

IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF
ORGANIZATION AND OPERATION
RULES [199 IOWA ADMINISTRATIVE
CODE CHAPTER 1]

DOCKET NO. RMU-2023-0001

ORDER COMMENCING RULEMAKING

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. Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules.

According to the Executive Order rulemaking process, an agency may not commence a formal rulemaking without first approving a Final Regulatory Analysis and receiving preclearance through a Request to Initiate Rulemaking. In an order previously issued in the above-captioned docket, the Board approved a Final Regulatory Analysis for chapter 1 and indicated it was submitting a Request to Initiate Rulemaking. Since issuance of that order, the Board has received preclearance to commence chapter 1 rulemaking. The Board is proposing to rescind chapter 1 and re-promulgate chapter 1 with a revised version of the chapter. The proposed chapter is shown in the Notice of Intended Action (NOIA) attached to this order as Attachment A and incorporated in this order by reference. The official version of the

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NOIA will be published in the Iowa Administrative Bulletin (IAB) and may contain additional nonsubstantive editorial changes. The date for filing of written comments will be in the NOIA published in the IAB. Additionally, per the Executive Order, the Board will hold two public hearings, the dates for which will be contained in the NOIA published in the IAB.

IT IS THEREFORE ORDERED:

1. The Notice of Intended Action attached to this order will be submitted to the Administrative Rules Code Editor for review and publication in the Iowa Administrative Bulletin and may contain editorial changes that are not shown in the attached Notice of Intended Action.

2. The Notice of Intended Action published in the Iowa Administrative Bulletin will identify the public hearing dates and the comment deadline.

UTILITIES BOARD

Erik M. Helland Date: 2024.06.04
08:04:06 -05'00'

Joshua Byrnes Date: 2024.06.04
08:26:58 -05'00'

ATTEST:

Keetah A Horras Date: 2024.06.04
12:29:33 -05'00'

Sarah Martz Date: 2024.06.04
09:43:15 -05'00'

Dated at Des Moines, Iowa, this 4th day of June, 2024.

UTILITIES DIVISION [199]

Notice of Intended Action

The following rule-making action is proposed:

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

CHAPTER 1 ORGANIZATION AND OPERATION

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board).

199—1.2(17A,474) Scope of rules. These rules apply to all matters before the board.

199—1.3(17A,474,476) Waivers.

1.3(1) In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that the waiver request meets the requirements of Iowa Code section 17A.9A(2).

1.3(2) The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

199—1.4(17A,474) Duties of the board. The board regulates the services and rates of certain electric, gas, telephone, water, sanitary sewer, and storm water drainage utilities pursuant to Iowa Code chapter 476. The board also has jurisdiction over certification of electric power generators pursuant to Iowa Code chapter 476A, franchises for cable and video service providers pursuant to Iowa Code chapter 477A, dual party relay service pursuant to Iowa Code chapter 477C, construction and safety of electric transmission lines pursuant to Iowa Code chapter 478, and the construction and operation of pipelines and underground storage pursuant to Iowa Code chapters 479 and 479B.

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel. The three-member board is the policymaking body, and the chair serves as the administrator of the board. As administrator, the chair is responsible for all administrative functions and decisions.

199—1.6(17A,474) Matters applicable to all proceedings.

1.6(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 East Court Avenue, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

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1.6(2) Office hours. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

199—1.7(22) Public information and inspection of records.

1.7(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board will be made available for public inspection.

1.7(2) Definitions.

"Confidential records" means records not available for public inspection under state law.

"Personally identifiable information" means information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). "Personally identifiable information" does not include information pertaining to corporations.

"Public records" means records of or belonging to the board that are necessary to the discharge of its duties.

1.7(3) Records not routinely available for public inspection. The following records are not routinely available for public inspection.

a. Material exempted from disclosure under Iowa's Open Records Law. Certain public records are confidential under the Open Records law and cannot be released unless otherwise ordered by a court, by the board as lawful custodian of the records, or by another person duly authorized to release such information. Iowa Code § 22.7. A person may request permission to inspect particular records withheld from inspection under this paragraph. If the request is granted, the board shall withhold the material from public inspection for 14 days to allow the party that submitted the material an opportunity to seek injunctive relief.

b. Tax records. The board is required to withhold tax records from public inspection. Iowa Code § 422.20.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199—Chapter 14, and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer's receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information will be withheld from public inspection subject to the provisions of subparagraph 1.7(6)"b"(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity, including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.

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- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199—Chapter 39.
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199—Chapter 39.
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199—Chapter 39.
- (14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199—Chapter 39.
- (15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199—Chapter 39.
- (16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.
- (17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company’s annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.
- (18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.7(4) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. Persons filing material in the board’s electronic filing system shall redact protected information as defined in Iowa Rules of Electronic Procedure 16.602 and 16.603.

a. Marked pages. Each page of the materials to which the request applies shall be marked confidential.

b. Content of request. The request shall contain a statement of the legal basis for withholding the materials from inspection and the supporting facts. The facts shall be supported by an affidavit from a corporate officer (or an individual, if not a business entity) with personal knowledge of the specific facts.

c. Compliance. If a request complies with the requirements of paragraphs 1.7(4)“a” and “b,” the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection. If no objection to the request for confidential treatment is filed within 20 days, the board may defer consideration of the request until a public records request is made for the material or information, and the material or information shall be withheld from public inspection subject to the provisions of subparagraph 199—1.7(6)“b”(3).

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the

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14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.7(5) Procedures for the physical inspection of board records that are routinely available for public inspection. The records in question will be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files. Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request and, for each document requested, should set out all available information that would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center.

1.7(6) Procedures for the inspection of board records that are not routinely available for public inspection. Any person may request access to records that are not routinely available for public inspection. The following procedures shall apply.

a. Content of request. The request shall include a description of the records requested.

b. Procedure. The board may take action on the request as follows:

(1) Deny the request with an explanatory statement, if the board is prohibited from disclosing the records or has determined the requested material is confidential.

(2) Redact any part of the document that the board is prohibited from disclosing and disclose the remainder.

(3) Notify the interested persons, and withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

1.7(7) Procedures by which the filer of a confidential record may have a copy released to a named third party. The filer of a confidential record may request in writing that a confidential record be released to a named third party.

1.7(8) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the board at the following address: Iowa Utilities Board, 1375 East Court Avenue, Des Moines, Iowa 50319-0069.

1.7(9) Data processing system. As required by Iowa Code section 22.11(1)“g,” the board does not currently have a data processing system that matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

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These rules are intended to implement Iowa Code sections 17A.3, 474.1, 474.5, 474.10, 476.1, and 476.2.