

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LISA KRAGNES, et al

Plaintiff,

vs.

CITY OF DES MOINES, IOWA,

Defendant.

Equity No. 49273

**MOTION FOR HEARING ON
CERTIFICATION OF A CLASS ACTION**

FILED
POLK COUNTY IOWA
05 OCT 11 PM 3:30
CLERK DISTRICT COURT

COMES NOW the Plaintiff on behalf of herself, and on behalf of all persons similarly situated and moves the Court to set a hearing on Plaintiff's Petition for Certification of this matter as a class action, and in support thereof states to the Court as follows:

1. That in Plaintiff's Petition filed July 27, 2004, Plaintiff brought this action pursuant to Rule 1.261 et seq. of Iowa Rules of Civil Procedure and specifically requested that the Court certify this matter as a class action. The Defendant in their answer denied Plaintiff's allegations pertaining to class certification. The issue of certification has not been heard or decided by the Court previously.

2. That the Plaintiff suggests the class be defined as all persons, firms, or corporations who have paid a franchise fee, from July 27, 1999 to the present, pursuant to the Gas and Electric Franchise ordinance passed by the City of Des Moines in effect for the applicable period.

3. That the claims of the Plaintiff are typical of the claims of all members of the designated class, and that the interests and representation of the Plaintiff will adequately and thoroughly represent the interest of the class.

4. That Plaintiff refers the Court to Plaintiff's Petition in the above-entitled cause and sets forth the particulars of Plaintiff's claims in support of certification.

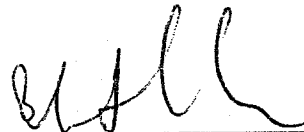
6. That the facts bear out that an excess of forty (40) persons, firms, corporations, or entities were charged a franchise fee for gas and electric service within the City of Des Moines and considering the population of the City of Des Moines the number of class members should be well in excess of 100,000 persons, firms and corporations.

7. That this matter is appropriate for certification pursuant to Iowa R. Civ. P. 1.261 et sequence. Plaintiff has submitted simultaneously herewith a brief setting forth the rules for certification provided under the Iowa Rules of Civil procedure (2005).

8. Counsel for the Plaintiff anticipates that a hearing will be set on Plaintiff's and Defendant's motions for summary judgment and suggests that hearing on certification of this matter as a class action be held at the same time, unless the City or the Court would prefer to hold a hearing prior to that time.

WHEREFORE, Plaintiff respectfully requests that the Court certify this matter as a class action, upon hearing, and for such other and further relief as the Court deems equitable in the premises.

RESPECTFULLY SUBMITTED BY:



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ATTORNEY FOR PLAINTIFF

ORIGINAL FILED.

Copies of the foregoing have
been hand-delivered this 11th
day of October, 2005, to the
following:

Mark Godwin
Deputy City Attorney
City Hall
400 East First Street
Des Moines, Iowa 50309-1891
ATTORNEY FOR DEFENDANT

Judge Michael D. Huppert
Polk County Courthouse
500 Mulberry
Des Moines, Iowa 50309

By: _____

