

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>REVIEW OF COMPETITIVE BIDDING PROCESS RULES [199 IAC CHAPTER 40]</p>	<p>DOCKET NO. RMU-2016-0029</p>
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**ORDER CLOSING DOCKET**

(Issued July 12, 2017)

The Utilities Board (Board) is conducting a comprehensive review of its administrative rules in accordance with Iowa Code § 17A.7(2) to identify and update or eliminate rules that are “outdated, redundant, or inconsistent or incompatible” with statutes and other administrative rules. The Board’s review of its rules at 199 Iowa Administrative Code chapter 40, “Competitive Bidding Process,” has been docketed as Docket No. RMU-2016-0029.

By order issued on January 18, 2017, in this docket the Board invited comment by stakeholders on whether the Board should revise or rescind chapter 40. The Board noted that Iowa Code § 476.53(3)(c)(2) expressly provides for an optional competitive bidding process “under rules adopted by the board,” and also that utilities seeking advance ratemaking determinations have generally not opted to use the process provided for in chapter 40.

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and MidAmerican Energy Company (MidAmerican) filed comments on

February 17, 2017. On March 6, 2017, Interstate Power and Light Company (IPL) and OCA filed reply comments.

OCA recommended that the Board not seek repeal of the pertinent statutory provisions and that it retain chapter 40. OCA suggested that the availability of competitive bidding might help to control the costs of generation facility construction, a major factor in utility rates. One utility has used the chapter 40 process to show the reasonableness of its proposed generation project and the Legislature might in the future mandate use of competitive bidding. Meanwhile chapter 40 offers an option that the Board or OCA can urge companies to consider. OCA concluded that the chapter 40 rules are necessary for the advance rate-making process and otherwise potentially useful and should be kept in effect.

MidAmerican recommended that the Board seek repeal of the statutory provisions and rescind the chapter 40 rules. MidAmerican has had extensive experience with the advance rate-making process and has never utilized the chapter 40 option; that experience suggests the rules are unnecessary. Utilities have preferred to use other means of demonstrating due consideration of alternatives and the Board's approval of those means has been upheld by the courts. In view of the statutory objective of eliminating "rules that are outdated [or] redundant" (Iowa Code § 17A.7(2)), MidAmerican suggests chapter 40 be rescinded and that the Board seek legislative amendment of Iowa Code § 476.53(3)(c)(2) to authorize such a step. IPL expressed agreement with MidAmerican's view that chapter 40 will not likely be used

in the future, citing its own extensive advance rate-making experience without resort to the chapter 40 option. IPL agreed that the chapter is outdated and redundant and should be rescinded.

Having reviewed and evaluated the comments filed by stakeholders in this docket, the Board concludes that it will not, at this time, either propose amendments of chapter 40 or legislative action to authorize its rescission. While utilities seeking advance rate making have not opted to use this means of demonstrating their consideration of alternatives to the addition of generation capacity, the chapter represents a part of the regulatory framework contemplated by the statute and serves to provide context for utility planning activities. The Board will therefore close this docket.

**IT IS THEREFORE ORDERED:**

Docket No. RMU-2016-0029 is closed.

**UTILITIES BOARD**

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Trisha M. Quijano  
Executive Secretary, Designee

/s/ Richard W. Lozier Jr.

Dated at Des Moines, Iowa, this 12<sup>th</sup> day of July 2017.