

IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF
ELECTRONIC FILING RULES [199 IOWA
ADMINISTRATIVE CODE CHAPTER 14]

DOCKET NO. RMU-2023-0014

ORDER COMMENCING RULEMAKING

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rulemaking and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules.

According to the Executive Order rulemaking process, an agency may not commence a formal rulemaking without first approving a Final Regulatory Analysis and receiving preclearance through a Request to Initiate Rulemaking. In an order previously issued in the above-captioned docket, the Board approved a Final Regulatory Analysis for chapter 14 and indicated it was submitting a Request to Initiate Rulemaking. Since issuance of that order, the Board has received preclearance to commence chapter 14 rulemaking. The Board is proposing to rescind chapter 14 and re-promulgate chapter 14 with a revised version of the chapter. The proposed chapter is shown in the Notice of Intended Action (NOIA) attached to this order as Attachment A and incorporated in this order by reference. The official version of the NOIA will be published in the Iowa Administrative Bulletin (IAB) and may contain additional

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nonsubstantive editorial changes. The date for filing written comments will be in the NOIA published in the IAB. Additionally, per the Executive Order, the Board will hold two public hearings, the dates for which will be contained in the NOIA published in the IAB.

IT IS THEREFORE ORDERED:

1. The Notice of Intended Action attached to this order will be submitted to the Administrative Rules Code Editor for review and publication in the Iowa Administrative Bulletin and may contain editorial changes that are not shown in the attached Notice of Intended Action.

2. The Notice of Intended Action published in the Iowa Administrative Bulletin will identify the public hearing dates and the comment deadline.

UTILITIES BOARD

Erik M. Helland 2024.06.04
11:38:04 -05'00'

Joshua Byrnes Date: 2024.06.04
08:38:30 -05'00'

ATTEST:

Keetah A Horras Date: 2024.06.04
12:34:12 -05'00'

Sarah Martz Date: 2024.06.04
09:43:44 -05'00'

Dated at Des Moines, Iowa, this 4th day of June, 2024

UTILITIES DIVISION [199]

DRAFT Notice of Intended Action

The following rule-making action is proposed:

ITEM 1. Rescind 199—Chapter 14 and adopt the following new chapter in lieu thereof:

CHAPTER 14
ELECTRONIC FILING

199—14.1(17A,476) Purpose. The purpose of these rules is to establish an electronic filing requirement, to identify exceptions to the electronic filing requirement, and to specify procedures regarding electronic filing and service of documents filed with or issued by the board.

199—14.2(17A,476) Scope and applicability of electronic filing requirement. Electronic filing is mandatory, unless specifically excepted by these rules or the board. The board will accept filings electronically pursuant to the rules in this chapter and the board’s published standards for electronic information, available on the board’s website (iub.iowa.gov) or from the board’s customer service bureau, or as delineated in the board order or other official statement requiring those filings.

199—14.3(17A,476) Definitions. Except where otherwise specifically defined by law:

“*Accepted for filing*” ordinarily means a filing will be published in the board’s electronic filing system. Certain documents will be accepted for filing without being published in the board’s electronic filing system. A filing that has been accepted for filing can be rejected if found not to comply with a board rule or order.

“*Electronic filing*” means the process of transmitting a document or collection of documents via the Internet to the board’s electronic filing system for the purpose of submitting the document for board consideration.

“*Electronic filing system*” or “*EFS*” means the system used by the board’s customer service bureau to accept and publish documents filed electronically, and that allows the public and parties to view most documents filed with or issued by the board.

“*Guest user*” means a person who uses EFS without a user ID and password. Guest users are able to view and file documents via EFS.

“*Publish*” means to make a document available for public viewing or download by uploading it to EFS.

“*Registered user*” means a person who has complied with the board’s requirements in rule 199—14.6(17A,476) to obtain a user ID and password in order to submit filings for the board’s consideration through EFS.

199—14.4(17A,476) Exceptions. The following types of filings are not subject to the electronic filing requirement:

14.4(1) Filings made by any person who has been excused from the requirement by board order granting a request for permission to file paper documents. Upon request, the board may issue an order granting permission to file paper documents and specifying the number of paper copies to be filed.

14.4(2) Informal consumer complaints. Consumers may submit complaints electronically by using the online complaint form available on the board’s website or by email; on paper by mail or facsimile; or by

personally delivering the written complaint to the board's customer service bureau. Informal consumer complaint files are available for public inspection from the board's customer service bureau. An informal complaint file will be made available for public viewing in EFS, to the extent reasonable.

14.4(3) Written objections to applications for electric transmission line franchises, pipeline permits, or hazardous liquid pipeline permits. Written objections in these cases may be submitted through EFS or may be submitted in writing. Electronic filing of objections is preferred. A suggested objection form is available on the board's website.

14.4(4) Comments from persons in any other proceeding in which comments from the public are permitted. Persons may submit comments through EFS pursuant to these rules, by using any applicable online comment form available on the board's website, by email, or by letter. Comments from persons will ordinarily be published in EFS.

199—14.5(17A,476) Electronic filing procedures and formats. Electronic documents shall be filed in accordance with the following procedures and formats:

14.5(1) Persons who make infrequent filings with the board may file as a guest user. Persons who make regular filings with the board may register to obtain a user ID and password pursuant to registration procedures specified in rule 199—14.6(17A,476). The board may direct an infrequent filer to become a registered user.

14.5(2) Electronic filings are made by uploading a document or collection of documents into EFS. Emailing a document to the board does not constitute filing the document.

14.5(3) A filer should provide all necessary information when electronically filing a document.

14.5(4) Electronically filed documents are to be named in a way that accurately describes the contents of each document.

14.5(5) All documents are to be formatted in accordance with the board's standards for electronic information, which are available on the board's website or from the board's customer service bureau.

14.5(6) Any text-based document that has been scanned for electronic filing should be full-text searchable to the extent that is reasonably possible.

14.5(7) Spreadsheets and databases included in filings shall include all cell formulae and cell references. Spreadsheets with macros will not be accepted. Where a filer requests confidential treatment of cell formulae and cell references or any other information included in a spreadsheet or database, the filer may file a request for confidential treatment and two versions of the document: a public version of the document with the cell formulae deactivated and other confidential information redacted and a version not for publication containing live formulae and the information for which confidential treatment is requested.

14.5(8) Hyperlinks and other navigational aids may be included in an electronically filed document. Each hyperlink should contain a text reference to the target of the link. Although hyperlinks may be included in a document as an aid to the reader, the material referred to by the hyperlinks is not considered part of the official record or filing unless the referenced material itself is filed (e.g., hyperlinking a document previously filed in EFS). Hyperlinks to cited authority do not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

14.5(9) EFS will display an "Upload Complete" notice when the upload of the filing is completed. If the "Upload Complete—Filing Submitted" notice does not appear, the filer may contact the board's customer service bureau during regular business hours to determine the status of the filing.

14.5(10) After reviewing the filing, the board's customer service bureau will either accept or reject the filing. If the filing is accepted, the document (if not confidential) will be published in EFS, and an electronic file stamp indicating the docket number(s) and date of filing will be added to the published document. A

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Notice of Electronic Filing containing a link to the filing will be sent by email to the filer and to all parties identified on the service list as able to receive electronic service. From the link, the recipient of the notice can view the filing. Where a document is accompanied by a request for confidential treatment, the filing will include the public version of the document, in which information identified as confidential has been redacted. Where a filing consists only of a confidential document, such as a response to a board survey or other inquiry, that the board has deemed confidential pursuant to an order requiring the response, the document will not be published. Acceptance of a document for filing is not a final determination that the document complies with all board requirements and is not a waiver of such requirements. If a filing is rejected, a Notice of Rejection explaining why the filing has been rejected will be sent by email to the filer, or the filer will be contacted by other appropriate means.

14.5(11) Errors. If a filer discovers an error in the electronic filing or publishing of a document, the filer should contact the board's customer service bureau as soon as possible. The customer service bureau will review the situation and advise the filing party how the error will be addressed by the customer service bureau and what further action by the filer may be necessary, including a revised filing with the board. Ordinarily, any modification to an EFS filing will require a revised filing in EFS. If errors in the filing or publishing of a document are discovered by the board's customer service bureau, board staff will ordinarily notify the filer of the error and advise the filer of what further action, if any, is necessary to address the error.

14.5(12) Electronic documents and the hearing process. Any prefiled testimony or exhibit that is altered or corrected at the hearing in any way and admitted into evidence, and any paper documents that are newly admitted into evidence as exhibits at the hearing, must be electronically filed at the earliest opportunity but no later than three business days after the material is admitted into evidence.

199—14.6(17A,476) Registration. A person may become a registered user by completing the registration form, which is available on the board's website, and obtaining a user ID and password. If a user believes the security of an existing password has been compromised, the user should change the password immediately and may contact the board's customer service bureau.

199—14.7(17A,476) Electronic file. The official agency record in any proceeding is the electronic record maintained in EFS and any paper filings accepted by the board that are not stored in electronic form.

199—14.8(17A,476) Maps, plan and profile drawings, and other oversized documents. Any map, plan and profile drawing, or oversized document that is to be filed with the board should be electronically filed as a PDF (Portable Document Format) or such electronic format as designated by the board. If the map, drawing, or oversized document cannot be printed on 11-by-17-inch or smaller-sized paper in legible and usable form, as determined by the board, the original and four paper copies of each map, drawing, or other document filed pursuant to this rule should also be filed, unless more copies are directed by board order or request. Maps and other documents should be drawn to a scale appropriate for the level of detail to be shown. However, if the map, drawing, or other document is not electronically filed, then the number of paper copies filed is governed by other applicable rules, including the "Hearings" rule 199—Chapter 7(17A,476), which concerns the required number of copies for evidence introduced at hearing, and 199—Chapter 26, which contains additional requirements regarding the number of paper copies of minimum filing requirements required to be filed in rate and tariff proceedings.

199—14.9(17A,476) When electronic filings can be made; official filing date. Unless otherwise ordered, an electronic filing can be made at any time outside of any maintenance periods during which the system will

not be available. The Notice of Electronic Filing generated when the document is accepted for filing will record the date of the filing of the document, which will be the official filing date of the document.

199—14.10(17A,476) EFS Unavailability; Technical difficulties. Scheduled EFS maintenance and unscheduled EFS outages that are expected to last more than 30 minutes will be posted on the board’s website. It is the responsibility of the filer to ensure that a document is timely filed to comply with jurisdictional deadlines. A technical failure of EFS, the filer’s own computer equipment, or any other part of the filing system will not excuse the filer from compliance with a jurisdictional filing deadline. If a filer is not able to meet a nonjurisdictional deadline because of a technical failure, the filer should, by the earliest available conventional or electronic means, file the document and seek appropriate relief from the board.

199—14.11(17A,476) Documents containing confidential material. Confidential documents will not be published in EFS. When filing a document containing confidential information, a person shall file one public version of the document with the confidential information redacted according to the board’s standards for electronic information and one version of the document containing the confidential information. The two versions of the document should be named according to the following convention: “Document Title—Public” and “Document Title—Confidential.” It is the responsibility of the person submitting a public version of the electronic document to take appropriate measures to ensure that any embedded information for which confidential treatment is sought is nonviewable, nonsearchable, and nonreversible. Each page of the confidential version of the document shall be marked in a way that identifies it as belonging to the confidential version of the document. The confidential material itself is to be highlighted or otherwise distinguished on the page to identify what specific information is confidential. A filing including a document the filer asserts contains confidential information is also to include a separate document containing the request for confidential treatment pursuant to 199—Chapter 1. Documents that the filer asserts contain confidential information will not be electronically served by EFS, as provided in 199—Chapter 14.

199—14.12(17A,476) Signatures.

14.12(1) Filings by registered users. The use of a user ID and password in accordance with the registration procedures specified in rule 199—14.6(17A,476) constitutes the filer’s signature. Filers should use “/s/” followed by the signer’s name to indicate a signature where applicable. All pleadings shall include a signature block containing the signer’s name, title, address, email address, and telephone number.

14.12(2) Filings by guest users. The personal information provided to submit a filing as a guest user constitutes the filer’s signature. Filers should use “/s/” followed by the signer’s name to indicate a signature where applicable. All pleadings should also include a signature block containing the signer’s name, title, address, email address, and telephone number.

199—14.13(17A,476) Original documents. When a board rule directs the filing of an original document not prepared by the filer or the party on whose behalf the document is filed, such as an invoice or other document, the filer should scan the original document and file the scanned document in EFS or request advance board approval of other arrangements. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.14(17A,476) Electronic service.

14.14(1) Service on parties able to receive electronic service. Unless otherwise provided by board rule or order, whenever a document is filed electronically, a Notice of Electronic Filing will be generated and sent

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to the filer and to representatives of the other parties who are able to receive electronic service and who are on the service list. This notice will constitute valid service of electronically filed documents and board orders on parties accepting electronic service. The notice will include a service list providing names, addresses, and email addresses of the persons who were sent the notice. No additional proof or certificate of service is necessary in matters in which all parties are able to receive electronic service. It is the responsibility of the filer to review the notice to ensure that all parties have been provided notice. All parties are responsible for ensuring that their email accounts are monitored regularly and that email notices sent to the account are opened in a timely manner.

14.14(2) *Service on parties for whom electronic service is not available.* The service list in each proceeding will be available in EFS. The list will identify the representatives for each party and will also indicate the parties for whom electronic service is not available. A filer is to serve a paper copy of any electronically filed document on all persons entitled to service for whom electronic service is not available, unless the parties agree to other arrangements. The date of service is the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. A party serving a paper copy of any electronically filed document on a person for whom electronic service is not available is to file a certificate of service stating the manner in which service on such person was accomplished.

14.14(3) *Service of board-generated documents.* Orders issued by the board will be electronically filed. EFS will electronically transmit notice of posting of orders to all parties on the service list that are able to receive electronic service. This notice will constitute valid service of the order. The board's customer service bureau will mail paper copies of orders to parties who are not able to receive electronic service and to others as ordered.

14.14(4) *Exceptions.* Electronic service through EFS to parties other than the consumer advocate division of the department of justice is not to be used to serve a document that (1) the filer asserts contains confidential material or (2) initiates a proceeding, such as a complaint or application, except for orders opening inquiries, investigations, or rulemaking proceedings, or other similar proceedings where the board has an electronic service list on file.

14.14(5) *Changes to service list.* Filers wishing to change information on the service list may contact the board's customer service bureau. Other changes to the service list, such as a withdrawal of appearance or substitution of counsel, may be requested by means of an appropriate filing.

These rules are intended to implement Iowa Code sections 17A.4 and 476.2.