

IOWA UTILITIES BOARD

<p>IN RE:</p> <p>EXECUTIVE ORDER 10 — REVIEW OF RULEMAKING RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 3]</p>	<p>DOCKET NO. RMU-2023-0003</p>
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ORDER APPROVING REGULATORY ANALYSIS

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. The goals of the Executive Order include increasing public input in the rulemaking process, eliminating rules that do not provide substantial benefits to lowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive language. As 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.

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules. Each review includes a technical conference for the Board to discuss a draft Regulatory Analysis with interested persons. For chapter 3, the technical conference was held on October 4, 2023, and was attended by the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice; Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills); MidAmerican Energy Company (MidAmerican); and Iowa-American Water. The Board also received written comments from the Iowa Communications Alliance, OCA, Black Hills, MidAmerican, Iowa-American Water, and ITC Midwest LLC.

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Excluding the “Text of Proposed Rule” portion of the form, no commenting stakeholder requested changes to the draft Regulatory Analysis. Therefore, the Board will approve the draft Regulatory Analysis as the final version, attached to this order as Attachment A. The Board will also publish the final Regulatory Analysis on its website as required under the Executive Order.

Additionally, as part of the draft Regulatory Analysis, the Board proposed to rescind and re-promulgate a revised version of chapter 3. Commenting stakeholders provided analysis and suggestions on the proposed rule. The Board has taken such comments under advisement and has proposed a new version of chapter 3. Consequently, the Board will seek authority to commence a formal rulemaking in the above-captioned docket by submitting the Request to Initiate Rulemaking, attached to this Order as Attachment B, as required by the Red Tape Review Process. See <https://dom.iowa.gov/red-tape-review> (last accessed on December 11, 2023) (setting forth Executive Order 10 forms and processes).

IT IS THEREFORE ORDERED:

The final regulatory analysis for 199 Iowa Administrative Code chapter 3, attached to this Order as Attachment A, is approved.

UTILITIES BOARD

Erik M. Helland 2023.12.20
10:47:03 -06'00'

Joshua Byrnes Date: 2023.12.20
13:09:58 -06'00'

ATTEST:

Keetah A Horras Date: 2023.12.21
11:58:37 -06'00'

Sarah Martz Date: 2023.12.21
11:45:31 -06'00'

Dated at Des Moines, Iowa, this 21st day of December, 2023.

Final Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board **Rule #** 199 IAC chapter 3

Iowa Code Section Authorizing Rule Iowa Code chapters 17A.4, 476.2

State or Federal Law(s) Implemented by the Rule Iowa Code chapter 17A.4

Public Hearing

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

Date/Time: October 4, 2023 at 9 a.m.

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

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

IT Support

Address

Iowa Utilities Board

Email and/or phone number

ITsupport@iub.iowa.gov

Purpose and summary of proposed rule:

Chapter 3 is intended to inform the public of Iowa Utilities Board’s practice and procedures in rulemaking proceedings.

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:

Persons participating or initiating Board rulemaking proceedings may incur costs associated with such activity and the agency will incur normal operating costs for those proceedings. However, the costs are more directly attributable to the rulemaking itself as opposed to the chapter 3 rules.

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

Iowans, especially pro se Iowans, who wish to request Board rulemaking action or who wish to participate in Board rulemaking proceedings.

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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:

These rules are intended to assist the public wishing to initiate or participate in Board rulemaking proceedings by describing and detailing the rules governing such participation. While there may be costs incurred by the public in participating in Board rulemaking proceedings, those costs are more directly caused by the nature and course of the underlying rulemaking proceeding.

- Qualitative description of impact:

Chapter 3 has some level of qualitative impact because it assists Iowans who may wish to initiate or participate in Board rulemaking proceedings.

3. Costs to the state

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

Because chapter 3 merely provides information, there are no costs to the public unless the public chooses to initiate or participate in Board rulemaking. Chapter 3 does not impose any additional costs to the agency beyond the salary of the employees who work on agency rulemakings, which are more directly the cause of the underlying rulemaking as opposed to the chapter 3 rules.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues.

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

The agency believes that the benefits of providing information regarding the Board rulemaking process outweighs any costs that chapter 3 indirectly impose. Inaction is not advised because it would disadvantage members of the public who wished to participate in Board rulemaking proceedings but were not familiar with Iowa Code chapter 17A rulemaking processes.

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

Because chapter 3 imposes no direct costs, the agency does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency

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

The Board considered inaction.

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

Inaction is not advisable because there is value provided in informing the public about the Board's rulemaking process and how to initiate a rulemaking request with the Board.

Small Business Impact

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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 agency does not believe Chapter 3 has an adverse impact on small business.

Text of Proposed Rule:

Final Regulatory Analysis**DRAFT** Notice of Intended Action

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
RULEMAKING

199—3.1(17A,474,476) Purpose and scope.

3.1(1) *Scope.* These rules govern the practice and procedure in all rulemaking proceedings of the board.

3.1(2) *Rules of construction.* If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

199—3.2(17A,474,476) Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rulemaking by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.3(17A,474,476) Petition for adoption of rules.

3.3(1) *Petitions.* Any interested person may petition the board for the adoption, amendment, or repeal of a rule pursuant to Iowa Code section 17A.7.

3.3(2) *Stakeholder comments.* Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

199—3.4(17A,474,476) Commencement of proceedings. Rulemaking proceedings are commenced upon written order of the board.

199—3.5(17A,474,476) Rulemaking oral presentation.

3.5(1) *Requests.* If an oral presentation is not scheduled by the board, any interested person may file a request for an oral presentation.

3.5(2) *Written appearance.* Any interested person may participate in rulemaking oral presentations in person or by counsel.

3.5(3) *Oral presentations.* Participants in rulemaking oral presentations may submit exhibits and present oral statements of position, which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Oral statements are not made under oath and are not subject to cross-examination.

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3.5(4) Comments and limitations. The board may, in its discretion, permit reply comments and request the filing of written comments subsequent to the adjournment of the oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

199—3.6(17A,474) Review of Rules. To facilitate the five-year review provisions of Iowa Code section 17A.7(1), the board will review a portion of its chapters each fiscal year over each five-year period under the following schedule:

a. In fiscal year 2018 and every fifth year thereafter, the board will review Chapters 1 through 9 of its rules.

b. In fiscal year 2019 and every fifth year thereafter, the board will review Chapters 10 through 18 of its rules.

c. In fiscal year 2020 and every fifth year thereafter, the board will review Chapters 19 through 27 of its rules.

d. In fiscal year 2021 and every fifth year thereafter, the board will review Chapters 28 through 36 of its rules.

e. In fiscal year 2022 and every fifth year thereafter, the board will review Chapters 37 through 45 of its rules.

f. If the board adopts additional chapters in its rules, such chapters will be reviewed every fifth fiscal year from the fiscal year in which they are made effective.

These rules are intended to implement Iowa Code sections 17A.4 through 17A.7, 474.5, and 476.2.

ATTACHMENT B

Executive Order 10 – Red Tape Review

Request to Initiate New Rulemaking

Agency Name Iowa Utilities Board

Rule Number(s) 199 Iowa Administrative Code chapter 3

Agency Point of Contact (POC) Maison Bleam

Agency POC Phone 515-380-9587 Email maison.bleam@iub.iowa.gov

This new rulemaking action was directed by the Administrative Rules Coordinator.

If the new rulemaking action was not directed by the ARC:

This new rulemaking action is narrowly-tailored to achieve the following objective(s):

Reduce or remove a regulatory burden, including reducing restrictive terms.

Remove obsolete, outdated, inconsistent, incompatible, redundant, or unnecessary regulations, including instances where rule language is duplicative of statutory language.

Comply with a new statutory requirement, court order, or federal mandate where no waiver is permitted.

○ Provide bill# or statutory citation _____ or attach copy of court order.

Prevent a substantiated and well-documented threat to public health, peace, or safety.

○ Attach substantiated and well-documented evidence of threat to public health, peace, or safety.

Reduce state spending

○ Attach fiscal estimate

Repeal a rule chapter as specified in Executive Order 10

Re-promulgate a rule chapter as specified in Executive Order 10

A copy of the final regulatory analysis required under Executive Order 10 is attached.

○ Date of the public hearing on the regulatory analysis 10/4/2023

ARC Preclearance

Date ____/____/____