

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVIEW OF ENERGY EFFICIENCY PLANNING AND REPORTING FOR NON- RATE-REGULATED GAS AND ELECTRIC UTILITIES RULES [199 IAC CHAPTER 36]	DOCKET NO. RMU-2016-0019
--	--------------------------

ORDER COMMENCING RULE MAKING

(Issued December 28, 2016)

On August 5, 2016, the Utilities Board (Board) issued an “Order Requesting Stakeholder Comment on Potential Rule Changes” regarding the Board’s Energy Efficiency Planning and Reporting for Non-Rate-Regulated Gas and Electric Utilities Rules, 199 IAC chapter 36. The review of 199 IAC chapter 36 is a part of the Board’s comprehensive review of its administrative rules conducted pursuant to Iowa Code § 17A.7(2). The Board received comments on the potential rule changes from the Iowa Association of Municipal Utilities (IAMU), the Iowa Association of Electric Cooperatives (IAEC), and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. ITC Midwest LLC filed an appearance in the docket but did not provide comments.

The Board is proposing to adopt rule changes to 199 IAC chapter 36 in accordance with the attached “Notice of Intended Action.” The Board will address comments provided and revisions to the potential rules described in the August 5, 2016, order below.

SUMMARY OF PROPOSED CHANGES

1. Rule 36.1

In its comments, IAEC proposed changing the references throughout the chapter from “non-rate regulated utilities” to “utilities not required to be rate-regulated.” OCA states that it has no objection to this change. The Board proposes to amend the references as described by IAEC.

2. Rule 36.2

IAEC and OCA supported the Board’s potential removal of the definitions of terms “dollar savings” and “year” from rule 36.2. However, IAMU states that the term “year” should be defined in the rule to clarify whether the reference is to a fiscal year or a calendar year. The Board proposes to leave the definition for “year” in rule 36.2.

IAMU also proposed the following revision to the definition of “energy efficiency program”¹:

“Energy efficiency programs” means shall include efficiency improvements to a utility infrastructure and systems and activities conducted by a utility intended to enable or encourage customers to increase the amount of heat, light, cooling, motive power, or other forms of work performed per unit of energy used. In the case of a municipal utility, for purposes of this paragraph, other utilities and departments of the municipal utility shall be considered customers to the same extent that such utilities and departments would be considered customers if served by an electric or gas utility that is not a municipal utility. Energy efficiency programs also means activities which lessen the amount of heating, cooling, or other forms of work which must be performed, or activities which decrease the cost of providing energy. Examples include, but are not limited to: energy studies or audits, general information, financial assistance, direct rebates to customers or vendors of energy-efficient products, research projects, direct installation by the utility of energy-efficient equipment, direct or indirect load control, and time-of-use rates, tree planting programs, educational programs, and hot water insulation distribution programs.

¹ Proposed additions are shown by underline and proposed deletions are shown by ~~striketrough~~.

IAMU states its proposed definition reflects the language of Iowa Code § 476.6(15)(c). OCA states that it does not object to the inclusion of the phrase, “efficiency improvements to a utility infrastructure and systems,” in the definition. However, OCA does not agree that the sentence, “In the case of a municipal utility, for purposes of this paragraph, other utilities and departments of the municipal utility to the same extent that such utilities and departments would be considered customers if served by an electric or gas utility that is not a municipal utility.”

The Board will include the revisions proposed by IAMU in its proposed rules. The revisions are consistent with Iowa Code § 476.6(15)(c) and will provide clarity to interested parties that are reviewing the rules.

3. Rule 36.3

IAEC states that it agrees with the Board’s potential changes to rule 36.3 that strike the initial filing dates for energy efficiency plans. However, IAEC proposed changes to the rule that would clarify the timing of filings.

IAMU states that it supports the Board’s attempts to make the requirements of rule 36.3 more consistent with Iowa Code § 476.6(15). OCA suggests that the rules direct that filings be made in the Board’s Electronic Filing System (EFS). OCA also states that there is no need to include a provision that “filings shall be deemed to meet [statutory] requirements” because the provision already appears in Iowa Code § 476.6(15)(c)(4).

The Board proposes to include the language found in Iowa Code § 476.6(15)(c) in rule 36.3. This language requires utilities not required to be rate-regulated to assess the potential for energy and capacity savings, to establish cost-

effective energy efficiency programs designed to meet the utility's energy efficiency goal, and to file energy efficiency-related reports with the Board. Also, the Board does not believe it is necessary to state that the reports are to be filed in EFS because Board rule 199 IAC 14.2 requires electronic filing.

4. Rule 36.4

IAEC suggests that the sentence, "Those person(s) shall state to the board their authority to act on behalf of the utilities." OCA states that this sentence serves a useful purpose and should be retained. The Board agrees that the sentence serves a purpose and should be retained.

5. Rule 36.5

In its initial comments, IAEC states that the phrase "immediately preceding the filing year" in subrule 36.5(1) creates confusion about what data should be reported. IAEC also recommends deletion of references to "total costs" in subrules 36.5(1)(e) and 36.5(2)(h). Further, IAEC recommends that subrules 36.5(1)(f) and 36.5(2)(i) should be stricken in order to reduce the burden placed on the utilities. IAEC also states that the Board should not limit the information requested to a utility's two-year plan. IAEC believes the subrule 36.5(2) should allow for filing of plans that extend beyond two years.

In its comments, IAMU states that it supports the Board's attempt to simplify the requirements in rule 36.5, however IAMU believes that additional changes should be made to better align the rule with statutory requirements. Further, IAMU supports the elimination of reporting requirements for dollar savings and nonpeak demand savings. IAMU also states that it believes subrules 36.5(1)(a) and 36.5(2)(d)-(f)

should be stricken from the Board's rules because the requirements of those sections are no longer required by statute.

In its comments OCA states that it has no objection to the Board's potential changes. OCA also recommends adding the requirement that each utility report information showing that its energy efficiency plans are cost effective, using the tests listed in Iowa Code § 476.6(13). OCA states that it is important that utilities communicate an estimate of dollar savings to their customers as a means of assisting customers in making decisions about energy efficiency opportunities. OCA also commented that the reporting requirements in rule 36.5 could be simplified and offered suggested revisions.

In its reply comments, IAEC states that it disagrees with OCA's suggested revisions to rule 36.5. IAEC asserts that there is no statutory support for a requirement to file subsequent reports or require measurement of the plan's cost effectiveness. Because Board approval is not required for energy efficiency plans of utilities not required to be rate regulated, the reporting requirement suggested by OCA is unduly burdensome and has no resulting benefit. In its reply comments, IAMU states that it is in substantial agreement with the positions taken by IAEC.

In its reply comments OCA states that it believes the reporting requirements of subrule 36.5(1)(f) provide useful information to customers and legislators that allows them to stay apprised of major program changes. Further, OCA states that the Board should continue to require utilities to provide information in their reports that include the results of all energy efficiency programs the utility has implemented, annual costs for a program, and the number of program participants.

The Board will propose several revisions to the potential rule changes described in the Board's August 5, 2016, order. The proposed revisions are intended to clarify the reporting requirements and to differentiate between past and projected results for energy efficiency. The Board does not propose to include a requirement that utilities provide benefit-cost information regarding its energy efficiency programs.

6. Rule 36.8

IAEC states that the reporting requirements in rule 36.8 do not encourage or accelerate the conversion to more efficient lighting. IAEC recommends deleting the requirement. OCA recommends that the Board consider referring to LED lighting rather than high-pressure sodium lighting because LED lighting is more efficient. OCA believes that if the reporting requirement were to change, the reports would be more relevant.

The Board does not propose any additional changes to rule 36.8. However, the Board will request that stakeholders provide comments regarding OCA's recommendation that the rule refer to LED lighting rather than high-pressure sodium lighting.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule-making proceeding identified as Docket No. RMU-2016-0019 is commenced for the purpose of receiving comments on the proposed amendments in the "Notice of Intended Action" attached hereto and incorporated by reference in this order.

2. The attached "Notice of Intended Action" shall be submitted for publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 28th day of December 2016.

UTILITIES DIVISION[199]

Notice of Intended Action

Pursuant to Iowa Code chapter 476 and § 17A.4 the Utilities Board (Board) gives notice that on December 28, 2016, the Board issued an order in Docket No. RMU-2016-0019, In re: Review of Energy Efficiency Planning and Reporting for Non-Rate-Regulated Gas and Electric Utilities Rules 199 IAC Chapter 36, "Order Commencing Rule Making" proposing to amend the Board's chapter 36 energy efficiency planning rules. Chapter 36 regulates energy efficiency planning of non-rate-regulated electric and natural gas utilities.

The Board is undertaking a comprehensive review of its rules and as part of that review is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these changes is to promote ease of access for those interacting with the Board.

The order approving this "Notice of Intended Action" can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0019.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before February 7, 2017. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can

be found on the EFS Web site at <http://efs.iowa.gov>. Filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. Paper comments may only be filed with approval of the Board.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)(b), an oral presentation may be requested or the Board on its own motion after reviewing the comments may determine an oral presentation should be scheduled. Requests for an oral presentation should be filed at the date scheduled for written comments.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect by promoting ease of access for those interacting with the Board.

The amendments are intended to implement Iowa Code chapter 476 and § 17A.4.

The following amendments are proposed:

Item 1. Amend rule **36.1** as follows:

~~Non-rate-regulated utilities~~ Utilities not required to be rate-regulated. Each ~~non-rate-regulated~~ natural gas and electric utility not required to be rate-regulated shall file energy efficiency plans and reports as provided in this chapter.

Item 2 Amend rule **36.2** as follows:

Definitions. The following words and terms, when used in this chapter, shall have the following meanings:

a. *“Annual”* means during each calendar year.

b. *“Demand savings”* means the change in the rate of energy usage measured over a period, which period shall be specified.

~~*“Dollar savings”* means the reduction in the dollars spent on natural gas or electricity service by customers and by the utility system as the result of the energy efficiency programs.~~

c. *“Energy efficiency programs”* shall include efficiency improvements to a utility infrastructure and system and ~~means~~ activities conducted by a utility intended to enable or encourage customers to increase the amount of heat, light, cooling, motive power, or other forms of work performed per unit of energy used. Energy efficiency programs also means activities which lessen the amount of heating, cooling, or other forms of work which must be performed, ~~or activities which decrease the cost of providing energy.~~ Examples include including, but are not limited to: energy studies or audits, general information, financial assistance, direct rebates to customers or vendors of energy-efficient products, research projects, direct installation by the utility of energy-efficient equipment, direct or indirect load control, and time-of-use rates, tree planting programs, educational programs, and hot water insulation distribution programs. In the case of a municipal utility, other utilities and departments of the municipal utility shall be considered customers to the same extent that such utilities and departments would be considered customers if served by an electric or natural gas utility that is not a municipal utility.

d. *“Energy savings”* means the amount of energy not used because of an energy efficiency program, measured in kilowatt-hours (kWh) of electricity, thousands of cubic

feet (Mcf) of natural gas, or dekatherms (dth) of natural gas.

e. *“Filing year”* means the calendar year during which an energy efficiency plan or report is filed.

f. *“Peak demand savings”* means the change in the rate of energy use at the time of the utility’s highest annual use, measured in kilowatts (kW), thousands of cubic feet per day (Mcf/day) of natural gas, or dekatherms per day (dth/day) of natural gas.

g. *“Year”* means calendar year.

Item 3. Amend rule **36.3** as follows:

Schedule of filings. ~~On or before July 1, 1992, each non-rate-regulated utility shall file its initial biennial energy efficiency plan with the board for the period January 1, 1992, through December 31, 1993. Each non-rate-regulated utility~~ not required to be rate-regulated shall offer energy efficiency programs to their customers through an energy efficiency plan, assess the potential energy and capacity savings available through cost-effective energy efficiency measures and programs; determine the utility’s cost-effective energy efficiency goal; and submit a report to the board that includes the utility’s cost-effective energy efficiency goal, and for each measure utilized in meeting the goal, the measure’s description, projected cost, and the analysis of cost-effectiveness. Each utility not required to be rate-regulated shall file ~~subsequent a biennial energy efficiency plans and report on or before July 1, 1994~~ January 1, and succeeding of each even-numbered year.

Item 4. Amend rule **36.4** as follows:

Joint filing of plans or reports. A utility may file its plan or report jointly with other ~~non-rate-regulated~~ utilities not required to be rate-regulated or their agents. A joint plan or report shall contain the information required by rules 36.5(476) and 36.6(476) for each utility participating in the joint plan or report, whether jointly filed or individually filed. This information for each utility shall be separately identified, if a plan is filed jointly for several utilities by person(s) acting as an agent for the utilities. Those person(s) shall state to the board their authority to act on behalf of the utilities. The description of a utility's programs as required in paragraph "a" of subrules ~~36.5(1) and 36.5(2)~~ may be provided by reference to an attached document or a section of a joint plan or report.

Item 5. Amend rule **36.5** as follows:

Energy efficiency plan and report requirements. Each utility's ~~energy efficiency plan~~ shall include the following provide:

36.5(1) A report on the results of all energy efficiency programs ~~the utility has implemented and completed during each of the two calendar years immediately preceding the filing year.~~ Summary information for energy efficiency programs ~~implemented in earlier years and completed prior to the filing year may also be included in the original plan.~~ which identifies the utility's progress in meeting the energy efficiency goal. For each program implemented ~~during the past two calendar years and completed during each of the two calendar years for which reports are due,~~ the following information shall be provided:

~~a. A description of the program, including the purpose or goal of the program, and the energy-using facilities, equipment, or customer behavior that the program was designed to change;~~

~~b.a. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program for each year;~~

~~c.b. A description of the method(s) for determining the annual energy savings and, peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods;~~

~~d.c. Annual number of program participants for each year;~~

~~e.d. Annual and total costs of the program for each year;~~

~~f.e. Date the program was initiated, terminated, and the reason for termination; and~~

~~g.f. Other relevant information.~~

36.5(2) ~~A report on the results and projected results of all energy efficiency programs the utility is continuing or commencing plans to implement infor the filing year or the calendar year following two years. For those programs continuing, the report shall describe the program results from the two calendar years immediately preceding the filing year and projected results for the filing year and the year following. Summary information for energy efficiency programs implemented in earlier years but still underway may also be included in the original plan. For those programs commencing in the filing year or the year following, the report shall describe projected implementation and results of programs for each of the two years, as well as an optional description of program results beyond the two years~~ Updates or amendments to the utility's energy efficiency plan including the goals and the projected results of all energy efficiency

programs the utility plans to implement during a period that shall include, but may extend beyond, the two calendar years for which reports are due. For each program under this subrule, the following information shall be provided:

a. For programs commencing during the current report period, A description of the program, including the purpose or goal of the program and the energy-using facilities, equipment, or customer behavior that the program is designed to change;

~~— b. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;~~

~~e, b.~~ Projected annual energy and peak demand savings, ~~annual dollar savings, and, if available, nonpeak demand savings from the program~~ for each year;

~~— d. A description of the method(s) for determining the annual energy savings, peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods;~~

~~e, c.~~ A description of the method(s) for projecting the annual energy savings, and peak demand savings, ~~nonpeak demand savings, annual dollar savings,~~ whether engineering estimates, surveys, metering, or other methods;

~~f, d~~ Annual number of program participants and annual estimated Projected number of program participants for each year;

~~— g. Annual and total costs of the program;~~

~~h, e.~~ Estimated annual and total cost of program for each year; and

~~i. Date the program was initiated and planned termination dates; and~~

~~j, f.~~ Other relevant information.

Item 6. Amend rule **36.7** as follows:

New Structure energy conservation standards. A utility providing natural gas or electric service shall not provide such service to any structure completed after April 1, 1984, unless the owner or builder of the structure has certified to the utility that the building conforms to the energy conservation requirements adopted under 661—~~16.801(103A) and 661—16.802—~~Chapter 303 (103A). If this compliance is already being certified to a state or local agency, a copy of that certification shall be provided to the utility. If no state or local agency is monitoring compliance with these energy conservation standards, the owner or builder shall certify that the structure complies with the standards by signing a form provided by the utility. No certification will be required for structures that are not heated or cooled by electric service, or are not intended primarily for human occupancy.

November 28, 2016

/s/ Geri D. Huser

Geri D. Huser
Chair