On August 27, 2018, the Utilities Board (Board) issued an order commencing a rule making regarding electric vehicle (EV) infrastructure and charging in the above-captioned docket. The Board held a workshop on October 17, 2018, and accepted comments from the Iowa Association of Municipal Utilities (IAMU), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), and the Iowa Association of Electric Cooperatives (IAEC). The Board also received comments from businesses with an interest in EV charging, including Iowa 80 Truckstop, Inc., and Truckstops of Iowa, Inc. (collectively Truckstops); Tesla, Inc.; Siemens Digital Grid; ChargePoint, Inc.; and Kwik Trip, Inc. Other stakeholders and interested parties filed comments, including the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Environmental Law and Policy Center and the Iowa Environmental Council (collectively Environmental Advocates); the Iowa Chapter of the Sierra Club (Sierra Club); Americans for Prosperity; the Energy Equality Coalition/Mr. George Landrith; the Electric Auto Association; and the
Alliance for Transportation Electrification. Finally, the Board received a number of comments from interested individuals.

On February 6, 2019, following its review of the received comments and oral presentations, the Board issued an “Order Requesting Stakeholder Comment on Potential Rule Changes.” In the order, the Board indicated an intent to promulgate a new rule in chapter 20 and included the following proposed language:

**20.20 Service to Electric Vehicle Charging Stations.**

1. Electric energy sold for the purpose of electric vehicle charging at a commercial or public electric vehicle charging station constitutes neither the furnishing of electricity to the public nor the resale of electric service. If the electricity used for electric vehicle charging is obtained from a rate-regulated public utility, the terms and conditions of the service to the electric vehicle charging station shall be governed by and subject to the utility’s filed tariff.

2. Providers of electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25.

3. Electric utilities and entities providing commercial or public electric vehicle charging shall comply with all applicable statutes and regulations governing the provision of electric vehicle charging service, including, but not limited to, all taxing requirements, and, if necessary, file all appropriate tariffs.

The Board invited stakeholders to submit comments in response to the proposed rule language. The Board received initial comments from the Truckstops, OCA, the Environmental Advocates, Sierra Club, IAEC and IAMU, IPL, the Alliance for Transportation Electrification, MidAmerican, Greenlots, and ChargePoint, Inc. The Board received reply comments from the Truckstops; Chargepoint, Inc.; IAEC and IAMU; IPL; the Environmental Advocates; and OCA. The Board also received comments from interested individuals.

The Board reviewed the comments filed in response to the Board’s order of February 6, 2019, and based on that review, is proposing rule 20.20 as described
below and shown in the attached “Notice of Intended Action” (NOIA), which is incorporated into this order by reference. The official version of the NOIA will be published in the Iowa Administrative Bulletin and may contain additional non-substantive editorial changes.

PROPOSED RULE 20.20

The Board proposes to adopt rule 20.20, which contains three subrules as described below.

1. **Subrule 20.20(1)**

   As noted in the Board’s February 6, 2019 order, the primary intent of subrule 20.20(1) is to exclude EV charging stations from the definition of “public utility” under Iowa Code § 476.1, and, by extension, section 476.25. The Board’s proposed language explicitly provides that the charging of an EV at a charging station is not the “furnishing of electricity to the public,” which negates two elements of the “public utility” definition under § 476.1(3)(a).

   In response to the Board’s proposed subrule 20.20(1) language, Sierra Club noted the Board’s review of EV charging began with the Truckstops challenging an IPL tariff that prohibited charging stations from charging customers on a per kWh basis. Sierra Club asserted proposed subrule 20.20(1) could be interpreted to allow public utilities to continue to prohibit EV charging on a per kWh basis and, therefore, requested the Board clarify in subrule 20.20(1) that a public utility, through its filed tariff, may not dictate how a charging station charges for its services.
According to IPL, the language in its tariff concerning how charging stations could sell electricity was not intended to restrict electric vehicle charging; rather, the tariff language concerning sales on a per kWh basis was intended to ensure the charging stations were not found to be “public utilities.” As explained by IPL:

The sale of electricity by EV charging providers on a per kWh basis to the public could render EV charging providers “public utilities” under the Serv-Yu factors. Thus, IPL’s goal in proposing the foregoing amended tariff language was to encourage, rather than discourage, the proliferation of EV charging services by identifying a way that customers could provide EV charging without becoming a public utility.


If an EV charging station obtains the electricity used for charging from a rate-regulated public utility, the utility’s filed tariff should set the terms and conditions of the electric service. While the information provided by IPL suggests the rate-regulated utilities may have no intent to file tariff language dictating how a charging station may charge for its services, the Board considers it reasonable to address Sierra Club’s concerns. Therefore, the Board proposes to modify its proposed subrule 20.20(1) to provide:

(1) Electric energy sold for the purpose of electric vehicle charging at a commercial or public electric vehicle charging station constitutes neither the furnishing of electricity to the public nor the resale of electric service. If the electricity used for electric vehicle charging is obtained from a rate-regulated public utility, the terms and conditions of the service to the electric vehicle charging station shall be governed by and subject to the utility’s filed tariff. A rate-regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a commercial or public electric vehicle charging station.
2. **Subrule 20.20(2)**

Several stakeholders asserted the term “providers of electricity” in proposed subrule 20.20(2) is too vague. Through their joint comments, IAMU and IAEC asserted uncertainty in the precise legal meaning of “providers of electricity.” IPL stated that because “providers of electricity” is not a defined term, its use may lead to uncertainty and future disputes. Similar concerns were expressed by the Alliance for Transportation Electrification. MidAmerican further notes that “providers of electricity” is a term not found in Iowa Code chapter 476.

The Board understands and appreciates these stakeholders’ concerns. In an effort to provide a closer nexus between subrule 20.20(2) and chapter 476, the Board will replace “providers of” electricity with “[a] person, partnership, business association, or corporation, foreign or domestic, furnishing” electricity such that the proposed subrule provides:

\[(2)\] A person, partnership, business association, or corporation, foreign or domestic, furnishing electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25.

The Board notes the amended language is taken directly from Iowa Code § 476.1(3) and is intended to clarify this proposed provision.

3. **Subrule 20.20(3)**

Generally, stakeholders expressed support for subrule 20.20(3) and the Board finds no reason for its alteration.
ORDERING CLAUSES

1. A rule-making proceeding identified as Docket No. RMU-2018-0100 is commenced for the purpose of receiving comments on the proposed amendments as described in the attached “Notice of Intended Action” which is incorporated in this order by reference.

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

3. Comments shall be due 20 days from the date of publication of the “Notice of Intended Action” in the Iowa Administrative Bulletin.

4. The date of an oral presentation regarding the proposed rule will be established in the Notice of Intended Action published in the Iowa Administrative Bulletin.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Bradley Nielsen

Dated at Des Moines, Iowa, this 19th day of April, 2019.
Item 1. Adopt the following new rule 199—20.20(476)


(1) Electric energy sold for the purpose of electric vehicle charging at a commercial or public electric vehicle charging station constitutes neither the furnishing of electricity to the public nor the resale of electric service. If the electricity used for electric vehicle charging is obtained from a rate-regulated public utility, the terms and conditions of the service to the electric vehicle charging station shall be governed by and subject to the utility’s filed tariff. A rate-regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a commercial or public electric vehicle charging station.

(2) A person, partnership, business association, or corporation, foreign or domestic, furnishing electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25.

(3) Electric utilities and entities providing commercial or public electric vehicle charging shall comply with all applicable statutes and regulations governing the provision of electric vehicle charging service, including, but not limited to, all taxing requirements, and, if necessary, file all appropriate tariffs.