

IOWA UTILITIES BOARD

IN RE: REVIEW OF COMPLAINT PROCEDURES [199 IOWA ADMINISTRATIVE CODE CHAPTER 6]	DOCKET NO. RMU-2023-0006
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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. See <https://dom.iowa.gov/red-tape-review> (last accessed on October 19, 2023) (setting forth Executive Order 10 forms and processes). In an order previously issued in the above-captioned docket, the Board approved a final regulatory analysis for chapter 6, and as part of the order, indicated it was submitting a Request to Initiate Rulemaking. Since issuance of that order, the Board received preclearance to commence this chapter 6 rulemaking.

The Board is proposing to rescind chapter 6 and re-promulgate chapter 6 with a revised version of the chapter. The proposed chapter is shown in the Notice of

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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 nonsubstantive editorial changes. The NOIA will be submitted to the Administrative Rules Code Editor and published in the IAB. The date for filing written comments will be 20 days after publication. 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 minor editorial changes that are not shown in the attached Notice of Intended Action. The Notice of Intended Action published in the Iowa Administrative Bulletin will identify the public hearing dates.
2. Comments shall be due 20 days from the date of publication of the Notice of Intended Action in the Iowa Administrative Bulletin.

UTILITIES BOARD

Erik M. Helland 2023.11.01
12:10:11 -05'00'

Joshua Byrnes Date: 2023.11.01
15:06:41 -05'00'

ATTEST:

Kerrilyn Russ 2023.11.02
10:55:27 -05'00'

Sarah Martz Date: 2023.11.02
09:43:29 -05'00'

Dated at Des Moines, Iowa, this 2nd day of November, 2023.

ITEM 1. Rescind 199 – Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
COMPLAINT PROCEDURES

199—6.1(476) General inquiries. Any person may seek assistance from the Iowa utilities board by appearing in person at the board’s office at 1375 East Court Avenue, Des Moines, Iowa 50319-0069; by mailing an inquiry to the board’s office; by placing a telephone call to the board’s customer service bureau at (515) 725-7300 or toll-free (877) 565-4450; by sending an inquiry by email to customer@iub.iowa.gov; or by contacting the agency through any other means. If the inquiry is not resolved after board staff has obtained additional information, the person making the inquiry may escalate the inquiry to a written complaint by requesting an informal investigation pursuant to rule 199—6.2(476) and Iowa Code section 476.3.

199—6.2(476) Informal complaint procedures. Any person may submit a written complaint to the board requesting a determination of the reasonableness of rates, charges, schedules, service, regulations, or anything done or not done by a public utility for those services or rates subject to regulation by the board. “Person” as used in this chapter shall have the same definition as defined in Iowa Code section 4.1(20).

6.2(1) Information to be filed. The written complaint should include the following information:

a. The name of the utility involved, any utility personnel known or believed to be familiar with the facts stated in the complaint, and the location of the office of the utility where the complaint was originally made and processed.

b. The name of the complainant. If the complaint is being made on behalf of a person other than the complainant, an affidavit from the person upon whose behalf the complaint is being made, attesting to the accuracy of the complaint, should be included. A complaint filed by an organization on behalf of its members shall include an affidavit signed by an attorney for, or an officer of, the organization.

c. The address, or addresses, of the premises where the service, billing problems, or other actions occurred. If the complainant resides at a different address, the complaint shall also state where a response to the complaint is to be mailed. The complainant shall provide a telephone number and, if available, an email address where the complainant can be reached.

d. The nature of the complaint, and efforts made to resolve the matter. Bills, correspondence, or other relevant documents should be included if the documents will aid the board’s understanding of the utility’s action or practice about which the complaint is made. If known, references to statutes or rules believed to govern the outcome of the complaint should be included. Also, a description of the efforts made by the complainant to resolve the complaint with the utility should be included. The complainant should contact the utility to attempt to resolve the complaint prior to submitting a complaint to the board.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes, board orders, or rules that support the resolution proposed by the complainant.

6.2(2) Request for additional information. If board staff determines that additional information is needed prior to forwarding the complaint to the utility, the complainant will be notified that specified additional information is needed. If the requested additional information is not provided within 10 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.

199—6.3(476) Processing the informal complaint. When the board receives a written complaint that includes the necessary information outlined in rule 199—6.2(476), board staff shall initiate the informal

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complaint process by opening an investigation into the complaint and assigning the informal complaint a file number.

6.3(1) Within 10 days after receipt of the written complaint, or of any additional information requested, board staff shall forward to the public utility and the consumer advocate the complaint and any additional information provided by the complainant.

6.3(2) The utility shall respond to the complaint within 20 days of receipt and send a copy of its response to the complainant and the consumer advocate. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Within five days, board staff shall notify the utility, the complainant, and the consumer advocate whether the request for an extension is granted and of the length of the extension.

6.3(3) The utility shall specifically address each allegation made by the complainant and provide any supporting facts, statutes, rules, board orders, or tariff provisions supporting its response. The utility shall include copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In cases involving confidential or privileged records, the response shall advise of the records' existence.

199—6.4(476) Proposed resolution of an informal complaint.

6.4(1) After the utility's response is received, board staff may request additional information deemed necessary to complete the investigation and resolve the complaint. When all necessary information has been received and the investigation is complete, board staff shall, within 30 days, send a letter with a proposed resolution of the complaint to the complainant, the utility, and the consumer advocate. Staff shall notify the complainant, the utility, and consumer advocate when the investigation is complete and the 30-day time period to issue a proposed resolution commences.

6.4(2) In the proposed resolution, board staff shall inform the parties of their right to request formal proceedings. The complainant, utility, and consumer advocate have 14 days after the date the proposed resolution is issued to file a request for a formal proceeding. If no party files a request for formal proceeding within 14 days pursuant to subrule 6.5(1), the proposed resolution is binding.

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing within 14 days that board staff reopen the investigation regarding the complaint to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation. Within five days of receiving the request, board staff shall send a response to the request to reopen the investigation, either advising the parties that the investigation will be reopened and a second proposed resolution will be issued or denying the request. If the request to reopen the investigation is denied, the complainant, utility, or consumer advocate has 14 days from the issuance of the denial to request that the board open a formal complaint proceeding pursuant to subrule 6.5(1).

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* If the consumer advocate, complainant, or public utility does not agree with the proposed resolution, a request for a formal complaint proceeding may be made in writing within 14 days of the issuance of the proposed resolution. The request for a formal proceeding shall be considered as filed on the date of the United States Postal Service postmark, the date of email, the date of filing in the board's electronic filing system, or the date of in-person delivery to the board's customer service bureau. The request shall include the file number of the informal complaint and explain why the proposed resolution should be modified or rejected. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution. All parties to the informal complaint shall be provided copies of the request for a formal proceeding. Any other party to the informal complaint investigation may submit a response to the request for a formal proceeding within 10 days of the date the request was submitted to the board.

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6.5(2) Request for formal complaint proceeding. Upon receipt of a request for a formal complaint proceeding, the board shall issue an order either granting or denying the request.

199—6.6(476) Applicable procedures. When the complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 of these rules will apply.

199—6.7(476) Record. The written complaint and all information obtained during the informal investigation shall be uploaded into the electronic filing system formal complaint docket and be made part of the record in the formal complaint proceeding. The information from the informal complaint investigation shall be redacted pursuant to requirements in 199—Chapter 7.

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (more information is contained in rule 199—22.9(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the complaint and with the customer's acknowledgment, a copy of the complaint or a notification of receipt of a telephone or other oral complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the customer's service to the customer's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint or notification of receipt of a telephone or other oral complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within 20 days of the date the complaint or notification of receipt of a telephone or other oral complaint was forwarded. The response must include proof of verification of the customer's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the customer's authorization for a change in service, the response will be forwarded to the customer. The customer will have 10 days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In all cases, the proposed resolution shall allocate responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for formal complaint proceedings will be processed by the board pursuant to rule 199—6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of

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any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings that may alter the allocation of liability.

6.8(6) No entity may commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

These rules are intended to implement Iowa Code sections 476.2, 476.3, 476.103 and 546.7.