

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:	
INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-2016-0150

RESPONSE TO IPL’S PROPOSED EMISSION PLAN AND BUDGET

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, responds as follows to the Emission Plan and Budget filed by Interstate Power and Light Company (IPL or Company) on April 1, 2016:

Iowa law requires each rate-regulated electric utility to submit at least biennially a multiyear plan and budget for managing regulated emissions from its coal-fueled electric power generating facilities. Iowa Code § 476.6(20)(a) (2015). The Iowa Utilities Board (“Board”) shall approve the plan or update and associated budget “if the plan or update and the associated budget are reasonably expected to achieve cost-effective compliance with applicable state environmental requirements and federal ambient air quality standards.” Iowa Code § 476.6(20)(c) (2015). In reaching its decision, the Board “shall consider whether the plan or update and the associated budget reasonably balance costs, environmental requirements, economic development potential, and the reliability of the electric generation and transmission system.” *Id.* The Board may limit investments or expenditures that are proposed to be undertaken prior to the time that the environmental benefit to be produced by the investment or expenditure would be required by state or federal law. Iowa Code § 476.6(20)(f) (2015).

On April 1, 2016, IPL filed with the Iowa Utilities Board (IUB) its Emission Plan and Budget (EPB), and direct testimony of Terry Kouba, Donald Schultz, and Stephen Jackson to support its EPB. A revision was submitted on June 7, 2016. The proposed EPB reflects a continuation of projects from previously approved EPBs. OCA does not take issue with previously approved projects. OCA's response will focus on new projects proposed in IPL's 2016 EPB filing.

Air Quality Projects

In its 2016 EPB, IPL proposes the following new major air related projects:

- A. Installing selective catalytic reduction ("SCR") technology at Ottumwa Generating Station Unit 1 ("OGS") by the end of 2018;
- B. Convert Prairie Creek Unit 4 from coal to natural gas by the end of 2017; and
- C. Convert Burlington Unit 1 from coal to natural gas fuel by the end of 2021.

(Kouba Direct Testimony at pp. 3-4, 11).

IPL maintains that these actions, together with the actions IPL has taken to date in accordance with prior EPBs, will enable the Company to cost-effectively comply with current and future environmental regulations. (Kouba Direct Testimony at pp. 4:5-7, 5:1-2). Asserting that the U.S. Environmental Protection Agency's ("EPA") sulfur dioxide (SO₂) and oxides of nitrogen (NO_x) rules "have gotten—and are expected to continue getting—more stringent over time," IPL has proposed to install SCR technology to further control NO_x at OGS.¹ (Kouba Direct Testimony at p. 12). In support of this conclusion, IPL relies on the consent decree that

¹ Prior EPB projects have enabled IPL to achieve drastic emissions reductions, including a 70 percent reduction in NO_x emissions since 2008. (Jackson Direct Testimony at p. 5, ll. 6-10). Control devices for NO_x reduction are currently installed at OGS. Low NO_x burners and a Separate Over-Fire Air (SOFA) system were added at OGS in May of 2007. The installation of this control equipment resulted in a more than 50% reduction in NO_x emissions. OGS's current NO_x emission rate is 0.143 lb/mmBtu.

IPL entered into with the EPA, the State of Iowa, the County of Linn County, and the Sierra Club “to resolve allegations that IPL violated the prevention of significant deterioration (PSD) provisions of the clean air act at various of its power plants.” (“Consent Decree”) (Kouba Direct Testimony at p. 14; Exhibit __ TLK-1). IPL asserts that if a future potential modification is necessary at OGS and triggers a PSD Clean Air Act permitting requirement to install Best Available Control Technology (BACT) for NO_x, it would likely necessitate installation of SCR. (Kouba Direct Testimony at p.12:19-23).

IPL states that the three new air-related projects proposed in this proceeding are all needed to reduce NO_x emissions to meeting this proposed EPA rule revision in the ozone season. The major regulatory requirement governing NO_x emissions from IPL’s facilities is the Cross-State Air Pollution Rule (CSAPR). The EPA NO_x emissions requirements in recent years have been a moving target with the most recently adopted changes being less stringent than the original proposed changes.

Consent Decrees entered into by utilities based on EPA’s PSD enforcement initiatives typically result from complaints asserting environmental law violations. A Complaint asserting environmental law violations had previously been filed against IPL’s sister utility company, Wisconsin Power and Light. The WPL Complaint ultimately was resolved with a Consent Decree.

IPL states that it was approached by Sierra Club in 2011 with a draft notice of intent to sue IPL in Iowa. Instead of waiting for a formal complaint or lawsuit to be filed, IPL decided that it desired to take “a more proactive, collaborative approach with the Sierra Club and the EPA” in order to achieve a “more amicable and efficient resolution.” (Kouba Direct Testimony, at p. 14, ll. 21-23). IPL asserts that throughout the negotiations with the EPA, the State of Iowa, the

County of Linn County, and the Sierra Club, it endeavored to find a resolution that benefitted IPL's customers, and that was consistent with and complemented IPL's pre-existing, long-term plans.

Under the Consent Decree entered by the U.S. District Court for the Northern District of Iowa in September 2015, IPL, EPA, the State of Iowa, the County of Linn County, and the Sierra Club agreed to numerous provisions applicable to IPL coal-fired electric generating fleet, including a commitment to install SCR at OGS on or before December 31, 2019, and thereafter to achieve and maintain an average emission rate for NO_x at OGS of no greater than 0.080 lb/mmBTU. (Consent Decree, Exhibit ___ TLK-1, Sch. A, at p. 24 of 119 (¶ 93)).

Additionally, the parties to the Consent Decree agreed to plans to fuel switch two coal-fired plants. IPL plans to convert Prairie Creek Unit 4 from coal to natural gas by the end of 2017. IPL also plans to convert Burlington from coal to natural gas by 2021. IPL does not include a budget amount for the Burlington fuel switch project in its EPB. The fuel switching of Prairie Creek Unit 4 is expected to be significantly less capital intensive than the SCR project. Also, by switching fuels, IPL is able to avoid investing in any additional environmental control device at these plants.

Concurrent with the filing of the Consent Decree, the EPA filed a complaint ("Complaint") for injunctive relief and civil penalties pursuant to Sections 113(b) and 167 of the Act 42 U.S.C. §§ 7413(b) and 7477, alleging that IPL violated the PSD provisions of Part C of Subchapter I of the Act, 42 U.S.C. §§ 7470-7492, the requirements of Title V of the Act, 42 U.S.C. §§ 7661-7661f, and the federally enforceable Iowa State Implementation Plan. EPA alleged that IPL made major modifications to major emitting facilities, and failed to obtain the necessary permits and install and operate the controls necessary under the Act to reduce SO₂,

NO_x, and/or particulate matter at certain electric generating stations in Iowa, and that such emissions harmed human health and the environment. (Consent Decree, Exhibit ___ TLK, Sch. A, p. 5 of 119).

As previously indicated, the Consent Decree was negotiated between IPL and EPA, the State of Iowa, the County of Linn County and the Sierra Club. OCA and the Board were not part of the negotiations or the Consent Decree. As a result, the determination of whether the new EPB air related projects are ordinary and prudent for inclusion in customer rates has not yet been determined. IPL maintains that the economic case for the Consent Decree and investing in SCR at OGS is tied to IPL's long-term integrated resource plan which relies on assumptions that OGS will operate at or near current capacity factors for the long term.

OCA's review of the record indicates several parties concerned with Iowans' health and environment were included in the negotiations, the settlement was not inconsistent with other utility/EPA settlements, the improvements have the potential to reduce emissions and extend the life of the facilities, and IPL's proactive stance may result in reduced costs to its customers. Additionally, after further discovery and investigation, OCA finds the terms secured in the Consent Decree reasonable and the potential exists that the SCR would be required upon a successful showing of a PSD violation or a BACT-triggering project at OGS in the future.

Given these potentialities, the SCR could be considered necessary under federal ambient air quality standards and consistent with electric reliability considerations, thus satisfying § 476.6(20)(c) (2015). OCA further finds the fuel switching at Prairie Creek Unit 4 reasonable. OCA is not able to determine the reasonableness of the fuel-switching at Burlington Unit 1 because no budget has been proposed, but this can be addressed in future filed EPBs. For these reasons, OCA does not challenge these projects being included in IPL's EPB.

Water and Waste Management Projects

In this plan, IPL proposed several projects for compliance with the EPA's new standards under both sections 316(a) and 316(b) of the Clean Water Act, the EPA's new Effluent Limitation Guidelines (ELGs) for steam electric power plants, and the EPA's new Coal Combustion Residuals (CCR) rules. Projects are proposed at several generation sites, including some sites that have been proposed to be retired or fuel switched. In this EPB, IPL has requested Board approval for a portion of the costs related to these projects. The EPB is a plan and budget that pertains to IPL's coal-fueled electric power generating facilities and addresses compliance with "applicable state environmental requirements and federal ambient air quality standards" for regulated emissions. Iowa Code §§ 476.6(20)(a), (c) (2015). While OCA does not object to IPL providing information on its planned water and waste management activities at coal-fired electric generating units, the EPB statute does not authorize the inclusion of these projects and costs in the EPB budget and plan. OCA therefore recommends that these projects and related costs be excluded from IPL's proposed 2016 EPB budget and plan that is subject to review and approval by the Board as part of this proceeding.

WHEREFORE, OCA requests the Board's consideration of these comments in reviewing and ruling upon IPL's proposed Emission Plan and Budget and any Settlement Agreement reached between the parties in the above-captioned proceeding. OCA does not request a hearing of this matter, but is prepared to make a witness available to explain the economic and

engineering aspects of OCA position should the Board determine a hearing is necessary.

Respectfully submitted,

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