

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to access to affiliate records, requirements for annual filings, and service and asset transfer costing standards

The Utilities Board hereby rescinds Chapter 31, “Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers,” and adopts a new Chapter 31, “Access to Affiliate Records, Requirements for Annual Filings, and Service and Asset Transfer Costing Standards,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 476 and sections 476.73 and 476.74.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.73 and 476.74.

Purpose and Summary

The purpose of Chapter 31 is to identify the records and filings that need to be filed with the Board when a rate-regulated utility has affiliates. These filings allow interested persons to verify whether a rate-regulated utility is charging and paying reasonable prices when compared to affiliate and nonaffiliate companies.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7581C**. Public hearings were held on February 27 and March 5, 2024, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The first public hearing was attended by the Office of Consumer Advocate (OCA) and Interstate Power and Light Company (IPL). The second public hearing was attended by OCA; MidAmerican Energy Company; and Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy. Each party was allowed to participate by presenting oral comments or responding to Board questions regarding any filed comments.

The Board received written comments from OCA, which expressed the desire for reinsertions of the word “shall” to avoid ambiguity in revised Chapter 31.

Minimal grammatical and substantive changes to the rule language, including reinsertions of the word “shall,” have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on April 5, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 31.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31

ACCESS TO AFFILIATE RECORDS, REQUIREMENTS FOR ANNUAL FILINGS,
AND SERVICE AND ASSET TRANSFER COSTING STANDARDS

199—31.1(476) Applicability and definition of terms. This chapter applies to all rate-regulated gas, electric, water, sanitary sewage, or storm water drainage service public utilities. All terms used in this chapter are defined in Iowa Code section 476.72 unless further defined in this chapter.

“*Fully distributed cost*” means a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of regulated and nonregulated affiliate operations.

“*Net book value*” means the original purchase price minus depreciation.

199—31.2(476) Availability of records.

31.2(1) *Separate records.* All affiliates of a public utility shall maintain records that are separate from the records of the public utility.

31.2(2) *Records to be maintained.* The records maintained by each affiliate and made available for inspection through the public utility shall include but are not limited to ledgers; balance sheets; income statements, both consolidated and consolidating; documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; supporting documents and models for all forecasts of affiliates used by the public utility; all contracts, including summaries of unwritten contracts or agreements; a description of methods used to allocate revenues, expenses, and investments among affiliates or jurisdictions, including supporting detail; and copies of all filings required by other state and federal agencies.

31.2(3) *Method of inspection.* The records of each affiliate are to be made available to the board. Upon receipt of a formal request in writing from the board for information, the public utility shall produce the requested information within seven days. Upon a showing of good cause, the board may approve additional time for response.

199—31.3(476) Annual filing.

31.3(1) On or before June 30 of each year, all public utilities shall file with the board the following information:

a. An executive summary of each contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include the start and end date of the contract, the providing affiliate, the receiving affiliate, the total estimated dollar value, the dollar amount reported for the calendar year, and a description of the service or goods covered.

b. Verified copies of contracts, arrangements, or other similar transactions between the public utility and an affiliate are to be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code sections 476.74(1) through 476.74(4).

31.3(2) Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of \$250,000 or 5 percent of the capital equity of the utility, whichever is smaller, are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each contract, arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate is to be identified separately.

31.3(3) After an initial filing under this rule, only new contracts, arrangements, or other similar transactions and modifications or amendments to existing contracts, arrangements, or other similar transactions need to be reported on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility may file a statement to that effect.

31.3(4) If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility and an affiliate, the public utility shall notify the board in writing within 60 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board or the affiliate does not conduct business with the public utility.

199—31.4(476) Verified copies. For purposes of this chapter, a copy is verified if it is accompanied by an affidavit signed by a corporate officer with personal knowledge of the veracity of the copy. Only one affidavit signed by a corporate officer with personal knowledge of the veracity of the copy needs to be included in an individual filing in order to verify all contracts, arrangements, or other similar transactions included in the filing.

199—31.5(476) Comparable information. For the purpose of satisfying the filing requirements of this chapter, the public utility may request approval to file alternative but comparable information that the public utility files with other state or federal regulatory agencies. If the proposal is approved by the board, the public utility may file the information as a partial substitute for, or in lieu of, the information stipulated in rule 199—31.3(476) and the board may provide that the public utility continue to file the approved alternative information in future filings. The public utility shall file the same information, whether it is the alternative information filed with other agencies or the information stipulated in rule 199—31.3(476), for at least five consecutive years. Proposals to file alternative information may be filed by the public utility on or before December 1 of the year preceding the year for which approval is sought.

199—31.6(476) Standards for costing services between regulated operations and nonregulated affiliates.

31.6(1) *Nonregulated affiliate provides service to a regulated affiliate.* The service shall be priced to the regulated affiliate's operations at the price charged to nonaffiliates. If no such price is available, the service shall be priced at the lower of fully distributed cost, the lowest price actually charged to other affiliates, or a market price of comparable services. If a market price of comparable services is not reasonably determinable, the service may be priced at the lower of fully distributed cost or the lowest price actually charged to other affiliates. Under no circumstances is the service to be priced to a regulated affiliate's operations at a higher cost than what the regulated affiliate actually paid the unregulated affiliate for the service.

31.6(2) *Service provided by the utility to a nonregulated affiliate.* Utility service shall be provided at the tariffed price. If it is not a tariffed service, the service is to be recorded at fully distributed cost.

199—31.7(476) Standards for costing asset transfers between regulated operations and nonregulated affiliates valued at less than \$2 million.

31.7(1) *Asset of a nonregulated affiliate transferred to a regulated affiliate.* The asset transfer shall be recorded at the lesser of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets. Under no circumstances is the asset to be recorded at a cost higher than what the regulated affiliate actually paid for the asset.

31.7(2) *Asset of a regulated affiliate transferred to a nonregulated affiliate.* The asset transfer to the nonregulated affiliate shall be recorded at the greater of net book value, a price actually charged to other affiliates or nonaffiliates, or the market price of comparable assets.

These rules are intended to implement Iowa Code sections 476.73 and 476.74.

[Filed 4/26/24, effective 6/19/24]

[Published 5/15/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/15/24.