

IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF
MANAGEMENT EFFICIENCY
EVALUATION RULES [199 IOWA
ADMINISTRATIVE CODE CHAPTER 29]

DOCKET NO. RMU-2023-0029

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 Iowans, 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 29, the technical conference was held on February 28, 2024. A secondary technical conference was scheduled to be held on March 19, 2024, in the event an interested party requested a technical conference; however, no interested party

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requested the secondary technical conference. 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, without change. The Board will also publish the final Regulatory Analysis on its website, iub.iowa.gov, as required under the Executive Order.

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 March 20, 2024) (setting forth Executive Order 10 forms and processes).

IT IS THEREFORE ORDERED:

The final Regulatory Analysis for 199 Iowa Administrative Code chapter 29 is approved.

UTILITIES BOARD

Erik M. Helland Date: 2024.04.09
13:25:48 -05'00'

Joshua Byrnes Date: 2024.04.09
08:54:19 -05'00'

ATTEST:

Keetah A Horras Date: 2024.04.09
13:35:43 -05'00'

Sarah Martz Date: 2024.04.09
09:00:45 -05'00'

Dated at Des Moines, Iowa, this 9th day of April, 2024.

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TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board **Rule #** 199 IAC Chapter 29

Iowa Code Section Authorizing Rule Iowa Code sections 476.52 and 546.7

State or Federal Law(s) Implemented by the Rule Not applicable.

Public Hearing

A public hearing at which persons were able to present their views orally or in writing were held as follows:

Date/Time: 2/28/2024 9:00 a.m.

If requested: 3/19/2024 9:00 a.m.

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

Any interested person submitted written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis were received by the Board. Comments were directed to:

Contact Name

IT Support

Address

Iowa Utilities Board

Email and/or phone number

Phone: 515.725.7300 Email: ITsupport@iub.iowa.gov

Purpose and summary of proposed rule:

The proposed rulemaking promulgates a methodology for which the Board may evaluate a utility's management efficiency.

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:

Rate-regulated utilities will bear the costs.

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

Customers of rate-regulated utilities will benefit.

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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:

There is a benefit to the public by ensuring rate-regulated utilities are managed efficiently.

- Qualitative description of impact:

This proposed chapter ensures the public will not bear undue financial costs related to inefficient corporate management.

3. Costs to the state

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

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

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

The costs of the proposed rule would not differ significantly from the costs of inaction, but the benefits would promote future efficiency.

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

The Board does not believe there are any less costly methods of addressing the purpose of this rule.

6. Alternative methods considered by the agency

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

No alternatives were considered.

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

No alternatives were considered.

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.

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- 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?

There is not a substantial impact on small businesses.

Text of Proposed Rule:

CHAPTER 29 MANAGEMENT EFFICIENCY EVALUATION

199—29.1(476) Policy and purpose. It is the policy of the board that a public utility shall be operated in an efficient manner. This chapter describes the methodology by which the board may evaluate the management efficiency of a rate-regulated utility and the actions that the board may take upon a finding as to the efficiency of a utility's management.

199—29.2(476) Efficiency considered in a complaint or rate case proceeding. In a complaint proceeding conducted pursuant to Iowa Code section 476.3 or in a rate proceeding conducted pursuant to Iowa Code section 476.6, the board may determine whether a public utility subject to rate regulation is being operated in an efficient or inefficient manner. In making such a determination, the board shall evaluate the management of the utility in the manner prescribed by this chapter.

199—29.3(476) Management efficiency evaluation. The board may evaluate a utility's management efficiency based upon the utility's particular circumstances and considering a range of factors that may differ among utilities. In evaluating a utility's management efficiency, the board may consider any of the factors listed in this chapter and any additional relevant factors. No single factor will be deemed conclusive evidence of efficiency or inefficiency. In performing the evaluation, the board may collect data to compare a utility to other rate-regulated utilities providing the same service within the state of Iowa. The board may consider data for time periods outside a rate case test year.

29.3(1) Factors.

The board may consider the following factors:

- a. The price per unit of service (including amounts collected subject to refund) by customer class and type of service.
- b. Operation and maintenance costs per unit of service. Low operations and maintenance costs may not support a finding of efficiency if quality of service is substandard.

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- c. Quality of service, as reflected in objective measures of service quality, customer complaints shown in company and board records, findings made in complaint proceedings, penalties assessed, and measures of customer satisfaction.
- d. Customer mix.
- e. The total compensation for each officer of the utility.
- f. The company’s bad debt ratio.
- g. Innovative practices implemented by utility management that result in improved service or that control costs.
- h. Geographic service territory.
- i. Economic conditions in the areas served.
- j. Weather patterns and disasters.
- k. Development and implementation of energy efficiency programs.

29.3(2) *Electric utilities.* When evaluating an electric utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to electric utilities including the following:

- a. Fuel cost per kWh.
- b. Availability for each generating unit with 2,000 or more service hours per year.
- c. Company-wide load factor.

29.3(3) *Natural gas utilities.* When evaluating a natural gas utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to natural gas utilities including the following:

- a. Total cost per unit of gas purchased from a pipeline (to be considered separately from operations and maintenance costs).
- b. Total cost per unit of gas purchased from other sources (to be considered separately from operations and maintenance costs).
- c. Residential and commercial sales volume in relation to investment in the system (rate base).
- d. Unaccounted-for gas as a percentage of total sales volume.

199—29.4(476) Rewards and penalties. If the board makes a determination as to the efficiency of the management of a utility pursuant to this chapter, except for an electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the utility’s return on common equity or revenue requirement as allowed pursuant to Iowa Code section 476.52. Upon making a determination as to the efficiency of the management of a rural electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the rates charged by the cooperative as part of an adjustment to the utility’s revenue requirement.

These rules are intended to implement Iowa Code sections 476.52.

**Executive Order 10 – Red Tape Review
Request to Initiate New Rulemaking**

Agency Name Iowa Utilities Board

Rule Number(s) 199 Iowa Administrative Code Chapter 29

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 2/28/2024 (and 3/19/2024, if requested).

ARC Preclearance

Date ____ / ____ / ____