

IOWA UTILITIES BOARD

IN RE:

REVIEW OF ACCESS TO AFFILIATE RECORDS, REQUIREMENTS FOR ANNUAL FILINGS, AND ASSET AND SERVICE TRANSFERS RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 31]

DOCKET NO. RMU-2023-0031

CONDITIONAL ORDER ADOPTING AMENDMENTS

On January 17, 2024, the Utilities Board (Board) issued an order commencing a rulemaking in which it proposed to re-promulgate 199 Iowa Administrative Code chapter 31. On February 7, 2024, the Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin (IAB) as ARC 7581C.

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, provided comments on the NOIA.

On February 27, 2024, the Board held the first of two public hearings, which was attended by OCA and Interstate Power and Light Company. On March 5, 2024, the Board held the second public hearing, which was attended by OCA, MidAmerican Energy Company, and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy. Each party was 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. Oral and written comments generally support the proposed amendments set forth in the NOIA. OCA's comments

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suggest some grammatical and substantive changes. The Board is adopting chapter 31 as shown in the Adopted and Filed chapter, attached to this order and incorporated herein by reference, subject to receiving preclearance. The Adopted and Filed chapter will be published in the IAB and will be the official version of chapter 31. The published Adopted and Filed chapter may contain minor editorial changes.

IT IS THEREFORE ORDERED:

Re-promulgated 199 Iowa Administrative Code chapter 31, as shown in the attached Adopted and Filed chapter, is adopted by the Utilities Board subject to receiving preclearance authority. If such preclearance authority is received, the Utilities Board will submit the attached Adopted and Filed chapter in the legislative Rules Management System for publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

Erik M. Helland 2024.04.05
11:36:53 -05'00'

Joshua Byrnes Date: 2024.04.05
09:45:26 -05'00'

ATTEST:

Keetah A Horras Date: 2024.04.05
12:23:44 -05'00'

Sarah Martz Date: 2024.04.05
09:49:54 -05'00'

Dated at Des Moines, Iowa, this 5th day of April, 2024.

ATTACHMENT A

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31

ACCESS TO AFFILIATE RECORDS, REQUIREMENTS FOR ANNUAL FILINGS,
AND SERVICE AND ASSET TRANSFER COSTING STANDARDS

199—31.1(476) Applicability and definition of terms. This chapter applies to all rate-regulated gas, electric, water, sanitary sewage, or storm water drainage service public utilities. All terms used in this chapter are defined in Iowa Code section 476.72 unless further defined in this chapter.

“*Fully distributed cost*” is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“*Net book value*” means the original purchase price minus depreciation.

199—31.2(476) Availability of records.

31.2(1) *Separate records.* All affiliates of a public utility shall maintain records that are separate from the records of the public utility.

31.2(2) *Records to be maintained.* The records maintained by each affiliate and made available for inspection through the public utility shall include, but are not limited to, ledgers; balance sheets; income statements, both consolidated and consolidating; documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; supporting documents and models for all forecasts of affiliates used by the public utility; all contracts, including summaries of unwritten contracts or agreements; a description of methods used to allocate revenues, expenses, and investments among affiliates or jurisdictions, including supporting detail; and copies of all filings required by other state and federal agencies.

31.2(3) *Method of inspection.* The records of each affiliate are to be made available to the board. Upon receipt of a formal request in writing from the board for information, the public utility shall produce the requested information within seven days. Upon a showing of good cause, the board may approve additional time for response.

199—31.3(476) Annual filing.

31.3(1) On or before June 30 of each year, all public utilities shall file with the board the following information:

a. An executive summary of each contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include the start and end date of the contract, the providing affiliate, the receiving affiliate, the total estimated dollar value, the dollar amount reported for the calendar year, and a description of the service or goods covered.

b. Verified copies of contracts, arrangements, or other similar transactions between the public utility and an affiliate are to be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code sections 476.74(1) through 476.74(4).

31.3(2) Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of \$250,000 or 5 percent of the capital equity of the utility, whichever is smaller, are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each

contract, arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate is to be identified separately.

31.3(3) After an initial filing under this rule, only new contracts, arrangements, or other similar transactions and modifications or amendments to existing contracts, arrangements, or other similar transactions need to be reported on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility may file a statement to that effect.

31.3(4) If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility and an affiliate, the public utility shall notify the board in writing within 60 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board or the affiliate does not conduct business with the public utility.

199—31.4(476) Verified copies. For purposes of this chapter, a copy is verified if it is accompanied by an affidavit signed by a corporate officer with personal knowledge of the veracity of the copy. Only one affidavit signed by a corporate officer with personal knowledge of the veracity of the copy needs to be included in an individual filing in order to verify all contracts, arrangements, or other similar transactions included in the filing.

199—31.5(476) Comparable information. For the purpose of satisfying the filing requirements of this chapter, the public utility may request approval to file alternative but comparable information that the public utility files with other state or federal regulatory agencies. If the proposal is approved by the board, the public utility may file the information as a partial substitute for, or in lieu of, the information stipulated in rule 199—31.3(476) and the board may provide that the public utility continue to file the approved alternative information in future filings. The public utility shall file the same information, whether it is the alternative information filed with other agencies or the information stipulated in rule 199—31.3(476), for at least five consecutive years. Proposals to file alternative information may be filed by the public utility on or before December 1 of the year preceding the year for which approval is sought.

199—31.6(476) Standards for costing services between regulated operations and nonregulated affiliates.

31.6(1) *Nonregulated affiliate provides service to a regulated affiliate.* The service shall be priced to the regulated affiliate's operations at the price charged to nonaffiliates. If no such price is available, the service shall be priced at the lower of fully distributed cost, the lowest price actually charged to other affiliates, or a market price of comparable services. If a market price of comparable services is not reasonably determinable, the service may be priced at the lower of fully distributed cost or the lowest price actually charged to other affiliates. Under no circumstances is the service to be priced to a regulated affiliate's operations at a higher cost than what the regulated affiliate actually paid the unregulated affiliate for the service.

31.6(2) *Service provided by the utility to a nonregulated affiliate.* Utility service shall be provided at the tariffed price. If it is not a tariffed service, the service is to be recorded at fully distributed cost.

199—31.7(476) Standards for costing asset transfers between regulated operations and nonregulated affiliates valued at less than \$2 million.

31.7(1) *Asset of a nonregulated affiliate transferred to a regulated affiliate.* The asset transfer shall be recorded at the lesser of net book value, the price actually charged to affiliates or

nonaffiliates, or the market price of comparable assets. Under no circumstances is the asset to be recorded at a cost higher than what the regulated affiliate actually paid for the asset.

31.7(2) *Asset of a regulated affiliate transferred to a nonregulated affiliate.* The asset transfer to the nonregulated affiliate shall be recorded at the greater of net book value, a price actually charged to other affiliates or nonaffiliates, or the market price of comparable assets.

These rules are intended to implement Iowa Code sections 476.73 and 476.74.