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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses

disclosed on the pleadings on 5-1-07

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Federal Express Other:

Signature Diane Roscoe

EXHIBIT A

IN THE IOWA DISTRICT COURT
FOR POLK COUNTY

LISA KRAGNES,)	
)	
Plaintiff,)	Law No. 49273
)	
vs.)	AMENDED ANSWER,
)	AFFIRMATIVE DEFENSES,
CITY OF DES MOINES, IOWA,)	AND COUNTERCLAIM OF
)	THE CITY OF DES MOINES
Defendant.)	

COMES NOW the Defendant, the City of Des Moines, and for its answer to Plaintiff's Petition states:

1-5. The City admits paragraphs 1 through 5 of Plaintiff's Petition. In further answering paragraph 5 of the Petition, the City states that Ordinance No. 14,341 (the Electricity Franchise) and Ordinance No. 14,342 (the Gas Franchise) and MidAmerican Energy's acceptance of both, are attached and by this reference made a part hereof.

6. The City denies paragraph 6 of the Petition.

7. The City admits paragraph 7.

8-19. The City denies paragraphs 8 through 19 of the Plaintiff's Petition.

WHEREFORE, the City prays the Court dismiss Plaintiff's Petition and assess the cost of this action against the Plaintiff.

AFFIRMATIVE DEFENSES

COMES NOW the City, and for its affirmative defenses states:

1. This Court lacks jurisdiction to hear this case because the Iowa Utilities Board has exclusive jurisdiction over the matter.

2. This Court lacks jurisdiction of this case because the Plaintiff has failed to exhaust her adequate administrative remedies.

3. Plaintiff's Petition fails to state a claim for which relief can be granted because Plaintiff's Petition is a collateral attack upon final agency action.

4. Plaintiff lacks standing because the franchise fees are imposed upon MidAmerican Energy, not Plaintiff.

5. The Doctrine of Laches precludes Plaintiff's claim.

6. Plaintiff has failed to join indispensable parties to this case, namely MidAmerican Energy, which is a party to the Franchise Agreements at issue, and the Iowa Utilities Board, which has, by law, approval power over the franchise fees at issue.

7. The City is immune from Plaintiff's refund claims pursuant to Iowa Code § 670.4(2).

8. The City is immune from Plaintiff's refund claims pursuant to Iowa Code § 670.4(3).

9. All or part of Plaintiff's refund claims are barred by applicable statute of limitations.

WHEREFORE, the City prays the Court dismiss Plaintiff's Petition and assess the cost of this action against the Plaintiff.

COUNTERCLAIM

COMES NOW the Defendant, the City of Des Moines, and for its counterclaim states:

1. The counterclaim Plaintiff is a municipal corporation organized and existing under the laws of the State of Iowa.

2. The named Plaintiff and the class of Plaintiffs are gas and electric utility

customers in the City of Des Moines who have paid franchise fees.

3. The class has requested a refund of any fees that are adjudged to be above and beyond the reasonable cost to the City in regulating the presence of the utility in the City's right-of-way.

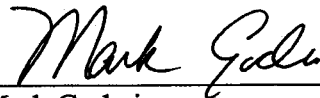
4. Should a refund be ordered, it will result in unjust enrichment to each and every member of the class.

5. This is so because the class, having paid the franchise fee, they have in return received City services for the money they have paid.

6. If a refund is ordered to the class, they will have received the refund and they will have received the services for which they initially paid, resulting in a double benefit to the class members and unjust enrichment to them.

7. Conversely, a double loss will result to the City. The City will be out the money received, and it will be out the money that it spent providing these services to the class members.

WHEREFORE, the City prays the Court enter judgment upon the City's counterclaim and against the Plaintiff class and for such other relief as is appropriate.



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