

## IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF  
CERTIFICATES OF FRANCHISE  
AUTHORITY FOR CABLE AND VIDEO  
SERVICE RULES [199 IOWA  
ADMINISTRATIVE CODE CHAPTER 44]

DOCKET NO. RMU-2023-0044

### **ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE**

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. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/red-tape-review> (last accessed on February 29, 2024).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned

DOCKET NO. RMU-2023-0044

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docket for purposes of conducting a comprehensive review of chapter 44, which contains the Board's rules regarding certificates of franchise authority for cable and video service. Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 44, which the Board will publish on the Board's website as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft regulatory analysis of chapter 44, which the Board will submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin. The draft regulatory analysis attached to this order as Attachment B will be submitted to the Administrative Rules Code Editor for review and publication in the Iowa Administrative Bulletin and may contain changes from the version attached to this order. Finally, attached to this order as Attachment C is a draft version of chapter 44 that the Board is evaluating whether to re-promulgate. Most of the current proposed changes to chapter 44 center on the removal of unnecessary and restrictive language.

The Board is also scheduling a technical conference for June 11, 2024. The technical conference will be led by Board staff, and participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft regulatory analysis and the proposed version of chapter 44 to be re-promulgated. Additionally, the Board will accept written comments concerning the draft regulatory analysis and the proposed re-promulgated version of chapter 44 through June 11, 2024. The Board will use the oral and written comments to prepare a final version of the regulatory analysis, which will be uploaded in this docket and published on the Board's website.

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**IT IS THEREFORE ORDERED:**

1. Docket No. RMU-2023-0044 is opened for the purpose of conducting a comprehensive review of 199 Iowa Administrative Code chapter 44 pursuant to Executive Order Number 10.

2. A technical conference is set for 9 a.m. June 11, 2024, in the Utilities Board hearing room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by Zoom. Information for attending by Zoom can be found on the Utilities Board's website on the Hearing and Meeting Calendar webpage.

3. Comments regarding the draft Regulatory Analysis or the proposed re-promulgated version of chapter 44 shall be filed by June 11, 2024.

**UTILITIES BOARD**

Erik M. Helland Date: 2024.04.10  
08:38:36 -05'00'

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Joshua Byrnes Date: 2024.04.09  
12:37:01 -05'00'

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ATTEST:

Keetah A Horras Date: 2024.04.10  
08:57:32 -05'00'

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Sarah Martz Date: 2024.04.09  
12:56:52 -05'00'

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Dated at Des Moines, Iowa, this 10th day of April, 2024.

**Red Tape Review Rule Report  
(Due: September 1, 2025)**

<b>Department Name:</b>	Iowa Utilities Board	<b>Date:</b>	2/29/24	<b>Total Rule Count:</b>	8
<b>IAC #:</b>	199	<b>Chapter/ SubChapter/ Rule(s):</b>	199 IAC 44	<b>Iowa Code Section Authorizing Rule:</b>	17A.4, 476.10, 477A
<b>Contact Name:</b>	Ross Carpenter	<b>Email:</b>	Ross.carpenter@iub.iowa.gov	<b>Phone:</b>	515-725-7319

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

The intended benefit of chapter 44 is to implement Iowa Code chapter 477A regarding certificates of franchise for cable service or video service. This chapter provides an outline for those wishing to obtain or maintain such a certificate.

**Is the benefit being achieved? Please provide evidence.**

Yes. These rules provide a roadmap for providers to follow when attempting to obtain or maintain a franchise certificate to provide cable or video service.

**What are the costs incurred by the public to comply with the rule?**

There is no cost incurred by the public.

**What are the costs to the agency or any other agency to implement/enforce the rule?**

There are no additional costs to the agency beyond the salaries of the employees who ensure applicants comply with the rules.

**Do the costs justify the benefits achieved? Please explain.**

Yes. This chapter is intended to provide a framework for those wishing to obtain or maintain a franchise certificate for cable or video service. By providing such a framework for entities to follow, the franchise process is easier to follow.

**Are there less restrictive alternatives to accomplish the benefit?  YES  NO**  
**If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.**

The rules provide the guidelines necessary for entities to follow when applying for a franchise certificate to provide cable or video service in the state of Iowa. Because of this, there is not a less restrictive alternative that would properly provide such entities with the adequate information to obtain or maintain such a franchise certificate.

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or un-necessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]**

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

Revised rule numbers 44.2, 44.3, 44.4, 44.5, and 44.7 to remove restrictive language and to update outdated language.

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

44.6  
44.8

**RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):**

CHAPTER 44  
CERTIFICATES OF FRANCHISE AUTHORITY FOR  
CABLE AND VIDEO SERVICE

**199—44.1(17A,476,477A) Authority and purpose.** These rules are intended to implement Iowa Code chapter 477A, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

**199—44.2(17A,476,477A) Definitions.** The following words and terms, when used in this chapter, shall have the meanings as 47 U.S.C. Section 522 and Iowa Code Section 477A.1, unless defined below:

“*Board*” means the Iowa utilities board.

“*Certificate of franchise authority*” means the certificate issued by the board authorizing the construction and operation of a cable or video service provider’s network in a public right-of-way.

“*Competitive cable or video service provider*” means a person who provides cable service over a cable system or video system in an area other than the incumbent cable provider providing service in the same area.

**199—44.3(17A,476,477A) Certificate of franchise authority.** After July 1, 2007, a person shall not provide cable or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

**44.3(1) Existing franchise agreements.** A franchise in effect before July 1, 2007, is subject to the exemptions and requirements of Iowa Code section 477A.2.

**44.3(2) Municipal utilities.** A municipal utility that provides cable or video service in Iowa is exempt from this chapter pursuant to Iowa Code section 477A.2(2)(c).

**44.3(3) Initial application.** The requirements and procedures for obtaining a cable or video service franchise are set forth in Iowa Code section 477A.3. Applications are to be submitted using a form developed by and available from the board.

**44.3(4) Content of certificate.** A certificate of franchise authority issued by the board shall conform to the requirements set forth in Iowa Code section 477A.3(5).

**44.3(5) *Modification of service area.*** At least 14 days before expanding cable or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and notify the board of the effective date of the expansion or other change in service area in a manner prescribed by the board. The board will acknowledge receipt of a notice of service area modification by letter.

**44.3(6) *Transfer of certificate of franchise authority.*** The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality pursuant to Iowa Code section 477A.3(8). The board will acknowledge receipt of a notice of transfer by letter.

**44.3(7) *Termination of certificate of franchise authority.*** The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form prescribed by the board. The board will acknowledge receipt of a notice of termination by letter.

**44.3(8) *Updates.*** The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by updating such information in the Board's IUB 24/7 electronic system. The updates shall be completed within 14 days after the effective date of the change.

**199—44.4(17A,476,477A) Notice to municipality and incumbent cable provider.**

**44.4(1) *Notice of intent to provide service.*** At least 30 days before providing service in any part of a competitive cable or video service provider's service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable or video service provider shall notify each municipality and incumbent cable provider pursuant to Iowa Code section 477A.2(4).

**44.4(2) *Notice of application.*** In addition to the notice of intent to provide service, an applicant shall notify each municipality with authority to grant a franchise in the applicant's proposed service area that the applicant has filed an application with the board for a certificate of franchise authority. This notice shall be mailed by certified mail on the date the application is filed with the board.

**199—44.5(17A,476,477A) Conversion of municipal franchise by incumbent cable provider.** If a competitive cable or video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality pursuant to Iowa Code section 477A.2(6).

**199—44.6(17A,476,477A) Renewal of certificate of franchise authority.**

**44.6(1)** Thirty days prior to the tenth anniversary of the issuance of the original certificate and every 10 years thereafter, the certificate holder shall file with the board a notice of renewal containing the following:

- a. An acknowledgment that the certificate holder continues to hold the certificate;
- b. A statement that the certificate holder continues to provide cable or video service in all or a portion of its approved service territory;
- c. Any necessary updates to the address of the principal place of business, the telephone number for customer service, and the names and titles of the principal executive officers with direct authority over and responsibility for the cable or video operations;
- d. A list of the approved areas the certificate holder currently is serving; and
- e. A list of the areas in which the certificate holder was previously authorized to offer service but where service has ceased or never commenced.

**44.6(2)** The notice of renewal shall be filed using the VCA docket number in which the initial certificate was issued. The board will acknowledge the renewal by letter.

**ATTACHMENT A**

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and chapter 477A.

***\*For rules being re-promulgated with changes, you may attach a document with suggested changes.***

**METRICS**

<b>Total number of rules repealed:</b>	<b>2</b>
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	<b>1,862</b>
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	<b>34</b>

**ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?**

**No.**

Draft Regulatory Analysis

**TEXT BOXES WILL EXPAND AS YOU TYPE**

Agency Name Iowa Utilities Board Rule # 199 Chapter 44

Iowa Code Section Authorizing Rule 17A.4, 476.10, 477A

State or Federal Law(s) Implemented by the Rule Iowa Code 17A, 476, and 477A

**Public Hearing**

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

Date/Time: June / 11/2024 9 a.m.

Location: 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

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

**Purpose and summary of proposed rule:**

The purpose of chapter 44 is to implement Iowa Code chapter 477A regarding certificates of franchise for cable service or video service. This chapter provides an outline for those wishing to obtain or maintain such a certificate.

**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:

Entities wishing to hold a franchise certificate for cable or video service in the state.

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

Those that utilize cable or video service.



## Draft Regulatory Analysis

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:

The economic impact to the Board is that of the salaries paid to employees that work on ensuring compliance with this rule. The entity wishing to obtain or maintain a franchise certificate may incur costs due to the filing requirements. An interested person may have an economic impact if the person chooses to utilize the cable or video service provided by an entity holding such a certificate.

- Qualitative description of impact:

This chapter ensures entities are properly following the guidelines to become a certificate-holding franchisee to provide cable or video service within the state.

3. Costs to the state

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

The only cost to this agency is the cost of daily operation of the Board and the salaries of employees working in this specific area. There are no additional costs imposed on other agencies.

- 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

There is a benefit in ensuring entities wishing to obtain or maintain a franchise certificate for providing video or cable service within the state follow the necessary rules in providing such a service. There are minimal costs involved in administering this rule. Inaction by the state would lead to noncompliance with the law by such entities.

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:

The Board considered inaction.

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

Inaction is not feasible as the power to develop, maintain, and enforce rules and regulations surrounding the granting and maintenance of franchise certificates to entities wanting to provide video or cable service within the state has been delegated to the Board.

## Draft Regulatory Analysis

### 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.
- 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 business.

### Text of Proposed Rule:

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**Draft Regulatory Analysis**

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These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and chapter 477A.

## ATTACHMENT C

CHAPTER 44  
CERTIFICATES OF FRANCHISE AUTHORITY FOR  
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**ATTACHMENT C**

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