

IOWA UTILITIES BOARD

IN RE: REVIEW OF COMPLAINT PROCEDURE RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 6]	DOCKET NO. RMU-2023-0006
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ORDER ADOPTING AMENDMENTS

BACKGROUND

On November 2, 2023, the Utilities Board (Board) issued an order commencing a rulemaking in which it proposed to rescind and re-promulgate 199 Iowa Administrative Code chapter 6. On November 29, 2023, the Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin (IAB) as ARC 7124C.

Comments were filed in the docket by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, on December 12, 2023.

On December 19, 2023, and January 8, 2024, the Board held public hearings in which OCA; Interstate Power and Light Company (IPL); Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills; ITC Midwest LLC; the Iowa Communications Alliance (ICA); and Iowa American Water Company were present and were allowed to participate by presenting oral comments or responding to Board questions regarding any filed comments.

The Board has reviewed the written comments filed by interested persons and the oral comments provided at the public hearings. The Board is adopting chapter 6 as shown in the Adopted and Filed attached to this order as Attachment A and

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incorporated herein by this reference. The Adopted and Filed will be published in the IAB and will be the official version of chapter 6.

SUMMARY OF COMMENTS AND ADOPTED RULES

A. Rule 199—6.1 General Inquiries

The Board proposed making several changes to information provided in rule 6.1. For the first sentence, this includes: amending “E. Court Avenue” to “East Court Avenue”; adding the ZIP code to the Board’s office address; amending the term “customer service center” to “customer service bureau”; updating the telephone number to reach the customer service bureau; reformatting the toll-free telephone number for contacting the customer service bureau; amending “electronic mail” to “email”; amending the term “board” to “agency”; and removing the requirement that contact to the agency be done through other *electronic* means. The Board proposed to remove the second sentence of rule 6.1 entirely, which relates to the Board’s internal process for answering inquiries. Lastly, in the third sentence of rule 6.1, the Board proposed amending the term “customer service staff” to “board staff,” removing “the” from “the additional information,” and amending “written complaint requesting” to “written complaint by requesting.”

No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.1 as set forth in the Adopted and Filed.

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B. Rule 199—6.2 Informal complaint procedures

The Board proposed modifying the second sentence of rule 6.2 to state that “person” shall “have the same definition” as defined in Iowa Code section 4.1(20). In paragraph (b) of rule 6.2(1), the Board proposed permitting attorneys to submit affidavits on behalf of an organization when complaints are filed by an organization on behalf of its members, as opposed to requiring this be done only by an officer of the organization. The Board also proposed replacing “that attests” with “attesting” in the second sentence. In paragraph (c) of rule 6.2(1), the Board proposed removing the requirement that an informal complaint include the telephone number and account number of the premises identified in the complaint; amend “complaint should also state” to “complaint shall also state”; remove the word “also” from the third sentence; and amend “electronic mail” to “email” in the third sentence.

In rule 6.2(2), the Board proposed reducing the number of days for the complainant to respond to a request for additional information to 10 days rather than 20 days, and proposed amending “should be provided” to “is needed” in the first sentence.

No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.2 as set forth in the Adopted and Filed.

C. Rule 199—6.3 Processing the informal complaint

The Board proposed removing the last sentence of rule 6.3, which simply states that “[t]he following complaint procedures shall be followed during the investigation[.]” The Board proposed amending “staff” to “board staff” in rule 6.3(1). The Board

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proposed reorganizing rule 6.3(2) for conciseness but did not make any substantive changes to the requirements of 6.3(2).

During the December 19, 2023 oral presentation, IPL voiced support for adding a requirement that the Board determine the extent of its jurisdictional authority over the subject matter of the complaint prior to initiating an informal complaint. The ICA supported IPL's suggestion.

Rule 6.3 already requires this to be done. Rule 6.2 states that 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 the public utility "for services or rates subject to regulation by the board." Rule 6.3 states that Board staff shall initiate the informal complaint process when a written complaint is received that "includes the necessary information outlined in rule 6.2"; this would include the requirement that the subject matter of the complaint pertain to "services or rates subject to regulation by the board." Therefore, a jurisdictional check is already mandated by rule 6.2, making an amendment to rule 6.3 requiring another jurisdictional check unnecessary.

D. Rule 199—6.4 Proposed resolution of an informal complaint

The Board proposed amending "staff" to "board staff" in both the first and second sentences of rule 6.4(1). The Board proposed reorganizing rules 6.4(2) and 6.4(3) for conciseness, but did not make any substantive changes to the requirements of rules 6.4(2) or 6.4(3). The Board proposed amending "staff" to "board staff" in the third sentence of rule 6.4(3).

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No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.4 as set forth in the Adopted and Filed.

E. Rule 199—6.5 Initiating formal complaint proceedings

The Board proposed amending “the complainant” to “complainant,” “the public utility” to “public utility,” “electronic mail” to “email,” and “customer service center” to “customer service bureau” in the first sentence of rule 6.5(1). The Board proposed removing rule 6.5(2) entirely, which allows any person to request that a formal complaint be opened and permits the Board to conduct an informal investigation prior to granting such requests. The Board proposed removing the language in rule 6.5(3) pertaining to the Board’s internal process for handling requests for formal complaint proceedings, simplifying rule 6.5(3) to: “Upon receipt of a request for a formal complaint proceeding, the Board shall issue an order either granting or denying the request.”

The third and fourth sentences of the version of rule 6.5(1) published in ARC 7124C are as follows: “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.” To avoid redundancy, this will be amended to the following: “The request shall include the file number of the informal complaint. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution.”

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No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.5 as set forth in the Adopted and Filed.

F. Rule 199—6.6 Applicable procedures

The Board proposed amending “Chapter 7 of these rules will apply” to “Chapter 7 will apply.” No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.6 as set forth in the Adopted and Filed.

G. Rule 199—6.7 Record

The Board proposed removing the second instance of “shall” in rule 6.7, as it is unnecessary. No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.7 as set forth in the Adopted and Filed.

H. Rule 199—6.8

The version of rule 6.8 published in ARC 7124C states the following: “complaints alleging an unauthorized change in telecommunications service (more information is contained in rule 199—22.9(476)) will be processed pursuant to 199—Chapter 22, unauthorized changes in telecommunications service[.]” This will be amended to: “complaints alleging an unauthorized change in telecommunications service (more

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information is contained in rule 199—22, unauthorized changes in telecommunications service) will be processed pursuant to this chapter[.]”

The Board proposed extending the deadline by when the alleged unauthorized service provider is to respond to notice of a complaint from 10 days to 20 days in rule 6.8(2). The Board proposed amending “then the response” to “the response” in the third sentence of rule 6.8(3). The Board proposed removing the second sentence of rule 6.8(4), which pertains to the Board’s ability to propose joint and several liability between the reseller and the facilities-based service provider in the event of a soft slam. The Board proposed amending “199—6.5(476)” to “rule 199—6.5(476)” in the second sentence of rule 6.8(5), and proposed amending “formal proceedings which may alter” to “formal proceedings that may alter” in the last sentence of rule 6.8(5). Lastly, the Board proposed amending “[n]o entity shall commence” to “[n]o entity may commence” in the first sentence of rule 6.8(6), and proposed amending the term “re-bill/re-billing” to “rebill/rebilling” in rule 6.8(6).

No commenting party expressed concern with the proposed changes in their written comments or during the oral presentation. Due to no objections to the proposed changes, the Board will adopt the amended rule 6.8 as set forth in the Adopted and Filed.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Re-promulgated 199 Iowa Administrative Code chapter 6, as shown in the attached Adopted and Filed, is adopted by the Utilities Board.

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2. The Adopted and Filed attached to this order shall be submitted to the Administrative Code Editor for review and publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

Erik M. Helland Date: 2024.01.18
11:10:51 -06'00'

Joshua Byrnes Date: 2024.01.18
11:43:04 -06'00'

ATTEST:

Jackie Yearington Date: 2024.01.18
13:52:45 -06'00'

Sarah Martz Date: 2024.01.18
13:15:32 -06'00'

Dated at Des Moines, Iowa, this 18th day of January, 2024.

ATTACHMENT ACHAPTER 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 at (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 on 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 complaint process by opening an investigation into the complaint and assigning the informal complaint a file number.

ATTACHMENT A

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. 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.

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.

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199—6.6(476) Applicable procedures. When the complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 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, unauthorized changes in telecommunications service) will be processed pursuant to 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 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.

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6.8(6) No entity may commence any actions to rebill, 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 rebilling 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.