

IOWA UTILITIES BOARD

IN RE: EXECUTIVE ORDER 10 — REVIEW OF ORGANIZATION AND OPERATION RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 1]	DOCKET NO. RMU-2023-0001
--	--------------------------

ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rule making and directed agencies, including the Iowa Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rule-making process, eliminating rules that do not provide substantial benefits to Iowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive rule language. As a part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/resource/red-tape-rulemaking-processes/executive-order-10-rulemaking-processes> (last accessed on July 18, 2023).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned

DOCKET NO. RMU-2023-0001

PAGE 2

docket for purposes of conducting a comprehensive review of chapter 1, which contains the Board's Organization and Operation rules. Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 1, which the Board will direct staff to publish on the Board's website as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft regulatory analysis of chapter 1, which the Board will direct staff to submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin. Finally, attached to this order as Attachment C is a draft version of chapter 1 that the Board is evaluating whether to re-promulgate.

Most of the current proposed changes to chapter 1 center on the removal of unnecessary language and the removal of restrictive language. The proposed version of chapter 1 attached to this order would result in the reduction of approximately 1,267 words and the elimination of 28 restrictive terms.

The Board is also scheduling a technical conference for September 26, 2023. Participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft regulatory analysis and the proposed version of chapter 1 to be re-promulgated. Additionally, the Board is accepting written comments concerning the regulatory analysis and the proposed re-promulgated version of chapter 1 through September 26, 2023. The Board will use the oral and written comments received to prepare a final version of the regulatory analysis, which will be uploaded in this docket and published on the Board's website.

DOCKET NO. RMU-2023-0001
PAGE 3

IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0001 is opened for purposes of conducting a comprehensive review of 199 Iowa Administrative Code chapter 1 pursuant to Executive Order Number 10.

2. A technical conference is set for 9 a.m. September 26, 2023, in the Utilities Board hearing room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by webinar. Information for attending by webinar can be found on the Utilities Board's website on the Hearing and Meeting Calendar page.

5. Comments regarding the draft regulatory analysis or the proposed re-promulgated version of chapter 1 shall be filed by September 26, 2023.

UTILITIES BOARD

Erik M. Helland 2023.07.27
13:27:53 -05'00'

ATTEST:

Keetah Horras 2023.07.27
15:47:49 -05'00'

Sarah Martz Date: 2023.07.27
12:53:27 -05'00'

Dated at Des Moines, Iowa, this 27th day of July, 2023.

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Utilities Board	Date:	July 18, 2023	Total Rule Count:	9
IAC #:	199	Chapter/ SubChapter/ Rule(s):	199 IAC 1	Iowa Code Section Authorizing Rule:	Iowa Code §§ 474.5, 476.2
Contact Name:	Matt Oetker	Rule #:	chapter 1	Phone:	515-725-7349

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

199 IAC 1.1: This rule states the purpose of the chapter which is to provide a description of the organization of the IUB and how to obtain information for which the IUB is the custodian.

199 IAC 1.2: This rule sets out the scope and application of the rules in this chapter.

199 IAC 1.3: This rule establishes general waiver provisions for all rules promulgated by the IUB. The rule is modeled on Iowa Code section 17A.9A.

199 IAC 1.4: This rule sets out the general jurisdiction of the IUB under Iowa Code.

199 IAC 1.5: This rule describes the organization of the Board.

199 IAC 1.6: This rule adopts the same requirements for an employee or official of the Board regarding sale and lease of goods or services to entities regulated by the IUB.

199 IAC 1.7: Is reserved.

199 IAC 1.8: This rule describes how to communicate with the IUB, the IUB’s office hours, and references the other chapters that provide the details required for making filings with the IUB.

199 IAC 1.9: This rule establishes requirements for the public examining the public records in the IUB’s possession and establishes requirements for holding information from public inspection.

Is the benefit being achieved? Please provide evidence.

199 IAC 1.1: The benefit of this rule is achieved to explain the purpose of the rules in the chapter. The public can easily access IUB offices and request records to meet the purpose of the rules in this chapter.

199 IAC 1.2: This rule is being rescinded as duplicative.

199 IAC 1.3: This rule is a requirement of the rule adoption requirements in Iowa Code chapter 17A and provides general criteria for requesting a waiver rather than having separate waiver provisions in each chapter. The rule achieves its benefit by having one general rule for waiver requests of IUB rules rather than including a separate waiver provision in each IUB chapter. The rule is proposed to be modified to reference Iowa Code section 17A.9A(2) instead of repeating the statutory requirements in that statute. The IUB references this waiver rule when it files an NOIA for new rules in response to the question about waivers on the RMS form.

199 IAC 1.4: This rule meets the benefit by listing the chapters over which the IUB has jurisdiction so the public can find the IUB’s jurisdiction in one place rather than having to search for those chapters.

199 IAC 1.5: This rule explains that the policy-making body of the IUB is the three Board Members, and that the Chair is the administrative head of the agency. This rule achieves its benefit by providing the public, and interested persons, a description of how the IUB is organized.

ATTACHMENT A

199 IAC 1.6: This rule repeats the prohibitions for employees and officials to provide goods and services to those persons the agency regulates that is set out in Iowa Code chapter 68B and Iowa ethics and campaign disclosure board rules in 351 IAC 6.11(68B). The rule is proposed to be rescinded.

199 IAC 1.7: Previously rescinded.

199 IAC 1.8 This rule achieves its benefits by providing the public, and those persons participating in matters before the IUB, information for contacting the IUB, the IUB office hours and where to find rules that establish requirements for making filings with the IUB.

199 IAC 1.9: This rule achieves its intent by providing procedures for utilities, other parties to matters before the IUB, and the public how to request that information be held as confidential in compliance with Iowa Code section 22.7 and how a person can challenge the designation of information as confidential by the IUB. The rule describes what information is held as confidential, how to request confidential treatment, and how to request information that is not confidential. This rule has worked well for the IUB and persons requesting information be held confidential and those requesting to see the information held as confidential. Any issues that cannot be resolved by the IUB regarding the confidential treatment of information can be taken to district court for consideration.

What are the costs incurred by the public to comply with the rule?

There are no costs required by this rule, except any costs for copying public records. There are costs associated with any person that requests that information filed with the IUB be held as confidential. Those costs are part of any action requested of the IUB and are dependent on the amount of information requested to be held confidential and any attorney fees.

What are the costs to the agency or any other agency to implement/enforce the rule?

The only costs for the IUB are any copying costs of public records and the costs associated with storing the information electronically as part of the IUB’s electronic filing system. Any requests for confidential treatment are handled as part of the job duties of IUB staff.

Do the costs justify the benefits achieved? Please explain.

The IUB considers the benefits from having a rule that provides information about the agency, how to access public records, and how to request confidential treatment to justify any costs that might be incurred by the public or those requesting IUB action. The IUB has a statutory responsibility with regard to information considered confidential and having rules that establish how to request confidential treatment meets that statutory requirement.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The rules in this chapter are very straightforward and have been designed to provide the essential information to the public and those requesting IUB action. Without the rules regarding how to communicate with the IUB and how to request information be held as confidential, the public and those persons requesting information be held as confidential would be left to some other non-legal source for this information which may not be accurate and the IUB would have to instruct persons requesting information be held as confidential on a case-by-case basis which could be confusing and require additional resources from the IUB and the person making the request.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

ATTACHMENT A

199 IAC 1.2: The IUB is proposing to rescind this rule as outdated and unnecessary.

199 IAC 1.9(9): This subrule contains language in paragraphs “a” through “c” that is outdated and unnecessary and those paragraphs are proposed to be deleted.

199 IAC 1.9(1): This subrule contains language that is outdated and unnecessary and is proposed to be deleted.

199 IAC 1.9(11): This subrule contains an outdated reference to “executive secretary,” which will be deleted.

RULES PROPOSED FOR REPEAL (list rule number[s]):

199 IAC 1.2

199 IAC 1.6

199 IAC 1.9(9)“a” through “c”

1.9(10)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 1
ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the board.

199—1.3(17A,474,476) Waivers. In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the board. The board regulates the services and rates of certain electric, gas, telephone, water, and sanitary sewer and storm water drainage utilities pursuant to Iowa Code chapter 476. The board also has jurisdiction over certification of electric power generators pursuant to chapter 476A; franchises for cable and video service providers pursuant to chapter 477A, dual part relay service pursuant to chapter 477C, construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground storage pursuant to chapters 479 and 479B.

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel. The three-member board is the policy-making body, and the chair serves as the administrator of the board. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 E. Court Ave., Des Moines, IA 50319-0069, unless otherwise specifically directed. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

1.6(2) Office hours. Office hours are 8 a.m. to 4:30 p.m. Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found at 199—14.9(17A,476).

199—1.7(22) Public information and inspection of records.

1.7(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board will be made available for public inspection.

1.7(2) Definitions.

"Confidential records." Records not available for public inspection under state law.

"Personally identifiable information." Information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). "Personally identifiable information" does not include information pertaining to corporations.

"Public records." Records of or belonging to the board that are necessary to the discharge of its duties.

1.7(3) Records not routinely available for public inspection. The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials

under subparagraphs 1.7(3)“a”(1) and 1.7(3)“a”(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the board is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

- (1) Trade secrets recognized and protected as such by law. Iowa Code section 22.7.
- (2) Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7.
- (3) Reports made to the board which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7.

(4) Personal information in confidential personnel records of the board. Iowa Code section 22.7.

(5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger. Iowa Code section 22.7.

(6) Materials exempted from public inspection under any other provisions of law.

b. Materials that are specifically exempted from disclosure by statute and which the board is prohibited from making available for public inspection. The board withholds from public inspection tax records submitted to the board and required by it in the execution of its duties will be held confidential, pursuant to Iowa Code section 422.20.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199 chapter 14 and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer’s receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information is withheld from public inspection subject to the provisions of subparagraph 1.7(6)“b”(3).

(1) Negotiated transportation rates and prices for natural gas supply.

(2) Reservation charges for portfolio gas supply contracts.

(3) Terms and prices for all hedging activity, including financial hedges and weather-related information.

(4) Sales data by individual natural gas customer.

(5) Natural gas purchase volumes by individual receipt point, by pipeline.

(6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.

(7) Design day forecasting model reserve margin calculations for natural gas service.

(8) Negotiated purchase prices for electric power, fuel, and transportation.

(9) Electric customer-specific information.

(10) Power supply bills in support of energy adjustment clause filings.

(11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199 chapter 39.

(12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199 chapter 39.

(13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199 chapter 39.

(14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199 chapter 39.

(15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199 chapter 39.

(16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.

(17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company's annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.

(18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Requested confidential information as defined in Iowa R. Elec. P. 16.602 and 16.603 is to be redacted from the public filing.

a. Procedure. Separate confidential information from public information and identify each page as confidential.

b. Content of request. Include a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. Include an affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts.

c. Compliance. If a request complies with the requirements of paragraphs "a" and "b" of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.7(5) *Procedures for the physical inspection of board records which are routinely available for public inspection.* The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request, and for each document requested should set out all available information that would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center.

1.7(6) *Procedures for the inspection of board records which are not routinely available for public inspection.* Board records which are not routinely available for public inspection may be requested.

a. Content of request. Include a description of the records requested.

b. Procedure. The board may take action on the request as follows:

(1) Deny the request, if the board is prohibited from disclosing the records.

(2) Redact any part of the document that the board is prohibited from disclosing.

(3) Notify the interested persons if the request is to inspect records not routinely available for public inspection under one or more of the aforementioned rules and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) *Procedures by which the filer of a confidential record may have a copy released to a named third party.* A confidential record may be released to the filer or to a named third party designated by the filer with a request signed by the filer.

1.7(8) *Advice and assistance.* Individuals who have questions regarding the procedures contained in these rules may contact the board at the following address: Iowa Utilities Board, 1375 E. Court Avenue, Des Moines, Iowa 50319-0069.

ATTACHMENT A

1.7(9) Data processing system. As required by Iowa Code section 22.11(1)“g,” the board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1,267
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	28

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Not in this chapter

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board **Rule #** 199 IAC chapter 1

Iowa Code Section Authorizing Rule 474.5, 476.2

State or Federal Law(s) Implemented by the Rule N/A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: September 26, 2023, at 9 a.m.

Location: Iowa Utilities Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa 50319

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

Matt Oetker

Address

1375 East Court Avenue, Des Moines, Iowa 50319

Email and/or phone number

matt.oetker@iub.iowa.gov/515-725-7349

Purpose and summary of proposed rule:

The proposed rules in 199 IAC chapter 1 provide the public with information regarding the organization of the Iowa Utilities Board (IUB), how to contact the IUB, how to request public documents, what standards must be met to obtain a waiver of IUB rules, and how to request that information provided to the IUB be held as confidential.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule

- Classes of persons that will bear the costs of the proposed rule:

There are no costs to the proposed rule except for those members of the public requesting paper copies of public documents, those persons who decide to hire an attorney to file a request to hold information provided the IUB confidential, and those persons who file requesting a waiver of IUB rules..

- Classes of persons that will benefit from the proposed rule:

All persons who have business with the IUB will benefit by having the information necessary to contact the IUB, understanding the organization of the IUB, understanding what criteria must be met to obtain a waiver of IUB rules, and having procedures in place for requesting public documents and for requesting that information provided the IUB be held as confidential.

2. Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred
 - Quantitative description of impact:

There are no costs associated with this rule except those costs voluntarily assumed by a person requesting paper copies of public documents, or to hire an attorney to file a request to hold information provided the IUB as confidential or file for a waiver of IUB rules.

- Qualitative description of impact:

The qualitative impact is as described above.

3. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

There are no costs to the state of the rules in this chapter. Requests for public records and requests to hold information as confidential or a waiver of IUB rules are handled as part of the regular duties of IUB staff.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues from the rules in this chapter.

4. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

Without the rules in this chapter, the public would not have one location for the information about how to contact the IUB and how to request public records, the criteria for obtaining a waiver, or request information be held as confidential. These latter requests would have to be addressed on a case-by-case basis without the rules and that could lead to inconsistent treatment and additional costs to the person making the request.

5. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

The IUB has not found a more efficient or less costly method of providing this information.

6. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

The only alternative considered by the IUB to the rules in this chapter was putting a waiver rule in each chapter, and the IUB considered it more efficient to have one general rule rather than adopting a separate waiver rule in each chapter with identical information.

- Reasons why they were rejected in favor of the proposed rule:

See above.

Small Business Impact

If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

The rules in 199 IAC chapter 1 do not have a substantial impact on small business.

Text of Proposed Rule:

CHAPTER 1 ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the board.

199—1.3(17A,474,476) Waivers. In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the board. The board regulates the services and rates of certain electric, gas, telephone, water, and sanitary sewer and storm water drainage utilities pursuant to Iowa Code chapter 476. The board also has jurisdiction over certification of electric power generators pursuant to chapter 476A; franchises for cable and video service providers pursuant to chapter 477A, dual part relay service pursuant to chapter 477C, construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground storage pursuant to chapters 479 and 479B.

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel. The three-member board is the policy-making body, and the chair serves as the administrator of the board. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 E. Court Ave., Des Moines, IA 50319-0069, unless otherwise specifically directed. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

1.6(2) Office hours. Office hours are 8 a.m. to 4:30 p.m. Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found at 199—14.9(17A,476).

199—1.7(22) Public information and inspection of records.

1.7(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board will be made available for public inspection.

1.7(2) Definitions.

"Confidential records." Records not available for public inspection under state law.

"Personally identifiable information." Information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). "Personally identifiable information" does not include information pertaining to corporations.

"Public records." Records of or belonging to the board that are necessary to the discharge of its duties.

1.7(3) Records not routinely available for public inspection. The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under subparagraphs 1.7(3)"a"(1) and 1.7(3)"a"(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the board is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

- (1) Trade secrets recognized and protected as such by law. Iowa Code section 22.7.
- (2) Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7.
- (3) Reports made to the board which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7.
- (4) Personal information in confidential personnel records of the board. Iowa Code section 22.7.
- (5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the

failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger. Iowa Code section 22.7.

(6) Materials exempted from public inspection under any other provisions of law.

b. Materials that are specifically exempted from disclosure by statute and which the board is prohibited from making available for public inspection. The board withholds from public inspection tax records submitted to the board and required by it in the execution of its duties will be held confidential, pursuant to Iowa Code section 422.20.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199 chapter 14 and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer's receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information is withheld from public inspection subject to the provisions of subparagraph 1.7(6)"b"(3).

(1) Negotiated transportation rates and prices for natural gas supply.

(2) Reservation charges for portfolio gas supply contracts.

(3) Terms and prices for all hedging activity, including financial hedges and weather-related information.

(4) Sales data by individual natural gas customer.

(5) Natural gas purchase volumes by individual receipt point, by pipeline.

(6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.

(7) Design day forecasting model reserve margin calculations for natural gas service.

(8) Negotiated purchase prices for electric power, fuel, and transportation.

(9) Electric customer-specific information.

(10) Power supply bills in support of energy adjustment clause filings.

(11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199 chapter 39.

(12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199 chapter 39.

(13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199 chapter 39.

(14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199 chapter 39.

(15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199 chapter 39.

(16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.

(17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company's annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.

(18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Requested confidential information as defined in Iowa R. Elec. P. 16.602 and 16.603 is to be redacted from the public filing.

a. Procedure. Separate confidential information from public information and identify each page as confidential.

b. Content of request. Include a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. Include an affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts.

c. Compliance. If a request complies with the requirements of paragraphs "a" and "b" of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.7(5) Procedures for the physical inspection of board records which are routinely available for public inspection. The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request, and for each document requested should set out all available information which would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center.

1.7(6) Procedures for the inspection of board records which are not routinely available for public inspection. Board records which are not routinely available for public inspection may be requested.

a. Content of request. Include a description of the records requested.

b. Procedure. The board may take action on the request as follows:

(1) Deny the request, if the board is prohibited from disclosing the records.

(2) Redact any part of the document that the board is prohibited from disclosing.

(3) Notify the interested persons if the request is to inspect records not routinely available for public inspection under one or more of the aforementioned rules and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) Procedures by which the filer of a confidential record may have a copy released to a named third party. A confidential record may be released to the filer or to a named third party designated by the filer with a request signed by the filer.

1.7(8) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the board at the following address: Iowa Utilities Board, 1375 E. Court Avenue, Des Moines, Iowa 50319-0069.

1.7(9) Data processing system. As required by Iowa Code section 22.11(1) "g," the board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

ATTACHMENT C

CHAPTER 1 ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the board.

199—1.3(17A,474,476) Waivers. In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the board. The board regulates the services and rates of certain electric, gas, telephone, water, and sanitary sewer and storm water drainage utilities pursuant to Iowa Code chapter 476. The board also has jurisdiction over certification of electric power generators pursuant to chapter 476A; franchises for cable and video service providers pursuant to chapter 477A, dual part relay service pursuant to chapter 477C, construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground storage pursuant to chapters 479 and 479B.

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel. The three-member board is the policy-making body, and the chair serves as the administrator of the board. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 E. Court Ave., Des Moines, IA 50319-0069, unless otherwise specifically directed. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

1.6(2) Office hours. Office hours are 8 a.m. to 4:30 p.m. Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found at 199—14.9(17A,476).

199—1.7(22) Public information and inspection of records.

1.7(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board will be made available for public inspection.

1.7(2) Definitions.

"Confidential records." Records not available for public inspection under state law.

"Personally identifiable information." Information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). "Personally identifiable information" does not include information pertaining to corporations.

"Public records." Records of or belonging to the board that are necessary to the discharge of its duties.

ATTACHMENT C

1.7(3) Records not routinely available for public inspection. The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under subparagraphs 1.7(3)“a”(1) and 1.7(3)“a”(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the board is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

- (1) Trade secrets recognized and protected as such by law. Iowa Code section 22.7.
- (2) Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7.
- (3) Reports made to the board which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7.

(4) Personal information in confidential personnel records of the board. Iowa Code section 22.7.
 (5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.
2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.
3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger. Iowa Code section 22.7.

(6) Materials exempted from public inspection under any other provisions of law.

b. Materials that are specifically exempted from disclosure by statute and which the board is prohibited from making available for public inspection. The board withholds from public inspection tax records submitted to the board and required by it in the execution of its duties will be held confidential, pursuant to Iowa Code section 422.20.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199 chapter 14 and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer’s receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information is withheld from public inspection subject to the provisions of subparagraph 1.7(6)“b”(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity, including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.

ATTACHMENT C

- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199 chapter 39.
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199 chapter 39.
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199 chapter 39.
- (14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199 chapter 39.
- (15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199 chapter 39.
- (16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.
- (17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company's annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.
- (18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Requested confidential information as defined in Iowa R. Elec. P. 16.602 and 16.603 is to be redacted from the public filing.

- a. Procedure.* Separate confidential information from public information and identify each page as confidential.
- b. Content of request.* Include a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. Include an affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts.
- c. Compliance.* If a request complies with the requirements of paragraphs "a" and "b" of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.
- d. Request denied.* If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.7(5) *Procedures for the physical inspection of board records which are routinely available for public inspection.* The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

Advance requests to have records available on a certain date may be made by telephone or by correspondence.

- a. Search fees.* An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records

ATTACHMENT C

are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request, and for each document requested should set out all available information that would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center.

1.7(6) Procedures for the inspection of board records which are not routinely available for public inspection. Board records which are not routinely available for public inspection may be requested.

a. Content of request. Include a description of the records requested.

b. Procedure. The board may take action on the request as follows:

- (1) Deny the request, if the board is prohibited from disclosing the records.
- (2) Redact any part of the document that the board is prohibited from disclosing.
- (3) Notify the interested persons if the request is to inspect records not routinely available for public

inspection under one or more of the aforementioned rules and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) Procedures by which the filer of a confidential record may have a copy released to a named third party. A confidential record may be released to the filer or to a named third party designated by the filer with a request signed by the filer.

1.7(8) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the board at the following address: Iowa Utilities Board, 1375 E. Court Ave., Des Moines, Iowa 50319-0069.

1.7(9) Data processing system. As required by Iowa Code section 22.11(1) "g," the board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.