated:

> In recent testimony before the Ohio Senate Public Utilities Committee, Mr. John Seryak testified that of his firm's 300 industrial clients only three have ever done an energy efficiency project that had a simple payback period of more than two years without utility assistance.
>
> (Tr. 736).

Several parties to this proceeding agree with Mr. Brubaker's assertion that efficient energy usage is a priority for large industrial customers. [5] (Tr. 108, 541, 775-776, 779). Environmental Intervenor Witness Crandall[6] noted that energy is a substantial cost of doing business for industrial customers. (Tr. 776). He agreed that industrial customers would not stop working to achieve energy efficiency if they were not mandated to do so. (Tr. 781). In response to a question, Witness Crandall stated:

> Q. Do you believe that industrial companies would just stop doing energy efficiency if they were allowed to opt out? ...
> A. I would think not. I mean I would think a well-run company is obviously always trying to lower their operating costs, no matter what kind of opportunities are out there from other equipment providers, for example, or the utilities or the state or Federal Government, whatever. They ought to be and they should and they probably are trying to minimize their operating expenses so they can enhance their profits, et cetera. ...

(*Id*.).

The factors that motivate industrial customers to achieve energy reduction are different than those that may motivate residential and commercial customers.

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[5] IPL neither supports nor objects to the ICEE's opt-out proposal (Tr. 64). IPL also serves ratepayers in Minnesota where an opt-out plan has been adopted.

[6] In his Rebuttal Testimony, Witness Crandall testified that his objection is primarily to the specific criteria ICEE Witness Brubaker originally proposed prior to amending his direct testimony. (Tr. 733).

It is not necessary for the utility to find a way to motivate industrial customers; they are motivated by their need to survive in a competitive environment. No one has proposed that the behavioral modification program tailored for residential customers be implemented for large industrial customers. (Tr. 695-699). The only motivation industrial customers need is to be given the freedom to reduce their energy usage on their own. As Chair Jacobs commented, it is ultimately up to the customer (Tr. 808).

D. The Industrial Customer is the Expert and Can Better Implement Energy Efficiency Internally.

Based on his experience with industrial customers, ICEE Witness Brubaker testified:

> Large industrial facilities are very complex operations where EE improvements are intertwined with complex industrial processes and the facility's often unique operational characteristics. The personnel who work at these facilities have the most knowledge about their operation, and are in the best position to identify and evaluate processes and other changes that can cost-effectively improve the efficiency of their operations. In other words, they are more attuned to what can be done and what must be done to achieve economies in the utilization of energy. Because of the complexity and diversity of industrial uses of energy, third parties are not nearly as capable of identifying the viable opportunities available in such operations.

(Tr. 1062).

IPL Witness Penticoff, who interacts with industrial customers in IPL's service territory, agreed, stating, "Our industrial customers are very familiar with their plants and their facilities... and energy usage is something that they closely monitor from both a cost perspective as well as overall productivity." (Tr. 108). IPL Witness Vognesen, who has years of experience working with IPL's industrial

customers, stated that some of the larger plants have their own energy managers and conduct their own energy audits. (Tr. 542). Environmental Intervenor Witness Crandall explained:

> I know that there are some companies that have a staff, maybe a team of engineers and an energy manager that reports right to senior management as to what the energy use is in that facility.

(Tr. 782).

Because in-house or specialized expertise is often necessary to conduct a large energy reduction project, a large industrial customer often cannot use the utility-run programs. In response to a question from Board Member Wagner, ICEE Witness Brubaker testified:

> The utility-sponsored programs typically tend to be relatively small in scope and take a fair amount of time to get in place. Industrial customers, particularly large ones who have, typically have, more resources at hand in order to be able to do energy efficiency projects. They're more attuned to what is happening in the energy efficiency space, and they have more people who are watching what they're doing energy-wise, so in that sense I would think their self-helps would be larger than some of the utility-sponsored programs, but that's not going to be true for everybody.

(Tr. 1142).

Similarly, there is little disagreement that the utility structure sometimes results in time lags which make it difficult for the utility to react to the industrial customer's needs in a timely manner. (Tr. 787,788). There is also little disagreement that the program design often does not fit the industrial customer's plant or process. (Tr. 787, 1086). Environmental Intervenor Witness Crandall testified that he is aware that industrial corporations sometimes have to shut down their operations in order to implement a large energy efficiency project and

that industrial customers themselves are the only ones who know when the time is right to implement a large project. (Tr. 787, 788).

E. The Damage to the Marketplace Should not be Ignored.

Industrial customers operating in a competitive environment are harmed by the ratepayer funding of industrial energy efficiency. Witness Brubaker testified:

> Industrial customers that have invested substantial resources in efficiency improvement are currently compelled to contribute funds that can be used to improve the efficiency of other industrial customers, some of whom may be direct competitors.

(Tr.1088).

The industrial customers that have proactively invested their own funds and achieved efficiencies may be penalized because they are forced to fund their competitors' energy efficiency programs. IPL Witness Haeri acknowledged this subsidization. (Tr. 323). While this is likely an unintended consequence, it is a very real one. There are those who might argue that this is not a problem because there are some "green" companies that only want to help the environment. This black and white kind of reasoning ignores the reality of the competitive marketplace. (Tr. 784-785). In fact, many companies are very “green” and go to great lengths to help the environment. These companies must be able to fulfill their obligation to deliver a competitive return to their stakeholders in order to be in a position to do that.

F. Opt-Out Programs are Being Implemented or Considered by Other States.

Exhibit MEB-1, attached to Witness Brubaker's Direct Testimony, lists the states that currently have an opt-out program in place for their industrial

customers. (Exhibit MEB-1). Witness Brubaker's Workpapers 1-7 consist of the rules and statutes with the parameters of the programs and the criteria that those states use to determine whether an industrial customer qualifies for the program. (Brubaker Workpapers 1-7).

Minnesota, a state that is also served by IPL, has adopted an opt-out plan for its industrial customers. Minnesota is ranked 9th in the country in the 2012 State Energy Efficiency Scorecard. Two of the other states that have implemented opt-out plans for their industrial customers, Oklahoma and South Carolina, are ranked as Most Improved in the 2012 State Energy Efficiency Scorecard. (IPL Late-Filed Exhibit 2).

These examples could serve as a starting point for the Board's consideration of an opt-out in a rulemaking process in Iowa.

G. An Opt-Out Program is Consistent With Iowa's Legal Framework.

Under the broad authority delegated to the regulatory agency in Iowa Code Sections 476.1, 476.2 and 476.15, the Board was given the authority to regulate the rates and services of public utilities. The legislature specifically included efforts designed to promote the use of energy efficiency strategies within that delegation of authority to the Board. Iowa Code Section 476.1(2013). The Board's powers and jurisdiction of utility business extends to the full extent permitted by the Constitution and the laws of the United States. Iowa Code Section 476.4(15) (2013). The Iowa legislature has made energy efficiency strategies a part of the utility's business.

The Iowa legislature has given the Board the broad authority to promote

the use of energy efficiency strategies. This includes exercising its expertise and informed discretion and deciding an energy efficiency program that allows industrial customers to opt-out of the utility designed energy efficiency plans and implement their own energy efficiency projects is a strategy that promotes energy efficiency. Considerable deference is given to the agency's expertise, especially when the decision involves the highly technical area of public utility regulation. *S.E. Iowa Coop. Elec. v. Iowa Utils. Bd*., 633 N.W.2d 814, 818 (Iowa 2001). The rules an agency promulgates represent the agency's interpretation of the statutes the agency is assigned to administer. *Office of Consumer Advocate v. Iowa Utils. Bd.,* 744 N.W.2d 640, 643 (Iowa 2008).

Iowa Code 476.6(16)(a) requires that the energy efficiency plans submitted for approval to the Board must include a range of programs tailored to the needs of all customer classes. By recognizing the special needs of the industrial class and creating an opt-out program, the Board would be fulfilling that legislative mandate. Beyond the specifications of the statute, what will be allowed in the plan is left to the Board's discretion. *Iowa-Illinois Gas and Electric Co. v. Iowa State Commerce Commission*, 334 N.W.2d at 754. An opt-out procedure would be an option offered to customers meeting specifications ordered by the Board. This would not affect a rate-regulated utility's duty to include programs for all customer classes within its energy efficiency plan and budget as required by Iowa Code 476.6(16)(a) since the utilities would continue to offer programs to all customer classes.

An opt-out program fits within Iowa's legislative policy of reducing energy

usage through the development of policies and programs that promote energy efficiency because allowing certain customers to opt-out and fund and implement independent programs is designed to allow increased energy efficiency and reduced energy usage. Iowa Code 473.3 (2013). The ICEE is asking the Board to adopt rules to create an opt-out program for industrial customers. The Board has the authority to do this as a means of advancing Iowa's goal of reducing energy usage. In fact, such an opt-out program represents just the sort of "tailoring" contemplated by the Iowa code.

The Iowa Supreme Court has stated:

> .... administrative regulations can be an important part of a broader statutory scheme to advance legislative goals. They can reflect the objectives and goals of the legislature in the same way as a statute.

Jasper v. Nizman 764 N.W.2d 751 (Iowa 2009).

OTHER ISSUES

A. Rate Impact is not Moot.

Environmental Intervenor Witness Crandall recommends that the Board not consider rate impacts. (Tr. 744-746;788-789; 798). His reasoning is that rates will go up in the short term but be lower in the long run (Tr. 670). He indicated that he believes his "no holds barred" approach will achieve maximum energy efficiency. [7] However, during cross-examination, Witness Crandall seemed to admit that rate impact should be considered by the Board. (Tr. 789-790)

[7] As pointed out by other witnesses, this leap assumes that all of the energy efficiency programs will have an increased number of participants and otherwise be successful. There is no evidence that that will happen.

Several witnesses disagree with Mr. Crandall's view that rate impact should not be considered and point to the fact that higher rates will be the result. IPL Witness Haeri explained how implementing energy efficiency may not lead to lower rates in the long run. He stated that except in rare cases, energy efficiency would invariably lead to higher rates. (Tr. 325). He stated:

> ... Yes, a utility's costs will go up, and they have to be recovered. That would have rate impact.

(Tr. 327).

IPL Witness Haeri also commented on the inequity shown by the fact that customers who may not be able to participate in a program experience a rate increase. (Tr. 330). This is what Witness Brubaker was speaking about when he discussed dis-benefits in his testimony and when responding to a question from Chair Jacobs. The rate increase overwhelms any benefit from avoided energy costs especially for customers that have not been able to participate and have invested their own funds in energy efficiency projects. (Tr. 1107. 1139-1140)

IPL Witness Vognesen explained that if IPL experiences lost revenues, it would have to ask for an increase in all customers' rates. (Tr. 452). He testified that if the energy efficiency budget increases as proposed by the Environmental Intervenors, there would be about a 16 percent increase in rates. (Tr. 530).

The Board reported to the Iowa Legislature in its January 1, 2009 Report to the General Assembly that Iowa ranked third in the nation in per capita spending for energy efficiency. Table 111-2, p. 11, "Energy Efficiency in Iowa's Electric and Natural Gas Sector," Report to the General Assembly, January 1,

2009.

While the ICEE does not disagree that the societal test is an important measure, we believe it is also necessary that the RIM test be considered so the Board will know what the rate impact will be. We urge the Board to consider rate impacts when reviewing IPL's energy efficiency plan and any other proposals that impact rates.

B. The Interruptible Program Provides Good Results and Should Not be Modified.

OCA Witness Bodine recommended commencing a proceeding to study IPL's interruptible program. (Tr. 959). In his Rebuttal testimony, Witness Brubaker offered Exhibit MEB-R1 which is a comparison of key benefit - cost test results and capacity savings attributed to these programs. (Exhibit MEB-R1). He noted that both programs have a benefit to cost ratio under the Societal Test and the Ratepayer Impact Test well in excess of 2.0. (*Id*.)

Mr. Brubaker also explained that both programs provide substantial benefit to all customers by reducing the level of rates. The DR portfolio has a Societal Test benefit - cost ratio approximately the same as the ratio for the entire portfolio of EE programs, and a RIM Test measure that is well above the 0.99 score for the EE programs. (Tr. 1103).

It is unclear why OCA Witness Bodine has singled out the avoided capacity cost used to judge the credits in the non-residential interruptible program for further scrutiny when IPL uses the same avoided capacity cost to evaluate all of the energy efficiency and demand response programs. (Tr. 1105).

At the hearing, Mr. Bodine acknowledged the substantial benefits the

interruptible program provides and supported his proposal to review the program by the fact that the rates were set a few years ago. (Tr. 974-975). He was unable to explain the reason he believed short-term MISO costs should be considered in the calculation in connection with the long-term avoidance the interruptible credits provide. (Tr. 976-977). In support of his proposal, Mr. Bodine compared IPL's interruptible rate to MidAmerican Energy Company's rate but had neglected to consider the fact that MidAmerican Energy Company's base rates are lower than IPL's. (Tr. 987-988).

IPL Witness Vognesen agreed that industrial customers rely on the stability of the interruptible program and stated the program may be destroyed if changes are made to it. (Tr. 523, 525-526). OCA Witness Bodine did not acknowledge that his proposal could cause damage to a twenty-year old very successful IPL program and its participants. (Tr. 977-978).

For all these reasons, Mr. Bodine's recommendation should be rejected.

CONCLUSION

For the reasons described in this brief, the ICEE urges the Board to commence a rulemaking process pursuant to Iowa Admin. Code 199-3.4(1) within three months to create the parameters of an energy efficiency program that allows qualified industrial customers to apply to opt-out of the energy efficiency portion of IPL's energy efficiency plan. The ICEE has shown that many industrial customers consistently implement their own energy efficiency projects, are in some cases unable to access the utility's energy efficiency programs, and

have in the aggregate already implemented 90% of the economic potential. An opt-out program supports Iowa's goals to achieve energy efficiency.

The ICEE urges the Board to reject a dramatic increase to IPL's energy efficiency budget and refrain from making changes to IPL's interruptible program, recognizing its responsibilities to set just and reasonable rates and assure the reliability of service.

As is discussed in detail in the attached Appendix, the ICEE urges the Board to adopt terms sixteen, seventeen and eighteen of the Non-unanimous Partial Settlement.

Respectfully Submitted,

/s/

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APPENDIX

IOWA CUSTOMERS FOR ENERGY EFFICIENCY'S COMMENTS NON-UNANIMOUS PROPOSED PARTIAL SETTLEMENT

As noted in the Joint Motion for Approval of the Non-unanimous Partial Settlement, some of the issues were agreed upon by four parties and others by only two parties. ICEE did not object nor support most of the issues in the Settlement, but agreed to resolve Issues Numbers sixteen, seventeen and eighteen and will provide comment on those issues.

The ICEE believes the Board will find the parties' resolution of these issues is reasonable in light of the whole record, consistent with law, and in the public interest. Iowa Admin. Code 199-17.8(7).

Issue Sixteen: Whether the energy efficiency cost recovery factors should be explicitly identified on customers' bills. This issue has been resolved between IPL and the ICEE. (Tr. 116, 548). The settling parties agreed that no sooner than the implementation of a new Modern Customer Information System (MCIS) for its Iowa customers, and with the Board's approval, IPL will display the energy efficiency cost recovery (EECR) factor on customer's bills. (Proposed Partial Settlement at page fifteen).

The OCA and Deere neither object nor support the agreement. Only the Environmental Intervenors object to the parties' resolution.

Iowa Code Section 476.6(16)g provides, in relevant part:

> The utility shall not represent energy efficiency in customer billings as a separate cost or expense *unless the board otherwise approves*.

When the expansive energy efficiency legislation was in its infancy, the legislature ordered that the energy efficiency expense not be shown as a separate expense but gave the Board the authority to decide otherwise. Iowa Code Section 476.16(6) (2013). The legislators vested the Board with the power to make the decision.

When Iowa's energy efficiency mandate was first implemented twenty years ago, it was a new concept and it was controversial. Times are different now and customers are familiar with and have accepted the concept of energy efficiency. IPL's customers deserve to be trusted to understand exactly what they are paying for. (Tr. 1096). IPL witness Vognesen testified that IPL had previously opposed this concept but explained that IPL reevaluates positions as times and circumstances change. (Tr. 549-551).

ICEE Witness Brubaker noted that unless the customer went to the utility's website and found the EECR tariff and then multiplied those values times its kWh consumption, the customer would have no idea of the charge, and there would be no indication on the bill of the amount of the bill that is attributable to the EECR. (Tr. 1096).

At hearing IPL Witness Vognesen noted:

> We've had calls about customers wanting to understand, when they go back to our tariffs that are on our web site versus the prices that are reflected on their bills and trying to understand how that price on their bill translates to our tariffs, we've had to explain that the energy charge needs to have the energy efficiency cost recovery factor added to that charge to be reflected on their bill, so we've had those conversations with customers.

(Tr. 549).

IPL's conversation with its customer would foster a better relationship if IPL was only asked to answer a question about the nature of the energy efficiency cost recovery rider (EECR) rather than navigating the tariffs and having to explain there is a charge that is not being shown.

Environmental Intervenor witness Crandall concluded that including the energy efficiency costs as a separate line item would be misleading, inaccurate and confusing to customers and,he compared it to such items such as salaries, insurance and other utility expenses that are not included separately on customers' bills. (Tr. 740).

However, the kinds of costs listed by Witness Crandall are revenue requirement items - utility expenses - that are part of IPL's base rates and remain constant until a new rate case is filed. The customer does not have a direct relationship to those expenses. Iowa Code Section 476.7 (2013); Iowa Admin, Code 199-26.5(2)(5) (2013). Similarly, the energy adjustment clauses authorized by the Board include energy costs to which a customer does not have a direct relation. Iowa Admin, Code 199-20.9 (2013). It is not correct to compare energy efficiency charges to revenue requirement factors that make up base rates. It is also not correct that the possible long-term avoided cost benefits connected to the monthly EECR charge should be identified for the customer to understand the charge. (Tr. 741).

The EECR charge is different. It is a charge for a service that is directed and "marketed," in a sense, to customers. It is not a component of charges for energy. The cost should be transparent to customers. Mr. Crandall sells

customers short when he says they would be confused if they knew about the charge. (Tr. 741). On the contrary, if a customer is aware of an energy efficiency charge, this may prompt the customer to contact IPL and inquire about how he can effectively take advantage of the energy efficiency programs he is paying for. This is an initial contact that should lead to the customer using the energy efficiency opportunities IPL offers which, in turn, would lead to reduced energy usage for Iowa.

Transparency can lead to greater awareness and increase participation in energy efficiency. The Board should trust Iowans and allow IPL to inform its customers and encourage these customer inquiries. The Board should find the resolution of Issue Number 16 reasonable.

Issue Number 17: Whether IPL should be ordered to track non-residential energy efficiency expenditures by rate class as well as by program.

This issue has been resolved between IPL and the ICEE. (Tr. 116, 548) The Environmental Intervenors and Deere neither objected to nor supported the resolution. [8] The OCA objected to the parties' resolution.

The settling parties agreed that IPL will track non-residential energy efficiency expenditures by rate class as well as by programs within its systems and consider that information in developing future EECR factors. (Proposed Partial Settlement at 15.) For the reasons described below, the Board should adopt the parties' proposed partial settlement of Issue Number 17.

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[8] At the hearing, counsel for the Environmental Intervenors incorrectly represented to the Board that they had objected to this provision. (Tr. 981). The settlement document states the Environmental Intervenors do not object to the settlement of this issue.

ICEE Witness Brubaker stated:

> Tracking each non-residential EE program expenditure by rate class would provide important information about which customers are receiving the EE services. This information could then be used to more accurately assign EE program costs by rate class. The implicit assumption in the current EE program cost allocation within the non-residential class is that costs are proportional to class kWh, which likely is not the case. Tracking these expenditures by rate schedule will provide valuable information that will inform future cost assignments and allocations, and result in a more accurate matching of costs and benefits.

(Tr. 1097)

IPL Witness Vogenesen agreed:

> IPL supports cost-based rates. IPL currently utilizes a variety of cost assignments and allocations for the recovery of energy efficiency costs through the EECR factors. To the extent tracking of expenditures by rate schedule can more accurately assign costs to a particular customer class, IPL is supportive, depending upon the level of effort required to modifyIPL's demand side management tracking system.

(Tr. 478).

However, OCA Witness Bodine objected to the settled issue, justifying his objection by stating he had assumed ICEE would like to see IPL track non-residential energy efficiency expenditures to gather information that could be used to justify an opt-out procedure. (Tr. 966). At hearing, OCA Witness Bodine could only provide an unsupported notion that "that's how I thought it would be used and no one told me that it wasn't going to be used that way, so I continued to believe that that's how it would be used." (Tr. 966). The OCA ignored IPL's and the ICEE's stated reasoning and provided no substantive reason why it believed it was not a good thing to track this information in more detail.

The Board should find the parties' settlement of Issue Number 17 is

reasonable.

Issue Number 18 Whether IPL should revise its Large General Service EECR factors to a two-part EECR factor with a separate demand factor for recovery of costs associated with direct load control and interruptible program costs and an energy-based factor for all other eligible energy efficiency costs.

This issue has been resolved between IPL, the OCA and the ICEE. The Environmental Intervenors and Deere did not object. (Tr. 116, 548).

The settling parties agreed that IPLwill examine any appropriate revision of its Large General Service rate design in the context of its next rate case. (Proposed Partial Settlement at 16). For the reasons described below, the Board should find the settlement of this issue is reasonable.

ICEE Witness Brubaker explained that for both the industrial interruptible program and for the residential demand response program, IPL allocates the costs among all tariffs using the generation demand allocation factor from the cost of service study in its most recent rate case. (Tr. 1073). He testified that within the tariffs, the allocated costs are combined with the allocated energy efficiency costs and collected from customers as a uniform kWh charge. (Id.)

Mr. Brubaker went on to state that since this mixes demand costs and energy costs, the costs pertaining to demand response should be collected on a per kilowatt of billing demand basis by dividing the allocated dollars for DR by the estimated billing demand associated with the estimated energy sales.

IPL Witness Vognesen agreed, stating:

> I agree that recovery of demand-related costs through a demand charge and energy-related costs through an energy charge is consistent with the cost principles of cost-based rates, but the same objective could be

> accomplished through the LGS/Bulk 1 rate design within a rate case in which demand and energy rate elements are determined.
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> (Tr. 478-479),

In settlement, the parties agreed that the change could be accomplished in the next rate case. (Proposed Partial Settlement at 16).

The Board should find the parties' settlement of Issue Number 18 is reasonable.

CONCLUSION

For all of the reasons stated in these comments, the ICEE urges the Board adopt the Non-unanimous Partial Settlement.