

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>LISA KRAGNES, et al., Plaintiff, vs. CITY OF DES MOINES, IOWA, Defendant.</p>	<p>Equity No. 49273 PLAINTIFF'S APPLICATION FOR ORDER AS TO NOTICE TO CLASS MEMBERS</p>
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COMES NOW the Plaintiff, Lisa Kragnes, and states as follows in her Application for Order as to Notice to Class Members, to-wit:

1. This Court has previously entered its Order certifying this action as a class action.
2. This case is currently set for trial beginning on October 27, 2008.
3. As this action has a certification under Iowa Rule of Civil Procedure 1.263 (1)(a), (b) and (c), there is no right for a class member to opt out of this class action. See Iowa Rule of Civil Procedure 1.267(1)(b).
4. Accordingly, the Notice to class members should be appropriately provided with this in mind and according to the requirements of Iowa Rule of Civil Procedure 1.266.
5. Plaintiff has prepared a proposed notice to class members, attached hereto as Exhibit 1. The Court should note that the Post Office Box and the website are not currently established pending approval by the Court of this form and format. This notice is specifically prepared to comply with the necessary requirements and with the following in mind:

RECEIVED
DISTRICT COURT
POLK COUNTY
IOWA
08 JUL 17 PM 3:50

a. The notice gives a general description of the action, including the relief sought and the names and addresses of the representative parties. *See* IRCP 1.266(2)(a).

b. The notice set out a statement the there is no right to opt out of this litigation. *See* IRCP 1.266(2)(b) and 1.267(1)(b).

c. The notice sets out a description of the possible financial consequences to the class members. *See* IRCP 1.266(c).

d. There is no reference to a counterclaim as none has been allowed to be asserted in this action. *See* IRCP 1.266(d).

e. There is a statement that the judgment entered will be binding upon the class members, whether favorable or not. *See* IRCP 1.266(e).

f. There is a statement that the class member may enter an appearance either personally or by counsel. *See* IRCP 1.266(f).

g. There is an address to which further inquires may be addressed. *See* IRCP 1.266(g).

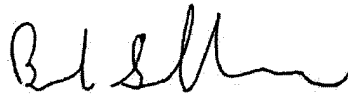
h. The Notice sets our other information which may be helpful, including a referral to a website which will be established for class members to access to be aware of all pleadings and orders filed in the litigation. *See* IRCP 1.266(h).

6. The Plaintiff requests that the Court, pursuant to the rules allowing for the minimization of the costs of the notice under IRCP 1.266.7, allow MidAmerican Energy to use its current mailings to notify class members who are current users of gas and electric within the City of Des Moines, and that a separate mailing for notification be used as to all class members for whom an address has been located and to whom MidAmerican does not send notice.

7. Further the Plaintiff requests that the Court allow for the notification of class members for whom the parties do not have a present mailing address, be notified, pursuant to the provisions of IRCP 1.266(5) by publication in the Des Moines Register Sunday newspaper for two consecutive weeks.

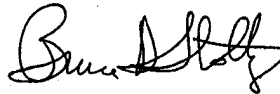
WHEREFORE the Plaintiff respectfully requests the Court set a hearing for review of and approval of the notice for the class members and upon such hearing enter an appropriate order for the sending of notification to class members and for such other and further order as is just and proper in the circumstances.

Respectfully submitted,



By: _____

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ATTORNEY FOR PLAINTIFF



By: _____

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ATTORNEY FOR PLAINTIFF

ORIGINAL FILED.

CERTIFICATE OF SERVICE:

A **COPY** of the foregoing has been mailed this 7th day of July, 2008, to the following:

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

Judge Joel D. Novak
Polk County Courthouse
500 Mulberry
Des Moines, Iowa 50309



By: _____

Gas and Electric Franchise Fee Litigation
P.O. Box _____
Des Moines, Iowa 50 _____

<p>NOTICE OF CLASS ACTION</p> <p>THE BACK OF THIS CARD PROVIDES A WEBSITE AND AN ADDRESS WHERE YOU CAN OBTAIN ADDITIONAL INFORMATION</p> <p>THIS NOTICE ADVISES YOU OF A PENDING CLASS ACTION AGAINST THE CITY OF DES MOINES, IOWA</p> <p>THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS</p> <p>PLEASE READ IT CAREFULLY</p>	
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Lisa Kragnes v. City of Des Moines, Iowa, Polk County District Court Case No. CE 49273

Your rights may be affected by a class action brought by Lisa Kragnes of Des Moines, Iowa, as representative, and pending against The City of Des Moines, Iowa (hereinafter "Defendant"). The lawsuit pending in the Iowa District Court for Polk County claims that the Defendant violated Iowa law by imposing a gas and an electric franchise fee in excess of its actual cost of regulation thereby collecting an illegal tax. It seeks a refund of all amounts paid in excess of the legal amount and a limitation on any future collections in accordance with the determination. The Defendant denies the allegations. The Defendant's records indicate that you may be a member of the class, having paid gas and electric franchise fees in the time from July 27, 1999 and continuing through the conclusion of the litigation. This case is currently set for trial beginning October 27, 2008. The purpose of this notice is to advise you that you may be a member of this class and thereby entitled to a refund if a refund is ordered and/or affected by the determination of the proper amount of franchise fee that may be charged under the law. Because of the nature of this class there is no right to opt out. Any judgment entered, whether favorable or not, will be binding upon all members of the class. You may enter an appearance in this case either personally or by your own separate counsel. You can obtain further information on this litigation by doing the following: By writing to the class action attorneys, Brad A Schroeder and Bruce H Stoltze at P.O. Box _____, Des Moines, Iowa 50____; or by going to the following website: _____ . All pleadings filed with or Orders entered by the Court will be posted on this website for class members to access and review.