



Alliant Energy Corporate Services
Legal Department
319-786-4742 – Phone
319-786-4533 – Fax

Paula N. Johnson
Senior Attorney – Regulatory

March 14, 2014

Dr. Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Interstate Power and Light Company
Docket No. E001/M-14-105
Reply Comments

Dear Dr. Haar:

Enclosed for e-Filing with the Minnesota Public Utilities Commission, please find Interstate Power and Light Company's Reply Comments in the above-referenced docket.

Copies of this filing have been served on the Minnesota Department of Commerce, Division of Energy Resources, the Minnesota Office of Attorney General - Residential and Small Business Utilities Division and the attached service list.

Respectfully submitted,

/s/ Paula N. Johnson
Paula N. Johnson
Senior Attorney – Regulatory

PNJ/tao
Enclosures

cc: Service List

Interstate Power and Light Co.
An Alliant Energy Company

Alliant Tower
200 First Street SE
P.O. Box 351
Cedar Rapids, IA 52406-0351

Office: 1.800.822.4348
www.alliantenergy.com

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
J. Dennis O'Brien
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

IN THE MATTER OF INTERSTATE
POWER AND LIGHT COMPANY'S
REQUEST FOR ELECTRIC TARIFF
CHANGES

DOCKET NO. E001/M-14-105

AFFIDAVIT OF SERVICE

STATE OF IOWA)
) ss.
COUNTY OF LINN)

Tonya A. O'Rourke, being first duly sworn on oath, deposes and states:

That on the 14th day of March, 2014, copies of the foregoing Affidavit of Service, together with Interstate Power and Light Company's Reply Comments, were served upon the parties on the attached service list, by e-filing, overnight delivery, electronic mail, and/or first-class mail, proper postage prepaid from Cedar Rapids, Iowa.

 /s/ Tonya A. O'Rourke
Tonya A. O'Rourke

Subscribed and Sworn to Before Me
this 14th day of March, 2014

 /s/ Kathleen J. Faine
Kathleen J. Faine
Notary Public
My Commission expires on February 20, 2015

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Bobby	Adam	bobby.adam@conagrafoods.com	ConAgra	Suite 5022 11 ConAgra Drive Omaha, NE 68102	Electronic Service	No	OFF_SL_14-105_14-105
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_14-105_14-105
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-105_14-105
William A.	Blazar	bblazar@mnchamber.com	Minnesota Chamber Of Commerce	Suite 1500 400 Robert Street North St. Paul, MN 55101	Electronic Service	No	OFF_SL_14-105_14-105
Michael	Bradley	mike.bradley@lawmoss.com	Moss & Barnett	Suite 4800 90 S 7th St Minneapolis, MN 55402-4129	Electronic Service	No	OFF_SL_14-105_14-105
City	Clerk	sschulte@ci.albertlea.org	City of Albert Lea	221 E Clark St Albert Lea, MN 56007	Paper Service	No	OFF_SL_14-105_14-105
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	No	OFF_SL_14-105_14-105
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_14-105_14-105
David	Grover	dgrover@itctransco.com	ITC Midwest	444 Cedar St Ste 1020 Saint Paul, MN 55101-2129	Electronic Service	No	OFF_SL_14-105_14-105
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_14-105_14-105

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Annete	Henkel	mui@mutilityinvestors.org	Minnesota Utility Investors	413 Wacouta Street #230 St. Paul, MN 55101	Electronic Service	No	OFF_SL_14-105_14-105
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street St. Paul, MN 551012134	Electronic Service	No	OFF_SL_14-105_14-105
Paula N.	Johnson	PaulaJohnson@alliantenergy.com	Interstate Power and Light Company	200 First Street SE PO Box 351 Cedar Rapids, IA 524060351	Electronic Service	No	OFF_SL_14-105_14-105
Jim	Krueger	jkrueger@fmcs.coop	Freeborn-Mower Cooperative Services	Box 611 Albert Lea, MN 56007	Electronic Service	No	OFF_SL_14-105_14-105
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_14-105_14-105
Kavita	Maini	kmains@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_14-105_14-105
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_14-105_14-105
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_14-105_14-105
Carl	Nelson	cnelson@mncee.org	Center for Energy and Environment	212 3rd Ave N Ste 560 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_14-105_14-105
Steven	Nyhus	swnyhus@flaherty-hood.com	Flaherty & Hood PA	525 Park St Ste 470 Saint Paul, MN 55103	Electronic Service	No	OFF_SL_14-105_14-105

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kent	Ragsdale	kentragdale@alliantenergy.com	Alliant Energy-Interstate Power and Light Company	P.O. Box 351 200 First Street, SE Cedar Rapids, IA 524060351	Electronic Service	No	OFF_SL_14-105_14-105
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_14-105_14-105
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	12 S 6th St Ste 1137 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_14-105_14-105
Matthew J.	Schuerger P.E.	mjsreg@earthlink.net	Energy Systems Consulting Services, LLC	PO Box 16129 St. Paul, MN 55116	Electronic Service	No	OFF_SL_14-105_14-105
Ron	Spangler, Jr.	rlspangler@otpc.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_14-105_14-105
Robyn	Woeste	robynwoeste@alliantenergy.com	Interstate Power and Light Company	200 First St SE Cedar Rapids, IA 52401	Electronic Service	No	OFF_SL_14-105_14-105

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**Beverly Jones Heydinger
David Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

**IN THE MATTER OF INTERSTATE
POWER AND LIGHT COMPANY'S
REQUEST FOR ELECTRIC TARIFF
CHANGES**

DOCKET NO. E001/M-14-105

**REPLY TO COMMENTS
OF THE MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES**

COMES NOW, Interstate Power and Light Company (IPL) and hereby submits to the Minnesota Public Utilities Commission (Commission) its Reply to the Comments submitted by the Minnesota Department of Commerce, Division of Energy Resources (Department). In support of its position, IPL states as follows:

I. BACKGROUND

1. On February 3, 2014, IPL submitted its request to the Commission for approval to update its electric tariff to reflect the collection of local sales taxes in the City of Medford and Olmsted County.

2. IPL submitted its request for approval of updates to the IPL Tax Adjustment Rider tariff to reflect recent local sales tax additions. The sales tax for the City of Medford went into effect on April 1, 2013, and the sales tax for Olmsted County went into effect January 1, 2014. IPL asked for an effective date

of April 4, 2014, for its tariff filing. IPL began the collection from its customers of these taxes at the dates they went into effect. Because IPL separately includes local taxes collected for the City of Albert Lea in its tariffs, IPL determined it should also include these governmental entities for the sake of consistency.

3. On March 4, 2014, the Department issued its Comments on IPL's electric tariff filing. The Department noted that, "...a question arises as to whether Commission authorization is required before utilities are allowed to collect new local sales taxes from customers." (Comments, p. 2.) The Department concluded its comments by asking IPL to "provide ... its legal basis or analysis" regarding whether IPL is required "to seek and obtain the Commission's approval prior to imposing local taxes on customers and prior to including such taxes in its utility tariff book." (Comments, p. 3.)

II. BACKGROUND

4. IPL is grateful to the Department for raising this particular question, as IPL itself struggled with the appropriate answer before submitting its tariff filing in this docket. As the Department noted, Minn. Stat. § 216B.05, subd. 1 directs a utility to file with the Commission, "schedules showing all rates, tolls, tariffs, and charges." Minn. Stat. § 216B.16, subd. 1 provides that, unless the Commission orders otherwise, "no public utility shall change a rate which has been duly established ... except on 60 days' notice to the Commission...."

5. Minn. Stat. § 216B.36 allows municipalities to assess a franchise fee for operation in the community, which includes situations where:

...Under the license, permit, right, or franchise, the utility may be obligated by any municipality to pay to the municipality to raise revenue or defray increased municipal costs accruing as a result of utility operations.

6. The City of Medford and Olmsted County have adopted the Local Sales and Use Tax (LSUT) pursuant to Minn. Stat. § 297A.99. In order to adopt that tax, pursuant to Minn. Stat. § 297A.99, subd. 3(a), the local governmental entity must first put it to a vote of its local residents:

(a) Imposition of a local sales tax is subject to approval by voters of the political subdivision at a general election. The election must be conducted before the governing body of the political subdivision requests legislative approval of the tax.

Additionally, Pursuant to Minn. Stat. § 297A.99 subd. 9, the Commissioner of Revenue collects the LSUT on behalf of the cities and counties utilizing it. IPL therefore is assessed by, and pays the funds directly to, the Minnesota Department of Revenue (MDOR), who then forwards the funds to the City of Medford and Olmsted County. IPL has no choice but to pay the LSUT to MDOR when it becomes effective. By this time, the local citizens have been actively involved in the resolution process necessary for the local governmental entities to assess the LSUT.

7. The governmental entities enacting these taxes do not typically directly notify utilities when they propose, and subsequently assess, the LSUT. Rather, IPL receives notice of the LSUT assessments through MDOR's fact sheets, such as those found in the Department's Comments at Attachment 1, pages 6-7 and 9-10.

II. ANALYSIS

8. Pursuant to Minn. Stat. § 297A.99, subd. 3(b):

The proceeds of the tax must be dedicated exclusively to payment of the cost of a specific capital improvement which is designated at least 90 days before the referendum on imposition of the tax is conducted.

The LSUT, therefore, could arguably qualify as a “franchise fee” pursuant to Minn. Stat. § 216B.36, which specifically includes municipality assessments to the utilities need “to raise revenue or defray increased municipal costs accruing as a result of utility operations.” In both cases, the local governmental entity is aiming for cost recovery through a tax assessment on the customer’s purchases from the utility.

9. Two factors persuaded IPL, in an abundance of caution, to submit its revised tariffs reflecting the LSUTs in this docket; both of these factors related to consistency with prior Commission practice. First, IPL had also previously been asked to include a similar LSUT assessment by the City of Albert Lea in its tariffs. (Order issued June 6, 2008, Docket No. E,G-001/M-08-200 (Albert Lee Order).) With two new communities instituting LSUTs, it seemed for the same or consistent treatment, the City of Medford and Olmsted County should be added to IPL’s tariffs with the City of Albert Lea. Second, On March 23, 2011, the Commission issued its Order Establishing Franchise Fee Filing Requirements in Docket No. E,G-999/CI-09-970 (Franchise Fee Order), which requires utilities, among other things, to “give the Commission 60 days’ notice prior to implementing a franchise fee.” (Franchise Fee Order, p. 2.) Since IPL noted that the LSUT could potentially qualify as a franchise fee, it erred on the side of a strict interpretation and opted to file the revised tariff.

10. However, IPL can see three specific ways in which the LSUT could be considered distinguishable from a typical franchise fee, and therefore, not necessarily qualify for inclusion in its tariffs:

- a) The LSUT can be used for capital improvements other than costs arising from utility operations;
- b) The LSUT already addresses the typical concerns regarding customer notice; and
- c) The LSUT is actually a statutory tax burden for the customer rather than the utility.

IPL discusses these reasons below.

A. The LSUT can be used for capital improvements other than costs arising from utility operations.

11. As previously noted, the LSUT is assessed by a community when it requires funding exclusively to pay “the cost of a specific capital improvement...” (Minn. Stat. § 297A.99, subd. 3(b)). A typical franchise fee must be intended to “raise revenue or defray increased municipal costs accruing as a result of utility operations.” (Minn. Stat. § 216B.36. While it is possible for these to coincide, it is not necessary. In either case, the utility’s customers are paying a fee toward a capital improvement. While a pure franchise fee requires a utility-related investment, the LSUT amount could be utility or non-utility related.

B. The LSUT already addresses the typical concerns regarding customer notice.

12. IPL notes a common theme between the Albert Lea Order and the Franchise Fee Order: Customer notice. In the Albert Lea Order, the Commission noted that it “sees merit in the tariff setting a specific collection rate in the tariff for all to see.” (Albert Lea Order, p. 4.) Similarly, the Franchise Fee Order seemed particularly focused on notice – notice to the Commission, the city, and the customers within the assessing city. (Franchise Fee Order, p. 2.) Minn. Stat. § 216B.16, subd. 1 also appears to have been designed to effectuate this common theme in utility regulation. In the case of the LSUT, however, the customers

already arguably have sufficient notice since they had the opportunity to participate in the local election in which the LSUT was adopted.

13. IPL faced a conundrum when it came to applying this precept to the LSUT assessment to the City of Medford and Olmsted County. Because statute directed that its customers in the City of Medford and in Olmsted County participate in the general election vote leading to the resolutions enacting the subject LSUTs, the customers in these areas already arguably had notice of these charges. Because the entities' own customers would have voted to adopt these LSUTs, their inclusion in IPL's tariffs seemed to involve a superfluous level of public notice. At the same time, IPL did not want to decline to submit the LSUTs and discover that it had erred. In an abundance of caution, IPL determined it safest to remain consistent with prior franchise fee filings and submit the revisions. IPL acknowledges, however, that if this becomes the norm, there may be utilities that will be required to make substantive tariff revisions to accommodate all similar LSUTs in their tariffs. IPL is not certain if that is the preferred outcome.

C. The LSUT is actually a statutory tax burden for the customer rather than the utility.

14. IPL also notes that the LSUT presents a potential regulatory difficulty. IPL is required by Minn. Stat. § 297A.77 subd. 1, the LSUT "...must be collected by the seller from the purchaser." IPL is then required to pay these remittances directly to MDOR. (Minn. Stat. § 297A.77 subd. 3.) IPL has no choice but to collect these taxes from its customers in these local communities. The tax burden is directly assigned to the customers by statute; IPL is merely a conduit for the LSUT proceeds between its customers, MDOR, and the local

communities. IPL's statutory duty under this statute is merely to collect, report, and remit the tax proceeds. While a typical franchise fee is based on the utility's revenues, in this case, the LSUT is based on the customers' consumption.

II. CONCLUSION

15. IPL admits it is possible it may not have been required to make this filing. If the Commission determines that IPL's "abundance of caution" exceeded the bounds of what was legally required, IPL will withdraw its revision. IPL would ask for guidance at that time regarding whether the Albert Lea franchise, which also appears to be a LSUT, would still need to be listed in its tariffs.

16. IPL appreciates the Department drawing attention to this situation. IPL believes there are legitimate policy reasons to consider either alternative – filing the city-specific LSUTs in its tariffs or excluding them. Minn. Stat. § 216B.16, subd. 1 appears to allow the Commission, as appropriate, to determine a submission and notice period is not required for a particular type of tariff filing. IPL suggests that this situation – where the affected communities actively participated in the elections resulting in the LSUTs – may be that type of situation. IPL will abide by whatever decision the Commission renders in this situation.

WHEREFORE, IPL respectfully requests the Commission approve these miscellaneous tariff changes to revise IPL's electric tariff as described herein.

DATED this 14th day of March, 2014.

Respectfully submitted,

Interstate Power and Light Company

By: /s/ Paula N. Johnson

Paula N. Johnson
Senior Attorney – Regulatory
Interstate Power and Light Company
Alliant Tower
200 First Street S.E.
P.O. Box 351
Cedar Rapids, IA 52406-0351
(319) 786-4742