

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

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<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>INTERSTATE POWER AND LIGHT,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">DOCKET NO. FCU-2016-0011</p>
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**REQUEST FOR SUBPOENAS**

Pursuant to Iowa Code § 476.2(1) (2015), 199 IAC 7.16(1), and Rule 1.1701, Iowa R. Civ. P., the Office of Consumer Advocate (“OCA”), a division of the Iowa Department of Justice, requests subpoenas directed to Interstate Power and Light (IPL) employees. Copies of the proposed subpoenas are attached.

1. On November 9, 2016, the Iowa Utilities Board (Board) issued an Order Granting Motion to Modify Procedural Schedule and Rescheduling Hearing. OCA is to file prepared testimony on or before November 14, 2016, and be prepared for hearing on December 19, 2016.

2. This proceeding raises a number of issues the facts of which are primarily in the control of IPL. OCA has had limited opportunity for discovery and the filing of prepared testimony. OCA anticipates that additional information from IPL will be needed for a thorough investigation and complete record.

3. OCA requests subpoenas for the following IPL employees for the purposes of live testimony at the hearing for the reasons set forth below:

a. Wendi Cigrand and Shirley Stibb to respond to questions at hearing related to the data request responses to which they were listed as authors and for questions related to responses filed on behalf of IPL in the complaint proceedings filed with the Board.

b. Kathy Harriott, Elaine Symons, and Brandi Lund to respond to questions related to responses filed on behalf of IPL in the complaint proceedings filed with the Board. OCA will work with IPL to reduce the witnesses to one individual.

WHEREFORE, OCA respectfully requests that the Board issue subpoenas as requested and attached hereto.

Respectfully submitted,

/s/ Mark R. Schuling

Mark R. Schuling  
Consumer Advocate

1375 East Court Avenue  
Des Moines, Iowa 50319-0063  
Telephone: (515) 725-7200  
E-mail: [IowaOCA@oca.iowa.gov](mailto:IowaOCA@oca.iowa.gov)

OFFICE OF CONSUMER ADVOCATE



**ATTACHMENT A**  
**IOWA RULES OF CIVIL PROCEDURE 1.1701(4) AND 1.1701(5)**

**1.1701(4) *Protecting a person subject to a subpoena.***

*a. Avoiding undue burden or expense; sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

*b. Command to produce materials or permit inspection.*

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

*c. Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

*d. Quashing or modifying a subpoena.*

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. Subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information; or

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

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(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

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(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.



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**SUBPOENA**

To: Brandi Lund % Interstate Power and Light

You are commanded to appear at the hearing scheduled to begin at 9:00 a.m. on Monday, December 19, 2016, in the Board's Hearing Room, First Floor, 1375 East Court Avenue, Des Moines, Iowa 50319, for the purpose of answering such questions as may be asked by counsel for the parties and the presiding officer. Such appearance shall be by personal attendance.

This subpoena is issued in response to a request filed by Office of Consumer Advocate on November 9, 2016.

Issued by the Iowa Utilities Board this \_\_\_\_ day of November, 2016.

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Signature of the Chief Operating Officer

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