UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
under the "umbrella" of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

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CHAPTER 1
ORGANIZATION AND OPERATION
[Prior to 10/8/86, Commerce Commission[250]]

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board) including the offices where, and the means by which any interested person may obtain information and make submittals or requests.

199—1.2(17A,474) Scope of rules. Promulgated under Iowa Code chapters 17A and 474, these rules shall apply to all matters before the Iowa utilities board. No rule shall in any way relieve a utility or other person from any duty under the laws of this state.

199—1.3(17A,474,476,78GA,HF2206) Waivers. In response to a request, or on its own motion, 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:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The burden of persuasion rests with the person who petitions the board for the waiver. If the above criteria are met, a waiver may be granted at the discretion of the board upon consideration of all relevant factors.

Persons requesting a waiver may use the form provided in 199—subrule 2.2(17), or may submit their request as a part of another pleading. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if they have not already been provided to the board in another pleading. The waiver request must also state the scope and operative period of the requested waiver. If the request is for a permanent waiver, the requester must state reasons why a temporary waiver would be impractical.

The waiver shall describe its precise scope and operative period. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. 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.

This rule is intended to implement Iowa Code chapters 17A, 474, and 476 and 2000 Iowa Acts, House File 2206.

199—1.4(17A,474) Duties of the board. The utilities board regulates electric, gas, telephone, telegraph, and water utilities; and pipelines and underground gas storage. The board regulates the rates and services of public utilities pursuant to Iowa Code chapter 476; certification of electric power generators pursuant to chapter 476A; construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground gas or hazardous liquid storage pursuant to chapters 479, 479A and 479B.

199—1.5(17A,474) Organization. The utilities division consists of the three-member board, the office of the executive secretary, which heads the technical and administrative staff, and the office of general counsel.

1.5(1) *The board.* The three-member board is the policy-making body for the utilities division. The chairperson serves as the administrator of the utilities division. As administrator, the chairperson is responsible for all administrative functions and decisions.

1.5(2) *General counsel.* The duties of the general counsel are prescribed by Iowa Code section 474.10. The general counsel acts as attorney for and legal advisor of the board and its staff and represents the board in all actions instituted in a state or federal court challenging the validity of any rule, regulation or order of the board.

1.5(3) *The office of the executive secretary.* The executive secretary is appointed by the board and is its chief operating officer and responsible for all technical staff. The executive secretary is also the custodian of the board seal and all board records. The executive secretary, deputy executive secretary, or secretary's designee is responsible for attesting to the signatures of the board members and placing the seal on original board orders. The executive secretary, deputy executive secretary, or the secretary's designee is responsible for certifying official copies of board documents. The executive secretary shall also be responsible for establishing procedures for the examination of board records by the general public pursuant to the provisions of Iowa Code section 22.11 and for providing for the enforcement of those procedures.

a. The deputy executive secretary assists the executive secretary in carrying out responsibilities and is responsible for preparing the agency budget and managing the records center, technical library, and receptionist area.

b. The customer service section serves as the agency's information contact and provides customer assistance and education for both the staff and the public. The section assists customers and competitors in resolving disputes with service providers. The section monitors customer service policies and practices, provides information to the public, and advises the board on customer service quality and issues of public concern.

c. The energy section is responsible for providing the board with recommendations for appropriate actions on energy matters. The section monitors activities of gas, electric, and water service providers. It also provides analysis and recommendations on tariff filings, rate proceedings, annual fuel purchase reviews, service territory disputes, and restructuring issues. The section advises the board on issues before the Federal Energy Regulatory Commission (FERC) and U.S. Department of Energy (DOE).

d. The information technology section is responsible for the development of electronic support and technology training for the division. This includes the development of a management information system and other database applications for the division. It also maintains the board's local area network system and provides all computer and technical support services and systems for the processing of information and records, including website development and maintenance, and monitoring incoming electronic messages and requests for information.

e. The policy development section provides professional and technical support to the industry sections and the board in the areas of policy development and research. In cases before the board, the section is responsible for the review and analysis of cost of capital, cost of service, and rate design. The section is responsible for performing analysis of competitive and restructuring issues, utility management performance, least cost alternatives, energy efficiency activities, and other public policy matters.

f. The safety and engineering section is responsible for the regulation of gas and electric providers and pipeline and electric transmission and distribution companies as it relates to safety, construction, and operation and maintenance of facilities. The section reviews and processes all petitions for electric transmission line franchises under Iowa Code chapter 478 and for pipeline permits under Iowa Code chapters 479 and 479B. It also acts as an agent for the federal Department of Transportation in pipeline safety matters.

g. The telecommunications section is responsible for providing the board with recommendations for appropriate actions on telecommunications matters. The section monitors activities of telecommunications service providers. It also provides analysis and recommendations of telecommunications providers' filings, rate proceedings, and advises the board on ratemaking and restructuring issues. The section advises the board on issues before the Federal Communications Commission (FCC).

199—1.6(68B) Consent for the sale or lease of goods and services. An official or employee shall not sell or lease, either directly or indirectly, any goods or services to individuals, associations, or

corporations subject to the regulatory authority of the board without complying with the provisions of rule 351—6.11(68B) of the Iowa ethics and campaign disclosure board.

1.6(1) *General prohibition.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(2) *Definitions.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(3) *Application for consent.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(4) *Conditions of consent for officials.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(5) *Conditions of consent for employees.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(6) *Effect of consent.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(7) *Participation in utility programs.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(8) *Appeal.* Rescinded IAB 8/16/06, effective 9/20/06.

1.6(9) *Notice.* Rescinded IAB 8/16/06, effective 9/20/06.

199—1.7 Rescinded, effective January 1, 1984.

199—1.8(17A,474) Matters applicable to all proceedings.

1.8(1) *Communications.* All communications to the board shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Pleadings and other papers required to be filed with the board shall be filed in the office of the executive secretary of the board within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt at the office of the board.

1.8(2) *Office hours.* Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

1.8(3) *Sessions of the board.* The board shall be considered in session at the office of the board in Des Moines, Iowa, during regular business hours. When a quorum of the board is present, it shall be considered a session for considering and acting upon any business of the board. A majority of the board constitutes a quorum for the transaction of business.

1.8(4) *Cross reference to rules regarding placement of docket numbers on filings, service of documents, and required number of copies.* The board's rule regarding placement of docket numbers on filings is at 199—subrule 7.4(3). The board's rule regarding service of documents is at 199—subrule 7.4(6). The board's rule regarding required number of copies is at 199—subrule 7.4(4).

199—1.9(22) Public information and inspection of records.

1.9(1) *Public information.* Any interested person may examine all public records of the board by written request or in person at the offices of the board. Public records shall be examined only at the board during the board's regular business hours, Monday through Friday from 8 a.m. to 4:30 p.m., excluding legal holidays. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board shall be made available for public inspection.

1.9(2) *Definitions.*

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

"Personally identifiable information." Information about or pertaining to an individual. This does not include information pertaining to corporations.

"Public records." Records of or belonging to the board which are necessary to the discharge of its duties.

1.9(3) *Inspection of records.* Subrule 1.9(4) below lists those board records which are routinely available for public inspection in the board's records center. Procedures governing requests for inspection of the records are set out in subrule 1.9(7).

1.9(4) *Board records routinely available for public inspection.* In accordance with the provisions of the State Records Management Manual, the board collects and maintains the following records that are routinely available for public inspection:

a. Board calendars, agenda, news releases and other information intended for the public.

b. Board decisions, orders, opinions and other statements of law or policy issued by the board in the performance of its function.

c. The records of utility rate case proceedings.

d. The records of rule-making proceedings.

e. Annual reports of the board and annual reports filed with the board by public utilities.

f. Tariffs filed by a public utility showing the rates and charges for its services and the rules and regulations under which the services are furnished.

g. The records of formal utility service proceedings.

h. Documents relating to informal and formal complaints against utilities.

i. The records of formal utility investigations.

j. The records of utility depreciation proceedings.

k. Rulings on requests for waiver of board rules.

l. The records of the board's annual review of an electric or gas utility.

m. The records of proceedings for the issuance or amendment of an electric generator certificate.

n. Information on public utilities' energy conservation programs.

o. The records of formal proceedings for the issuance of an electric franchise or certificate.

p. The records of formal proceedings for the issuance of a permit to construct a pipeline or underground gas storage facility.

q. Petitions by a public utility for particular treatment of an extraordinary item under commission accounting rules.

r. The records of board proceedings on matters relating to electric and pipeline safety.

s. Public utility filings with the board relating to customer rights and remedies.

t. All other records that are not specifically exempted from disclosure by subrule 1.9(5).

The board's files of public records listed above may contain confidential records. Any request to review confidential records must be made in accordance with subrule 1.9(8). In addition, the board's records listed in *"b," "c," "e,"* and *"h"* may contain personally identifiable information.

Various legal and technical publications related to public utilities are also available for inspection by the public in the board's technical library.

1.9(5) *Records not routinely available for public inspection.* The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under subparagraphs 1.9(5)*"a"*(1) and 1.9(5)*"a"*(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the commission is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

(1) Trade secrets recognized and protected as such by law. Iowa Code section 22.7.

(2) Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7.

(3) Reports made to the board which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7.

(4) Personal information in confidential personnel records of the board. Iowa Code section 22.7.

(5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger. Iowa Code section 22.7.

(6) Materials exempted from public inspection under any other provisions of state law.

b. Materials that are specifically exempted from disclosure by statute and which the board is prohibited from making available for public inspection. The board is required to withhold the following materials from public inspection:

(1) Tax records submitted to the board and required by it in the execution of its duties shall be held confidential. Iowa Code section 422.20.

(2) Reserved.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection material or information that contains negotiated transportation rates and prices for natural gas supply, reservation charges for portfolio gas supply contracts, and terms and prices for all hedging activity including both financial hedges and weather-related information included in monthly purchased gas adjustment filings, annual purchase gas adjustment filings, annual purchased gas adjustment reconciliations, periodic filings related to changes in purchased gas adjustment factors, negotiated purchase prices for electric power, fuel, and transportation, customer-specific information, power supply bills in support of energy adjustment clause filings, network improvement and maintenance plans and related extensions and progress reports, wireless coverage area maps, service outage reports filed with the board pursuant to 199 IAC 39.5(5), or the financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service shall be deemed granted pursuant to Iowa Code section 22.7(3), as a trade secret, or pursuant to Iowa Code section 22.7(6), as a report to a government agency which, if released, would benefit competitors and would serve no public purpose, or pursuant to both sections, provided that the confidential portions of the filings are identified and segregated and an attorney for the company or a corporate officer avers that those portions satisfy Iowa Code section 22.7(3) or 22.7(6), or both, as interpreted by the Iowa Supreme Court. The information shall be held confidential by the board upon filing and will be subject to the provisions of 199 IAC 1.9(8)*"b"*(3).

1.9(6) *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.

a. Procedure. The materials to which the request applies shall be physically separated from any materials to which the request does not apply. The request shall be attached to the materials to which it applies. Each page of the materials to which the request applies shall be clearly marked confidential.

b. Content of request. Each request shall contain a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. The facts underlying the legal basis shall be supported by affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts. If the request is that the materials be withheld from inspection for a limited period of time, the period shall be specified.

c. Compliance. If a request complies with the requirements of paragraphs *"a"* and *"b"* of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the documents to determine whether the documents 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.

d. Request denied. If a request for confidentiality is denied, the documents will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.9(7) *Procedures for the inspection of commission records which are routinely available for public inspection.* The records in question must 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 will 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 which 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 and the charge shall be the actual copying cost.

1.9(8) *Procedures for the inspection of board records which are not routinely available for public inspection.* Any person desiring to inspect board records which are not routinely available for public inspection shall file a request for inspection meeting the requirements of this subrule.

a. Content of request. The records must be reasonably described by the person requesting them, so as to permit their location by staff personnel. Requests shall be directed to the executive secretary of the board.

b. Procedure. Requests for inspection shall be acted upon as follows:

(1) If the board is prohibited from disclosing the records, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the board is prohibited from disclosing part of a document from inspection, that part will be deleted and the remainder will be made available for inspection.

(3) In the case of requests to inspect records not routinely available for public inspection under 1.9(5)*"a"*(1), 1.9(5)*"a"*(3), and 1.9(5)*"c,"* the board will notify all interested parties of the request to view the materials. The board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. If injunctive relief is not requested within this period, the records will be produced for inspection. Requests to review materials not routinely available for public inspection under any other category of paragraph 1.9(5)*"a"* will be acted upon by the board. If the request is granted by the board, or is partially granted and partially denied, the person who submitted the records to the board will be afforded 14 days from the date of the written ruling in which to seek injunctive relief. If injunctive relief is not requested within this period, the records will be produced for inspection.

1.9(9) *Procedures by which the subject of a confidential record may have a copy released to a named third party.* Upon a request which complies with the following procedures, the board will disclose a confidential record to its subject or to a named third party designated by the subject. Positive identification is required of all individuals making such a request.

a. In-person requests. Subjects of a confidential record who request that information be given to a named third party will be asked for positive means of identification. If an individual cannot provide suitable identification, the request will be denied.

Subjects of a confidential record who request that information be given to a named third party will be asked to sign a release form before the records are disclosed.

b. Written request. All requests by a subject of a confidential board record for release of the information to a named third party sent by mail shall be signed by the requester and shall include the requester's current address and telephone number (if any). If positive identification cannot be made on the basis of the information submitted along with the information contained in the record, the request will be denied.

Subjects of a confidential record who request by mail that information be given to a named third party will be asked to sign a release form before the records are disclosed.

c. Denial of access to the record. If positive identification cannot be made on the basis of the information submitted, and if data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom the record pertains, the board may deny access to the record pending the production of additional evidence of identity.

1.9(10) *Procedure by which the subject of a board record may have additions, dissents or objections entered into the record.* An individual may request an addition, dissent or an objection be entered into a board record which contains personally identifiable data pertaining to that individual. The request shall be acted on within a reasonable time.

a. Content of request. The request must be in writing and addressed to the executive secretary of the board. The request should contain the following information:

(1) A reasonable description of the pertinent record.

(2) Verification of identity.

(3) The requested addition, dissent or objection.

(4) The reason for the requested addition, dissent or objection to the record.

b. Denial of request. If the request is denied, the requester will be notified in writing of the refusal and will be advised that the requester may seek board review of the denial within ten working days after issuance of the denial.

1.9(11) *Advice and assistance.* Individuals who have questions regarding the procedures contained in these rules may contact the executive secretary of the board at the following address: Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319.

1.9(12) *Data processing system.* The board does not currently have a data processing system which matches, collates or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

These rules are intended to implement Iowa Code sections 17A.3, 68B.4, 474.1, 474.5, 474.10, 476.1, 476.2, 476.31 and 546.7.

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CHAPTER 2
FORMS
[Prior to 10/8/86, Commerce Commission[250]]

199—2.1(17A,474) Forms—general.

2.1(1) *Purpose and scope.* These rules shall govern all forms prescribed by the Iowa utilities board (hereinafter referred to as board) for use in all proceedings before the board, provided however, that the board may prescribe additional or different forms to be utilized in a specific case as necessary.

2.1(2) *Forms compliance.* All papers filed with the board shall substantially conform with the requirements set forth below. The board, without prejudice to any party to a proceeding, may reject a paper which does not substantially conform with the requirements of this chapter, giving a statement of reasons for the rejection.

2.1(3) *General requirements.* Documents filed with the board shall be printed, typewritten, or otherwise mechanically reproduced and double spaced, except that long quotations may be single spaced and indented. All papers, except exhibits, shall be cut or folded so as not to exceed 8½ inches by 11 inches in size with inside margins not less than 1 inch in width. Whenever practical, all exhibits of a documentary character should conform to the foregoing requirements of size and margin. Papers should contain the name and address of the party filing the paper and, if represented by an attorney, the name and office address of such attorney. Except as otherwise provided in these rules, the original of all papers and exhibits should be filed with the board. The person filing the paper or exhibit shall also furnish additional copies for each respondent or party to be served by the board and such other copies as the board may request.

This rule is intended to implement Iowa Code section 474.5.

199—2.2(17A,474) Specific forms.

2.2(1) *Petition for rule making.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE: (insert present board rule number and short title, if any, or short title of subject for proposed new rule) }	DOCKET NO. _____ (completed by board) PETITION FOR RULE MAKING

COMES NOW (insert name of petitioner) and for (insert pronoun) petition states:

(The petition shall then set forth in separately numbered paragraphs:

1. The text of any proposed rule or amendment, identifying the section or sections of the law or rule involved, or the rule sought to be repealed.
2. The reasons for requesting the action, including any relevant facts, views, data, or arguments.
3. A concise statement of the petitioner's interest in the subject matter.)

WHEREFORE, (insert petitioner's name) prays that the board institute a rule-making proceeding to (adopt, amend, or repeal) (insert board rule number or the proposed rule) as hereinbefore set forth.

Respectfully submitted,

_____
(signature of petitioner)
(name)
(address and zip code)

2.2(2) *Statement of position.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert title of proceeding as set forth in board order commencing rule making)	DOCKET NO. (insert docket No., if known) STATEMENT OF POSITION

COMES NOW, (insert name of person filing statement) and for (insert pronoun) statement of position submits:

(The statement shall then set forth in an organized manner any data, views, or arguments relevant to the adoption, amendment, or repeal of the rule.)

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(3) *Counter-statement of position.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert title of proceeding as set forth in board order commencing rule making)	DOCKET NO. (insert docket No., if known) COUNTER-STATEMENT OF POSITION

COMES NOW, (insert name of person filing counter-statement) and for (insert pronoun) response to the statement of position of (insert name of person filing statement of position) states:

(The statement shall then set forth in an organized manner a response to any data, views, or arguments set forth in the statement of position.)

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(4) *Request for rule-making oral presentation.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert title of proceeding as set forth in board order commencing rule making)	DOCKET NO. (insert docket No., if known) REQUEST FOR ORAL PRESENTATION

COMES NOW (insert name(s) of persons or the organization or agency requesting oral presentation) and for (insert pronoun) request for oral presentation state(s):

(The request shall then set forth in separately numbered paragraphs:

1. The facts which show the person, persons, organization or agency is/are authorized to request oral presentation on rule making in accordance with Iowa Code section 17A.4.

2. The reasons for requesting oral presentation.

3. A concise statement of the party's interest in the subject matter (if the party is not the administrative rules review committee).)

WHEREFORE, (insert party's name) requests the board to schedule oral presentation in this proceeding.

Respectfully submitted,

_____

(signatures, addresses and zip codes of 25 interested persons; or signature, address and zip code of head of governmental subdivision, chairman of the administrative rules review committee, head of an agency, or authorized representative of an association having not less than 25 members)

2.2(5) *Request for rule-making statement.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert title of proceeding as set forth in board order commencing rule making)	DOCKET NO. (insert docket No., if known) REQUEST FOR STATEMENT

COMES NOW (insert name of person requesting statement) and for (insert pronoun) request states:

(The request shall then set forth in separately numbered paragraphs:

1. A concise statement that on (insert date) the board issued an order (adopting, amending or repealing) (insert rule number) (or terminating rule-making proceeding, Docket No.) (insert Docket number).

2. A concise statement of the party's interest in the subject matter.)

WHEREFORE, (insert party's name) requests the board to issue a formal statement in support of its decision pursuant to Iowa Code section 17A.4(1)*"b."*

Respectfully submitted,

_____

(signature)
(name)
(address and zip code)

2.2(6) *Petition for declaratory ruling.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE: THE PETITION OF (insert petitioner's name) FOR A DECLARATORY RULING ON (insert rule number, statute, etc., for which interpretation sought)	DOCKET NO. _____ (completed by board) PETITION FOR DECLARATORY RULING

COMES NOW (insert name of petitioner) and requests a declaratory ruling on (state rule number, statute, order, decision, or other written statement of law or policy for which an interpretation is sought), and in support of which petitioner states:

(The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 4.4(17A).)

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.)

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory ruling on (insert proposed subject of ruling).

2.2(7) *Complaint.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert name of complainant), Complainant, v. (insert name of respondent), Respondent.	DOCKET NO. _____ (completed by board) COMPLAINT

COMES NOW (insert name of complainant) and for (insert pronoun) complaint states:

(The complaint shall then set forth in separately numbered paragraphs:

1. The name and address of the party against whom the complaint is made.

2. A clear, concise, and complete statement of the facts forming the basis for the conclusion that the respondent has violated a specific statute administered by the board, a specific rule of the board, a tariff of the respondent, or order issued by the board.)

WHEREFORE, (insert complainant's name) prays (insert specific relief sought).

Respectfully submitted,

_____
(signature of complainant)
(name)
(address and zip code)

2.2(8) *Answer.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert name of complainant), Complainant, v. (insert name of respondent), Respondent.	}	DOCKET NO. (insert docket No.) ANSWER

COMES NOW (insert name of respondent) and for (insert pronoun) answer to the complaint filed by (insert complainant's name) states:

(The answer shall then set forth in separately numbered paragraphs:

1. Clear, concise statements which admit, deny, or otherwise answer all material allegations of the complaint and which set forth the affirmative grounds relied upon to support such answer.

2. The statements, insofar as possible, should respond directly to the separately numbered paragraphs of the complaint.)

WHEREFORE, (insert respondent's name) prays (insert prayer for dismissal of complaint or other relief sought).

Respectfully submitted,

_____
(signature of respondent)
(name)
(address and zip code)

2.2(9) *Counter-complaint.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert name of complainant), Complainant, v. (insert name of respondent), Respondent.	}	DOCKET NO. (insert docket No.) COUNTER-COMPLAINT

COMES NOW (insert name of respondent) and for (insert pronoun) counter-complaint states:

(The counter-complaint shall then set forth in separately numbered paragraphs:

1. The name and address of the party against whom the counter-complaint is made.

2. A clear, concise and complete statement of the facts forming the basis for the conclusion that the complainant has violated a specific statute administered by the board, a specific rule of the board, a tariff of the complainant, or order issued by the board.)

WHEREFORE, (insert respondent's name) prays (insert specific relief sought).

Respectfully submitted,

_____

(signature of respondent)
(name)
(address and zip code)

2.2(10) *Petition to intervene.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	DOCKET NO. (insert docket No.) PETITION TO INTERVENE

COMES NOW (insert name of petitioner) and for (insert pronoun) petition states:

(The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of facts specifying the nature of the petitioner's alleged interest.

2. A clear and concise statement of how the petitioner's interests are unique and require representation in addition to the existing parties. (If the petitioner's interests will be represented by the existing parties, the petition will be considered for permissive intervention.) If a petition for intervention is initially denied, the petitioner may provide further information to the board to establish the unique nature of his/her interests.

3. Specific and detailed admissions or denials of each material allegation of fact or law asserted in the proceeding, citing, where appropriate, the statutory provisions or authority relied on. The admissions or denials should give a clear and concise statement of the position of the petitioner so as to apprise the parties and the board of the specific issues of law or fact to be raised or controverted.

4. Outline the extent to which the petitioner intends to participate in the proceedings:

Whether the petitioner intends to submit prepared direct testimony and exhibits.

Whether the petitioner intends to participate in hearings before the board including the cross-examination of expert witnesses.

Whether the petitioner will be represented by an attorney at law admitted to practice or seeks approval of the board to appear and be heard in his/her own behalf.)

WHEREFORE, (insert petitioner's name) prays for leave to intervene and be treated as a party to the proceeding (if affirmative relief is sought, include specific prayer for such relief).

Respectfully submitted,

_____
(signature of petitioner)
(name)
(address and zip code)

2.2(11) *Response to petition to intervene.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) (resistance, response) TO PETITION TO INTERVENE

COMES NOW (insert name of person filing resistance or response) and in (response, resistance) to the Petition to Intervene filed by (insert petitioner's name) states:

(The response should then set forth in separately numbered paragraphs:

1. Objections, if any, supported by specific reasons, to granting the petitioner the right of intervention.

2. A request, if any, supported by specific reasons, to limit the right of intervention to particular issues or to a particular stage of proceeding.

3. Insofar as possible, a direct response to the specific issues of law or fact raised in the petition to intervene.)

WHEREFORE, (insert name of person filing response) prays (insert specific relief sought).

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(12) *Motion to reopen hearing.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	DOCKET NO. (insert docket No.) MOTION TO REOPEN HEARING

COMES NOW (insert name of party) and moves the board to reopen the record for the purpose of taking additional evidence and in support thereof states:

(The motion shall then set forth in separately numbered paragraphs:

A clear and concise statement of the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the conclusion of the hearing.)

WHEREFORE, (insert name of party) prays that the board reopen said hearing.

Respectfully submitted,

_____
(signature of party)
(name)
(address and zip code)

2.2(13) *Application for rehearing.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	DOCKET NO. (insert docket No.) APPLICATION FOR REHEARING

COMES NOW (insert name of party) and for (insert pronoun) application for rehearing states:

(The application shall then set forth in separately numbered paragraphs:

1. Each finding of fact and conclusion of law claimed to be erroneous, with a brief statement of the grounds of error.

2. Any application for rehearing asserting evidence which has arisen since the final order was issued as a ground for rehearing shall present the evidence by affidavit which includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.)

WHEREFORE, (insert name of party) prays the board grant rehearing on the issues specified.

Respectfully submitted,

_____
(signature of party)
(name)
(address and zip code)

2.2(14) *Motion.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) MOTION FOR (insert subject matter of motion)

COMES NOW (insert name of moving party) and moves the board to (insert specific relief sought) and in support thereof states:

(The motion shall then set forth in separately numbered paragraphs the grounds relied on in making the motion, including specific statutory or other authority.)

WHEREFORE, (insert name of moving party) prays the board to (insert specific relief or order sought).

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(15) *Written appearance.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) APPEARANCE

COMES NOW (insert name of person filing appearance) and enters (insert pronoun) appearance on behalf of (insert name(s), address(es) and zip code(s) of person(s) on behalf of whom the appearance is filed) in this matter.

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(16) *Certificate of service.*

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa utilities board.

Dated at _____ this _____ day of _____,19 _____.

By _____
(signature)
(name)
(address and zip code)

2.2(17) *Waiver request.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	DOCKET NO. (insert docket No.) WAIVER REQUEST

COMES NOW (insert name of person requesting the waiver), and files this request for a waiver, and in support states:

1. (Insert the specific waiver requested, including a citation to the specific rule the requester wants to be waived, and the precise scope and operative period of the requested waiver. If the request is for a permanent waiver, state the reasons why a temporary waiver would be impractical.)

2. (Insert the relevant facts and reasons that show each of the following: (a) the application of the rule would pose an undue hardship on the person for whom the waiver is requested; (b) the waiver would not prejudice the substantial legal rights of any person; (c) the provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and (d) substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.)

3. (Insert the names of the persons who may be adversely impacted by the grant of the waiver, if known.)

WHEREFORE, (insert name of requester) prays the board grant the request for a waiver of the rule specified above.

Respectfully submitted,

_____
(signature of requester)
(name)
(address and zip code)

2.2(18) *Application for certification of competitive natural gas provider (CNGP).*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE: (insert applicant name)	}	DOCKET NO. (insert docket no.) APPLICATION FOR CERTIFICATION OF COMPETITIVE NATURAL GAS PROVIDER OR AGGREGATOR

COMES NOW (insert name of person or entity requesting the certificate) and files this application for a certificate as a competitive natural gas provider or aggregator (CNGP), and in support thereof states:

1. The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant's state of incorporation.

2. The names, business addresses and business telephone numbers of the principal officers of the applicant who can be contacted regarding its operations in Iowa and telephone number(s) at which the CNGP can be contacted 24 hours a day.

3. Identification of affiliates that are certified under 199—19.14(476) and a listing of the names and addresses of all the applicant's affiliates engaged in the provision of competitive natural gas services in any other state.

4. A listing of all legal actions and formal complaints pertaining to the provision of competitive natural gas services filed against the applicant or its affiliates at a public utility regulatory body other than the board that were pending in the 12 months prior to the date of the request for certificate, including identification of the title and number of applicable proceedings and a copy of the final orders in such proceedings or the citation to the website where the text of the orders can be found.

5. Identification of the states and jurisdictions in which the applicant or an affiliate has had a license or certificate to supply competitive natural gas services suspended, revoked, or denied, or where the applicant has voluntarily withdrawn from providing service due to financial or operational reasons. Applicant shall include identification of the title and number of any applicable proceedings and a copy of any final orders in such proceedings or the citation to the website where the text of the orders can be found.

6. Applicants who will be serving small volume customers must provide a demonstration that the applicant has the operational and financial capability to obtain and deliver the services it proposes to offer. At a minimum, applicants are required to submit financial statements. The applicant must submit a balance sheet, statement of income, statement of cash flow, and, if applicable, a statement of shareholders' equity and the applicant's debt structure, including bond rating. As a demonstration of the applicant's operational ability, the applicant must submit a roster of officers and directors, a description of the professional backgrounds of the applicant's principal managerial and technical personnel, an operational flow chart, and a description of the applicant's facilities and the services it intends to render. A request for confidential treatment for this information may be filed with the board, pursuant to 199—subrule 1.9(6).

7. A commitment to comply with all the applicable conditions of certification contained in 199—subrules 19.14(5) and 19.14(6). Acknowledgement that failure to comply with all the applicable conditions of certification may result in the revocation of the CNGP's certificate.

8. A copy of the standard customer contract(s) and disclosure statement required by 199—paragraph 19.14(6)*"c."*

This rule is intended to implement Iowa Code sections 17A.9A, 474.6, 476.6 and 476.8.

199—2.3 Rescinded, effective 9/8/86.

199—2.4(17A,474) Forms. The following forms for proceedings under Iowa Code chapters 478, 479, and 479B are available upon request:

1. Petition for Electric Line Franchise.
2. Petition for Amendment of Electric Line Franchise.
3. Petition for Extension of Electric Franchise.
4. Exhibit C, Overhead Transmission Line: Typical Engineering Specifications.
5. Exhibit C-UG, Engineering Specifications for Underground Transmission Line.
6. Petition for Permit to Construct, Operate, and Maintain a Pipeline.
7. Petition for Renewal of Permit to Construct, Operate, and Maintain a Pipeline.
8. Exhibit C, Specifications for Pipeline.
9. Petition for Permit for Hazardous Liquid Pipeline.

These rules are intended to implement Iowa Code sections 474.1, 474.5, 474.6, 474.10, 476.6, 476.8 and 546.7.

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[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]
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[Published 6/17/98 to correct board name]
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CHAPTER 3
RULE MAKING
[Prior to 10/8/86, Commerce Commission[250]]

199—3.1(17A,474) Purpose and scope.

3.1(1) *In general.* These rules shall govern the practice and procedure in all rule-making proceedings of the Iowa utilities board (board).

3.1(2) *Rules of construction.* If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

3.1(3) *Waiver.* The board may waive the application of any of these rules pursuant to 199 IAC 1.3(17A,474).

3.1(4) *Forms and filing requirements.* All rule-making filings shall substantially comply with the forms prescribed in 199 IAC 2.2(17A,474). All filings shall include an original and ten copies.

199—3.2(17A,474) Notice of inquiry. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by the board by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.3(17A,474) Petition for adoption of rules. Any interested person may petition the board for the adoption, amendment, or repeal of a rule.

199—3.4(17A,474) Commencement of proceedings.

3.4(1) *Commenced by order.* Rule-making proceedings shall be commenced only upon written order of the board. The board may commence a rule-making proceeding by order upon its own motion or upon the filing of a petition for rule making by any interested person.

3.4(2) *Board action on petition.* Within 60 days after the filing of a petition for rule making, the board shall either deny the petition by written order on the merits, stating the reasons therefor, commence by written order a rule-making proceeding, or adopt by written order a rule pursuant to Iowa Code section 17A.4(2).

3.4(3) *Notice of rule making.* Upon the commencement by written order of a rule-making proceeding, the board shall cause the required notice of the proceeding to be published in the Iowa Administrative Bulletin.

3.4(4) *Fiscal impact statement.* Pursuant to Iowa Code section 25B.6, a proposed rule that mandates additional combined expenditures exceeding $100,000 by all affected political subdivisions, or agencies and entities which contract with political subdivisions to provide services, shall be accompanied by a fiscal impact statement outlining the costs associated with the proposed rule. If the board determines at the time it adopts a rule that the earlier fiscal impact statement contains errors or that a fiscal impact statement should have been prepared but was not, the board will issue a corrected or delayed fiscal impact statement.

199—3.5(17A,474) Written statements of position.

3.5(1) *Persons.* Any interested person may file a written statement of position containing data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of a rule.

3.5(2) *Service.* Written statements of position shall be served by the author upon the petitioner, if any, and consumer advocate at the time of filing.

199—3.6(17A,474) Counterstatements of position.

3.6(1) *Petitioner.* The petitioner, if any, may file a counterstatement of position with the board in response to written statements of position.

3.6(2) *Filing.* Counterstatements of position, if any, shall be filed with the board prior to the oral presentation or, if no oral presentation is scheduled, not later than 15 calendar days after the petitioner's receipt of the written statement of position to which the petitioner is responding.

3.6(3) *Service.* Counterstatements of position shall be served by the petitioner at the time of filing upon the authors of written statements of position to which the petitioner is responding and to consumer advocate.

199—3.7(17A,474) Requests for oral presentation. If an oral presentation is not scheduled by the board on its own motion, any interested person may file a request for an oral presentation.

3.7(1) *Filing.* The time period, as directed by the board, for filing of requests for oral presentation shall be not less than 20 calendar days after the publication of the notice of rule making in the Iowa Administrative Bulletin.

3.7(2) *Action on proper request.* Within 15 calendar days of the filing of a request for oral presentation, the board shall determine if the request is in accordance with Iowa Code section 17A.4. If the board determines that the request complies with section 17A.4, the board shall by written order schedule oral presentation on the rule making and shall cause a notice of the oral presentation to be published in the Iowa Administrative Bulletin. The notice shall state the date, time and place of the oral presentation and shall briefly describe the subject matter of the rule-making proceeding. The oral presentation on the rule making shall be not less than ten calendar days after the publication of the notice. The board shall serve a similar notice on the party requesting oral presentation, on any other persons filing written comments, and on the petitioner, if any.

3.7(3) *Action on improper request.* If the board determines that a request for oral presentation does not comply with Iowa Code section 17A.4, it may by written order deny such request stating the reasons therefor, or it may, in its discretion, grant the request and schedule an oral presentation.

199—3.8(17A,474) Rule-making oral presentation.

3.8(1) *Written appearance.* Any interested person may participate in rule-making oral presentations in person or by counsel. A written appearance may be filed not less than five calendar days prior to oral presentation.

3.8(2) *Oral presentations.* Participants in rule-making oral presentations may submit exhibits and present oral statements of position which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Participants shall not be required to take an oath and shall not be subject to cross-examination. The board may, in its discretion, permit the questioning of participants by any interested person, but no participant shall be required to answer any question.

3.8(3) *Rebuttal and limitations.* The board may, in its discretion, permit rebuttal statements of position and request the filing of written statements of position subsequent to the adjournment of the rule-making oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

199—3.9(17A,474) Rule-making decisions.

3.9(1) *Adoption, amendment, or repeal.* The board shall by written order adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. The written order shall include a preamble to the adopted rules explaining the principal reasons for the action taken and, if applicable, a brief explanation of any decision not to permit waiver of the adopted rules. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.9(2) *Variance between adopted rule and proposed rule.* The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action in the following situations:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in the Notice;

b. The differences are a logical outgrowth of the contents of the Notice and the comments submitted in response thereto;

c. The Notice indicated that the outcome of the rule making could be the rule in question;

d. The differences are so insubstantial as to make additional notice and comment proceedings unnecessary; or

e. As otherwise permitted by law.

3.9(3) *Statements.* Upon the adoption, amendment, or repeal of a rule or termination of a rule-making proceeding, and if timely written request is filed by any interested person pursuant to Iowa Code section 17A.4(1)*"b,"* the board shall, within 35 days of the request, issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the rule, or termination of the rule-making proceeding, including the reasons why the board overruled the positions in opposition to the board's decision.

199—3.10(17A,474) Regulatory analysis.

3.10(1) *Regulatory analysis.* The board shall issue a regulatory analysis of a proposed rule, or of a rule adopted without prior notice and opportunity for public participation, when required by 1998 Iowa Acts, chapter 1202, section 10.

3.10(2) *Request for regulatory analysis.* A request for a regulatory analysis shall be in writing and shall specify the proposed rule or adopted rule for which the analysis is requested.

3.10(3) *Schedule extended.* Upon receipt of a timely written request for a regulatory analysis of a proposed rule, the time periods for filing written comments and for requesting an oral proceeding are extended to a date 20 days after publication of a concise summary of the regulatory analysis in the Iowa Administrative Bulletin. Any oral proceeding that may already have been scheduled will be rescheduled by the board to a date at least 20 days after publication of the summary.

199—3.11(17A,474) Review of rules. Pursuant to Iowa Code section 17A.7, upon receipt from the administrative rules coordinator of a request for formal review of a specified rule, the board will determine whether the rule has been reviewed within the preceding five years. If such a review was conducted, the board will report that fact to the administrative rules coordinator. If no such review has been conducted, the board will consider whether the rule should be repealed or amended or a new rule adopted in its place. The board will prepare a written report summarizing its findings, supporting reasons, and proposed course of action. Copies of the report will be sent to the administrative rules review committee and the administrative rules coordinator, and will be made available for public inspection.

These rules are intended to implement Iowa Code section 476.2.

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[Published 6/17/98 to update name and address of board]
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CHAPTER 4
DECLARATORY ORDERS

[Prior to 10/8/86, see Commerce Commission[250]]

199—4.1(17A) Petition for declaratory order. Any person may file a petition with the Iowa utilities board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the utilities board, at 350 Maple Street, Des Moines, Iowa 50319-0069. A petition is deemed filed when it is received by that office. The utilities board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

STATE OF IOWA
BEFORE THE IOWA STATE UTILITIES BOARD

IN RE: THE PETITION OF (insert petitioner's name) FOR A DECLARATORY ORDER ON (insert rule number, statute, etc., for which interpretation is sought).	DOCKET NO.___ (completed by board) PETITION FOR DECLARATORY ORDER

COMES NOW (insert name of petitioner) and requests a declaratory order on (state rule number, statute, order, decision, or other written statement of law or policy of which an interpretation is sought), and in support petitioner states:

(The petition shall then set forth in separately numbered statements:)

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation to and the relevant language of the specific statutes, rules, policies, decisions, or orders, the applicability of which has been questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting as provided for by rule 4.7(17A).

[The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.]

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory order on (insert proposed subject of the requested order).

Respectfully submitted,

_____
(Signature of petitioner or representative)
(Typed or printed name of signer)
(Address and telephone number)

199—4.2(17A) Notice of petition. Within five days after receipt of a petition for a declaratory order, the utilities board shall give notice to all persons not served by the petitioner pursuant to rule 4.6(17A) to whom notice is required by any provision of law. The utilities board may also give notice to any other persons.

199—4.3(17A) Intervention.

4.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 14 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

4.3(2) Any person who filed a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the utilities board.

4.3(3) A petition for intervention shall be filed at 350 Maple Street, Des Moines, Iowa 50319-0069. Such a petition shall be deemed filed when it is received by that office. The utilities board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

STATE OF IOWA
BEFORE THE IOWA STATE UTILITIES BOARD

IN RE: THE PETITION OF (insert petitioner's name) FOR A DECLARATORY ORDER ON (insert rule number, statute, etc., for which interpretation is sought).	}	DOCKET NO.___ (insert docket number) PETITION FOR INTERVENTION

COMES NOW (insert name of petitioner) and requests intervention in this matter and in support petitioner states:

(The petition shall then set forth in separately numbered statements:)

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to another proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of other persons, or a description of any class of persons, known by the intervenor to be affected by, or interested in, the questions presented in the petition.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

[The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications concerning the petition should be directed.]

WHEREFORE, (insert intervenor's name) prays that the board grant it intervention and issue a declaratory order on (insert proposed subject of the requested order).

Respectfully submitted,

_____
(Signature of intervenor or representative)
(Typed or printed name of signer)
(Address and telephone number)

199—4.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The utilities board may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

199—4.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

199—4.6(17A) Service and filing of petitions and other papers.

4.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding and on any persons who, based upon a reasonable investigation, would be a necessary party to the proceeding under applicable substantive law, simultaneously with their filing. The party filing a document is responsible for service on all parties and other required persons.

4.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers filed in a proceeding for a declaratory order shall be filed with the Executive Secretary, 350 Maple Street, Des Moines, Iowa 50319-0069. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the utilities board.

4.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by 199—subrule 7.6(1).

199—4.7(17A) Agency consideration. Upon request by petitioner, the utilities board must schedule a brief and informal meeting between the original petitioner, all intervenors, and the utilities board, a member of the utilities board, or a member of the staff of the utilities board to discuss the questions raised. The utilities board may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the utilities board by any person.

199—4.8(17A) Action on petition. Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the utilities board or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

199—4.9(17A) Refusal to issue order.

4.9(1) The utilities board shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all of the questions raised for the following reasons:

1. The question does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the utilities board to issue an order.
3. The utilities board does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
10. The petitioner requests the utilities board to determine whether a statute is unconstitutional on its face.

4.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final utilities board action on the petition.

4.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

199—4.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of the petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusions.

A declaratory order is effective on the date of issuance.

199—4.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

199—4.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the utilities board, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the utilities board. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement 1998 Iowa Acts, chapter 1202, section 13, and Iowa Code section 476.1.

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[Published 6/17/98 to update name and address of board]
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CHAPTER 5
PROCEDURE FOR DETERMINING THE COMPETITIVENESS OF A COMMUNICATIONS SERVICE OR FACILITY

[Prior to 10/8/86, Commerce Commission[250]]

199—5.1(476) Purpose. These rules govern the procedure for investigating and determining the applicable level of regulation under Iowa Code Supplement section 476.1D for a communications service or facility.

199—5.2(476) Petition.

5.2(1) *Petitioner.* Any interested person may petition the board for a determination of the following under Iowa Code Supplement section 476.1D.

a. Whether a communications service or facility provided or proposed to be provided by a telephone utility in Iowa is subject to effective competition;

b. Whether a communications service or facility provided or proposed to be provided by a telephone utility in Iowa, which is subject to effective competition, is an essential communications service or facility and the public interest warrants service regulation;

c. Whether a communications service or facility, which previously has been deregulated, is no longer subject to effective competition and rate and service regulation should be reimposed; or

d. Whether a communications service or facility, which previously has been deregulated and which continues to be subject to effective competition, is an essential communications service and the public interest warrants service regulation, and service regulation only should be reimposed.

5.2(2) *Contents of petition.* A petition for a determination under subrule 5.2(1) shall substantially comply with the form prescribed in 199—subrule 2.2(1), except that references to rule making shall be replaced by references to the service or facility sought to be evaluated. In addition, the petition must contain or be submitted with the following information:

a. The specific service or facility which the petitioner is asking the board to consider;

b. Data sufficient to support a prima facie finding that the service or facility is or is no longer subject to effective competition or is an essential communications service or facility and the public interest warrants service regulation;

c. In a petition for determination of whether a communications service or facility is subject to effective competition, an identification of all persons or parties who are actual or potential competitive providers of the service or facility.

5.2(3) *Notice for proposed service.* A petition under subrule 5.2(1), paragraph *"a"* or *"b,"* which relates to a proposed service or facility not yet offered by the utility and not an existing service or facility, may include a request for expedited consideration. The request will be granted if notice is given on or before the date of filing the petition. Notice shall be given by serving or mailing a copy of the petition to all persons reasonably identified as actual or potential competitive providers of the service or facility and to all local and interexchange telephone utilities in Iowa. The notice shall also state the time limitation and responsive filing requirements in subrule 5.3(2).

199—5.3(476) Docketing.

5.3(1) *Order.* If the petitioner has complied with subrule 5.2(2), the board may issue an order docketing the matter as a formal notice and comment proceeding. At any time the board may initiate a formal notice and comment proceeding on its own motion. At any time, the board may also on its own motion initiate evidentiary hearings to develop a reliable record of facts related to the issues raised and to allow discovery to the extent the board deems necessary. The petition will not be deemed to be an application for new or changed rates, charges, schedules or regulations.

5.3(2) *Time for action.* The following schedules shall apply:

a. With regard to petitions filed which relate to an existing service or facility, or to a proposed service or facility for which expedited consideration is not granted, if the board does not issue an order

docketing the matter as a formal proceeding within 60 days after the filing of the petition, the petition will be deemed denied.

b. With regard to petitions filed which relate to a proposed service or facility and for which expedited consideration is granted, the following procedural schedules shall apply:

(1) Any person, including the consumer advocate, wanting to file a response to a petition must do so within 30 days of the filing of the petition. If the response includes a request to docket the matter as a formal notice and comment proceeding, the response shall state specifically the grounds for the request.

(2) If no timely request to docket the petition stating grounds which raise material issues is filed, the board will issue the findings required in Iowa Code section 476.1D within 60 days of the filing of the petition.

(3) If a timely request to docket is filed stating grounds which raise material issues, the board will issue an order requiring the petitioner to notify the persons on the service list under subrule 5.2(3) and setting a schedule for interested persons to file sworn statements of position, an oral presentation, and briefing as necessary. The board will issue the findings required in Iowa Code section 476.1D within 120 days of the filing of the petition.

(4) The deadlines under subparagraphs (2) and (3) may be extended for good cause.

5.3(3) *Notice.* Upon docketing, the board will cause notice of the proceeding to be published in the Iowa Administrative Bulletin. The board may also require specific notice to persons identified as competitors.

5.3(4) *Oral presentation.* When the board issues an order docketing the matter as a formal notice and comment proceeding, the board may set a date, time and place for an oral presentation.

199—5.4(476) Statement of position. All written statements of position shall be sworn.

5.4(1) *Statement.* Any interested person may file a written statement of position concerning the matter within 30 days after publication of notice of the proceeding. The statement of position should substantially comply with the form prescribed in 199—subrule 2.2(2). Ten copies should be filed with the original. A statement of position may contain data, views, comments or arguments concerning the service or facility. Written statements of position shall be served by the author upon the petitioner at the time of filing.

5.4(2) *Counterstatement.* The petitioner may file a counterstatement of position with the board in response to written statements of position. The counterstatement of position should substantially comply with the form prescribed in 199—subrule 2.2(3). Ten copies should be filed with the original. A counterstatement may be filed with the board no later than 15 calendar days after the petitioner's receipt of the written statement of position to which the petitioner is responding. The petitioner shall serve a copy of the counterstatement of position upon all authors of written statements of position to which the petitioner is responding.

199—5.5(476) Oral presentation. The rules prescribed in rule 199—3.7(17A,474) shall apply to oral presentations, except that participants in the oral presentation will be required to take an oath and will be subject to cross-examination by the board and by any other persons the board may deem appropriate. All persons filing written statements will be required to have at least one witness available at the oral presentation who may be cross-examined about the subject matter of the written statement.

199—5.6(476) Decision.

5.6(1) *Criteria for effective competition.* In determining whether a service or facility is subject to effective competition, the board will consider whether a comparable service or facility is available from a supplier other than the telephone utility and whether market forces are sufficient to ensure just and reasonable rates without regulation. In addition, the board may consider the following criteria:

a. The ability or inability of a single provider to determine or control prices;

b. The ease with which other providers may enter the market;

c. The likelihood that other providers will enter the market;

d. The substitutability of one service or facility for another; and

e. Other relevant considerations.

5.6(2) *Criteria to retain service regulation.* In determining whether a service or facility is an essential communications service or facility and the public interest warrants retention of service regulation under Iowa Code subsection 476.1D(5) or 476.1D(7), the board may consider all or part of the following criteria:

a. Relative universality of customer use of the service or facility;

b. Degree to which the service or facility is necessary to access the telecommunications network;

c. Extent to which the public, subsets of the public, or individuals rely on the service or facility;

d. Potential for harm and its relative impact in the event of inadequate service quality;

e. Any economic incentives which might discourage reasonable service quality;

f. Existence of subcategories within a category of generally competitive services or facilities where the competition is ineffective to ensure reasonable service quality for the subcategory; and

g. Other relevant considerations.

5.6(3) *Findings.* After the completion of formal proceedings, the board may issue findings.

199—5.7(476) Extent of deregulation. Notwithstanding the presence of effective competition, if the board determines a service or facility is an essential communications service or facility and the public interest warrants retention of service regulation, the board will deregulate rates and may continue service regulation.

No provider of the service or facility will be subject to greater or lesser regulatory control because of its alleged market share or market power.

Any deregulation under these rules, whether deregulation of rates and service or deregulation of rates only, will involve separation of the accounts of the deregulated competitive service or facility from the accounts of the telephone utility's regulated operation.

Deregulation of a service or facility for a utility is effective only after all of the following:

a. A finding of effective competition by the board;

b. Election by a utility providing the service or facility to file a deregulation accounting plan;

c. Approval of a utility's deregulation accounting plan by the board.

199—5.8(476) Hearing and order. The board may include in its docketing order a notice of a hearing for the purpose of considering whether the board should issue an order suspending regulatory barriers which prevent providers from offering the specified service or facility to consumers.

These rules are intended to implement Iowa Code chapter 476 and Iowa Code section 546.7.

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CHAPTER 6
COMPLAINT PROCEDURES*

[Previously ch 1, renumbered 10/20/75 Supp.]
[Prior to 10/8/86, Commerce Commission[250]]

199—6.1(476) Inquiry. Any person may seek assistance from the Iowa utilities board by appearing in person or placing a telephone call to the Consumer Services Section, Iowa Utilities Board, Des Moines, Iowa, (515)281-3839 or toll-free (877)565-4450. Consumer services may advise the person of the application of the rules, inform the person of utility complaint procedures and advise of written complaint procedures before the board. However, the complaint procedures set forth below are available only after a written complaint is filed.

199—6.2(476) Complaint. Any person or body politic may file a written complaint requesting a determination of the reasonableness of rates, charges, schedules, service, regulations or anything done or not done by a public utility subject to service or rate regulation by the board. Assistance may be requested in the following manner.

6.2(1) *Information to be filed.* Any person may, by filing a written complaint, request the board to determine whether the utility's charges, practices, facilities or services are in compliance with applicable statutes and rules established by the board, or by the utility in its tariff, and lawfully issued board orders. A written complaint may be filed by facsimile or electronic mail. If there is any question about the authenticity of the complaint, the complainant may be required to file a letter verifying the written complaint. The board may initiate a complaint on its own motion. The complaint should include:

a. The name of the utility, any utility personnel known or believed to be familiar with the facts stated in the letter and the location of the office of the utility where the complaint was originally made and processed.

b. The name of the complainant. If the complaint is being filed on behalf of a person other than the complainant, an affidavit from the person injured by the practice about which the complaint is made should be included stating that the complaint has been received and is believed to be true and accurate to the best of the knowledge of the injured person. A complaint filed by an organization on behalf of its members shall include an affidavit signed by an officer of the organization.

c. The address of the premises where the service or billing problems occurred and, if known, the telephone number and the account number. If the complainant resides at a different address, the complaint should also state where a response to the complaint is to be mailed. The complainant may also provide a telephone number where the complainant can be reached during the day.

d. The nature of the complaint, and efforts made to resolve the matter. Documents—e.g., bills or correspondence—should be included if they will add to the board's understanding of the utility practice about which the complaint is made. If known, references to statutes or rules believed to govern the outcome of the complaint should be included.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes or rules authorizing the remedy request.

6.2(2) *Request for additional information.* If the staff determines that additional information is needed in order to resolve the complaint, the complainant will be notified that specified additional information should be filed. If the requested additional information is not provided within 20 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.

199—6.3(476) Processing the complaint. When the board receives a complaint that includes necessary information outlined in rule 6.2(476), the following complaint procedures will be followed:

6.3(1) The complaint letter and any supplemental information filed by the complainant will be forwarded to the public utility.

*Effective date of 7/11/84 delayed 70 days by the Administrative Rules Review Committee.

6.3(2) A copy of the complaint and any supplemental information will be forwarded by the staff to the consumer advocate.

6.3(3) The utility shall, within 20 days of the date on which the complaint is forwarded to the utility by the board, file a response to the complaint with the board and shall at the same time send a copy of its response to the complainant and the consumer advocate. The utility shall specifically address each allegation made by the complainant and recite any supporting facts, statutes, rules, or tariff provisions supporting its response. The utility shall enclose copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In cases involving confidential or privileged records, the response shall advise of the records' existence.

199—6.4(476) Proposed resolution.

6.4(1) When the utility response is received, the staff may request from any party any additional information deemed necessary to resolve the complaint. When satisfied that all necessary information has been gathered, the staff will respond by letter to the complainant with a copy to the utility and consumer advocate acknowledging resolution of the complaint or proposing an appropriate resolution of the complaint.

6.4(2) If the staff determines that the action required by the proposed resolution has not been carried out, or new facts arise, the record may be reopened by issuing notice to the parties of further investigation.

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) If the consumer advocate, complainant, or the public utility is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be made. Parties will be informed of their right to request formal proceedings. A request for civil penalties, in accordance with Iowa Administrative Code 199—Chapter 8, may also be filed at this time. Failure to file a request for civil penalties at this time does not preclude a party from requesting civil penalties at a later date during formal proceedings. If no request for formal proceedings is made within 14 days after issuance of the proposed resolution or the specified date of utility action, the proposed resolution will be deemed binding on all parties. The board may initiate formal proceedings and seek civil penalties at any time on its own motion.

6.5(2) The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark, the date personal service is made, or the date received in the board's records center. The request shall be in writing and must be delivered by United States Postal Service, other delivery service, or personal service. The request shall include the file number (C-XX-XXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.

6.5(3) Upon receipt of a request for formal complaint proceedings, the board shall consider whether formal complaint proceedings should be initiated and issue an order. If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business pursuant to Iowa Code section 17A.19. If formal complaint proceedings are initiated, an order will be issued docketing the case as a formal complaint and granting or denying, in whole or in part, any temporary relief requested.

199—6.6(476) Applicable procedures. When the complaint is docketed as a formal proceeding, the procedures set forth in Chapter 7 of these rules will apply.

199—6.7(476) Record. The written complaint and all supplemental information shall be made part of the record in the formal complaint proceeding.

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or

facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (see rule 199—22.23(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the complaint and with the customer's acknowledgment, a copy of the complaint or a notification of receipt of a telephone, or other oral, complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the customer's service to the customer's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint or notification of receipt of a telephone, or other oral, complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint or notification of receipt of a telephone, or other oral, complaint was forwarded. The response must include proof of verification of the customer's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the customer's authorization for a change in service, then the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In the event of a soft slam (as defined in 199 IAC 22.23(1)*"j"*), board staff may also propose joint and several liability between the reseller and the facilities-based service provider. In all cases, the proposed resolution shall allocate responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for formal complaint proceedings will be processed by the board pursuant to 199 IAC 6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings which may alter the allocation of liability.

6.8(6) No entity shall commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

These rules are intended to implement Iowa Code sections 476.2, 476.3 and 546.7 and Iowa Code Supplement section 476.103.

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CHAPTER 7
PRACTICE AND PROCEDURE

[Previously ch 15, renumbered 10/20/75 Supp.]
[Prior to 10/8/86, Commerce Commission[250]]

199—7.1(17A,474,476) Scope and applicability.

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise.

7.1(2) Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

7.1(3) With the exception of rules 7.22(17A,476) (ex parte communications), 7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 7.27(17A,476) (rehearing and reconsideration), none of these procedures shall apply to electric transmission line hearings under Iowa Code chapter 478 and 199—Chapter 11 or to pipeline or underground gas storage hearings under Iowa Code chapter 479 or 479B and 199—Chapters 10 and 13. Procedural rules applicable to these proceedings are found in the respective chapters.

7.1(4) Notice of inquiry dockets. The board may issue a notice of inquiry and establish a docket through which the inquiry can be processed. The procedural rules in this chapter shall not apply to these dockets. Instead, the procedures for a notice of inquiry docket shall be specified in the initiating order and shall be subject to change by subsequent order or ruling by the board or the assigned inquiry docket manager. The procedures may include some or all of these procedural rules.

7.1(5) Reorganizations. Procedural rules applicable to reorganizations are included in 199—32.9(476). In the event the requirements in 199—32.9(476) conflict with the requirements in this chapter, the 199—32.9(476) requirements are controlling.

7.1(6) Discontinuance of service incident to utility property transfer.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules including, but not limited to, the rights and obligations created by Iowa Code sections 476.22 to 476.26. Additional rules applicable to discontinuance of service by local exchange utilities and interexchange utilities are contained at rule 199—22.16(476). Discontinuance of service to individual customers is addressed in rules 199—19.4(476), 20.4(476), 21.4(476), and 22.4(476). Procedures in the event of a sale or transfer of a customer base by a telecommunications carrier are contained in 199—paragraph 22.23(2)*"e."*

b. Application. A public utility shall obtain board approval prior to discontinuance of utility service. The public utility shall file an application for permission to discontinue service that includes a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, the transferor utility and the transferee shall file a joint application.

c. Approval. Within 30 days after an application is filed, the board shall approve the application or docket the application for further investigation. Failure to act on the application within 30 days will be deemed approval of the application.

d. Contested cases. Contested cases under paragraph *"c"* shall be completed within four months after date of docketing.

e. Criteria. The application will be granted if the board finds the utility service is no longer necessary, or if the board finds the transferee is ready, willing, and able to provide comparable utility service.

7.1(7) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board or presiding officer pursuant to 199—1.3(17A,474,476).

[1]**7.1(8)** Authority to issue procedural orders in contested case proceedings, investigations, hearings, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by an administrative law judge employed by the board. If an administrative law judge is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the executive secretary or general counsel of the board.

Procedural orders under this subrule shall be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule shall state that it is issued pursuant to the delegation authority established in 199 IAC 7.1(8) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

[1] October 18, 2006, effective date of subrule 7.1(8) was delayed 70 days by the Administrative Rules Review Committee at its meeting held October 10, 2006.

199—7.2(17A,476) Definitions. Except where otherwise specifically defined by law:

"Board" means the Iowa utilities board or a majority thereof.

"Complainants" are persons who complain to the board of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 479B, or of any order or rule of the board.

"Consumer advocate" means the consumer advocate referred to in Iowa Code chapter 475A.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a "no factual dispute" contested case under Iowa Code section 17A.10A.

"Data request" means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

"Expedited proceeding" means a proceeding before the board in which a statutory or other provision of law requires the board to render a decision in the proceeding in six months or less.

"Filed" means received at the office of the board in a manner and form in compliance with the board's filing requirements.

"Intervenor" means any person who, upon written petition, is permitted to intervene in a specific proceeding before the board.

"Issuance" means the date written on the order unless another date is specified in the order.

"Parties" include, but are not limited to, complainants, petitioners, applicants, respondents, and intervenors.

"Party" means each person named or admitted as a party.

"Person" means as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.

"Petitioner" or *"applicant"* means any party who, by written petition, application, or other filing, applies for or seeks relief from the board.

"Presiding officer" means one board member, the administrative law judge, or another person so designated by the board for the purposes of a particular proceeding.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case that has been assigned by the board to the presiding officer.

"Respondent" means any person against whom a complaint or petition is filed, or who by reason of interest or possible interest in the subject matter of a petition or application or the relief sought therein is made a respondent, or to whom an order is directed by the board initiating a proceeding.

"Service" means service by first-class mail pursuant to subrule 7.4(6), unless otherwise specified.

199—7.3(17A,476) Presiding officers. Presiding officers may be designated by the board to preside over contested cases and conduct hearings and shall have the following authority, unless otherwise ordered by the board:

1. To regulate the course of hearings;
2. To administer oaths and affirmations;
3. To rule upon the admissibility of evidence and offers of proof;
4. To take or cause depositions to be taken;
5. To dispose of procedural matters, discovery disputes, motions to dismiss, and other motions which may involve final determination of proceedings, subject to review by the board on its own motion or upon application by any party;
6. To certify any question to the board, in the discretion of the presiding officer or upon direction of the board;
7. To permit and schedule the filing of written briefs;
8. To hold appropriate conferences before, during, or after hearings;
9. To render a proposed decision and order in a contested case proceeding, investigation, or other hearing, subject to review by the board on its own motion or upon application by any party; and
10. To take any other action necessary or appropriate to the discharge of duties vested in the presiding officer, consistent with law and with the rules and orders of the board.

199—7.4(17A,474,476) General information.

7.4(1) *Orders.* All orders will be issued and placed in the board's records and information center. Orders shall be deemed effective upon issuance unless otherwise provided in the order. Parties and members of the public may view orders in the board's records and information center and may also view orders (other than orders granting confidential treatment) and a daily summary of filings on the board's Web site located at www.state.ia.us/iub.

7.4(2) *Communications.*

a. All communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other papers required to be filed with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board.

b. The board may accept filings electronically from time to time pursuant to instructions that will be delineated in the board order or other official statement authorizing those filings. See rule 7.7(17A,476) for requirements for electronic information filed with the board.

7.4(3) *Reference to docket number.* All filings made in any proceeding after the proceeding has been docketed by the board shall include on the first page a reference to the applicable docket number(s).

7.4(4) *Number of copies.*

a. An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies.

A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)
C = Complaints filed pursuant to 199—6.2(476) (original)
CCF = Customer Contribution Fund (original + 1 copy)
E = Electric Franchise or Certificate (original + 3 copies)
EAC = Energy Adjustment Clause (original + 3 copies)
EDR = Electric Delivery Reliability (original + 3 copies)
ES = Extended Area Services (original + 2 copies)

GCU = Generating Certificate Utility (original + 20 copies)
H = Accident (original + 1 copy)
HLP = Hazardous Liquid Pipeline (original + 2 copies)
NIA = Negotiated Interconnection Agreement (original + 3 copies)
P = Pipeline Permit (original + 2 copies)
PGA = Purchased Gas Adjustment (original + 3 copies)
R = Reports-Outages (original + 1 copy)
RFU = Refund Filing Utility (original + 4 copies)
RN = Rate Notification (original + 3 copies)
TF = Tariff Filing (original + 4 copies)

b. Unless otherwise ordered or specified in this rule, parties must file an original and ten copies of all filings including, but not limited to, pleadings and answers (rule 7.9(17A, 476)), prefiled testimony and exhibits (rule 7.10(17A,476)), motions (rule 7.12(17A,476)), petitions to intervene and responses (rule 7.13(17A,476)), proposals for settlement and responses (rule 7.18(17A,476)), stipulations (rule 7.19(17A, 476)), withdrawals (rule 7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 7.24(17A,476)), interlocutory appeals (rule 7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 7.26(17A,476)), applications for rehearing and responses (rule 7.27(17A,476)), and requests for stay and responses (rule 7.28(17A,476)).

c. When separate dockets are consolidated into a single case, parties shall file one extra copy for each consolidated docket, in addition to the original and the normally required number of copies. For example, if three separate dockets are consolidated into a single case, parties must file an original plus two copies plus the normally required number of copies of each document.

d. Rule 7.23(17A,476) contains requirements regarding the required number of copies for evidence introduced at hearing and for briefs. Subrule 7.10(5) contains requirements regarding the required number of copies for workpapers and supporting documents.

e. 199—Chapter 26 contains additional requirements regarding the number of copies required to be filed in rate and tariff proceedings.

7.4(5) *Defective filings.* Only applications, pleadings, documents, testimony, and other submissions that conform to the requirements of an applicable rule, statute, or order of the board or presiding officer will be accepted for filing. Applications, pleadings, documents, testimony, and other submissions that fail to substantially conform with applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board or presiding officer prior to filing. The board or presiding officer may reject a filing even though board employees have file-stamped or otherwise acknowledged receipt of the filing. If a filing is defective due only to the number of copies filed, the board's records and information center staff may correct the shortage of copies with the permission of the filing party and the filing party's agreement to cover all costs of reproduction.

7.4(6) *Service of documents.*

a. *Method of service.* Unless otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first-class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first-class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served.

b. *Date of service.* Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2).

c. *Parties entitled to service.* A party or other person filing a notice, motion, pleading, or other document in any proceeding shall contemporaneously serve the document on all other parties. Parties shall serve documents containing confidential information pursuant to a confidentiality agreement executed by the parties, if any. If the parties are unable to agree on a confidentiality agreement, they may ask the board or presiding officer to issue an appropriate order. A party formally filing any document or any other material with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0063.

d. *Service upon attorneys.* When a party has appeared by attorney, service upon the attorney shall be deemed proper service upon the party.

7.4(7) *Written appearance.* Each party to a proceeding shall file a separate written appearance, substantially conforming to the form set forth in 199—subrule 2.2(15), identifying one person upon whom the board may serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the designated person be changed in the appearance. If a party files an application, petition, or other initial pleading, or an answer or other responsive pleading, containing the information that would otherwise be required in an appearance, the filing of a separate appearance is not required. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

7.4(8) *Representation by attorney at law.*

a. Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed attorney at law. If the attorney is not licensed by the state of Iowa, permission to appear must be granted by the board or presiding officer. A verified statement that contains the attorney's agreement to submit to and comply with the Iowa Code of Professional Responsibility for Lawyers must be filed with the board and the written appearance of a resident attorney must be provided for service pursuant to Iowa Admission to the Bar rule 31.14(2).

b. A corporation or association may appear and present evidence by an officer or employee. However, only licensed attorneys shall represent a party before the board or a presiding officer in any matter involving the exercise of legal skill or knowledge, except with the consent of the board or presiding officer. All persons appearing in proceedings before the board or a presiding officer shall conform to the standard of ethical conduct required of attorneys before the courts of Iowa.

7.4(9) *Cross reference to public documents and confidential filings.* The board's rule regarding public documents and confidential filings is at 199—1.9(22).

7.4(10) *Expedited proceedings.*

a. If a person claims that a statutory or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall include the phrase "Expedited Proceedings Required" in the caption of the first pleading filed by the person in the proceeding. If the phrase is not so included in the caption, the board or presiding officer may find and order that the proceeding did not commence for purposes of the required time for decision until the date on which the first pleading containing the required phrase is filed or such other date that the board or presiding officer finds is just and reasonable under the circumstances.

b. If a person claims that a statutory or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall state the basis for the claim in the first pleading in which the claim is made.

c. Shortened time limits applicable to expedited proceedings are contained in rules 7.9(17A,476) (pleadings and answers), 7.12(17A,476) (motions), 7.13(17A,476) (intervention), 7.15(17A,476) (discovery), and 7.26(17A,476) (appeals from proposed decisions). An additional service requirement applicable to expedited proceedings is contained in subrule 7.4(6) (service of documents).

d. A party may file a motion that proceedings be expedited even though such treatment is not required by statute or other provision of law. Such voluntary expedited treatment may be granted at the

board's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the board or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in paragraph 7.4(10)*"c"* do not apply to voluntary expedited proceedings under this paragraph unless ordered by the board or presiding officer.

199—7.5(17A,476) Time requirements.

7.5(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

7.5(2) In response to a request or on its own motion, for good cause, the board or presiding officer may extend or shorten the time to take any action, except as precluded by statute.

199—7.6(17A,476) Telephone proceedings. The board or presiding officer may hold proceedings by telephone conference call in which all parties have an opportunity to participate. The board or presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

199—7.7(17A,476) Electronic files. This rule applies to all electronic information (electronic files) filed with the board. The board or presiding officer, on the board's or presiding officer's own motion or at the request of a party, may provide for additional or different requirements in specific cases, if necessary.

7.7(1) Electronic files shall be accompanied by a hard-copy printout and a hard-copy index that identifies each electronic file and includes, for each file, a brief description of the sources of inputs, operations performed, and where outputs are next used.

7.7(2) Electronic files that are compressed shall be accompanied by software and clear documentation to reverse the process of compression. If the software may be downloaded and used by the board without incurring a fee, the person filing the compressed electronic files may provide a reference to the Web source of the software.

7.7(3) Spreadsheets, workbooks, and databases shall include all cell formulae and cell references to allow board staff to analyze and reproduce calculations.

7.7(4) All electronic files shall be provided in editable form. Any files submitted in portable document format (PDF) shall be accompanied by the original files from which the PDF files were created, in native format and including calculations and formulae.

7.7(5) Electronic information shall be filed in accordance with the board's standards for electronic information unless prior arrangements are made. Standards are available from the board's Records and Information Center, 350 Maple Street, Des Moines, Iowa 50319-0069, and may be reviewed on the board's Web site (www.state.ia.us/iub). If a person proposes to submit electronic information that does not comply with the standards, the person shall contact the executive secretary or general counsel of the board prior to submission. The board or presiding officer may order different requirements and standards for good cause.

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be by first-class mail unless otherwise ordered.

199—7.9(17A,476) Pleadings and answers.

7.9(1) *Pleadings.* Pleadings may be required by statute, rule, or order.

7.9(2) *Answers.*

a. Unless otherwise ordered by the board or presiding officer, answers to complaints, petitions, applications, or other pleadings shall be filed with the board within 20 days after the day on which the pleading being answered was served upon the respondent or other party. However, when a statute or other provision of law requires the board to issue a decision in the case in six months or less, the answer shall be filed with the board within 10 days of service of the pleading being answered, unless otherwise ordered by the board or presiding officer.

b. Each answer must specifically admit, deny, or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support each answer.

c. Any party who deems the complaint, petition, application, or other pleading insufficient to show a breach of legal duty or grounds for relief may move to dismiss instead of, or in addition to, answering.

d. A party may apply for a more definitive and detailed statement instead of, or in addition to, answering, if appropriate.

e. An answer shall substantially comply with the form prescribed in 199—subrule 2.2(8).

7.9(3) *Amendments to pleadings.* Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding upon such terms as are just and reasonable.

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) The board or presiding officer may order the parties to file prefiled testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in board contested case proceedings. If ordered to do so, parties must file the prefiled testimony and exhibits according to the schedule in the procedural order.

7.10(2) Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the board or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three corrections to make, then the corrections should be filed in written form prior to the hearing.

7.10(3) Parties who wish to present a witness or other evidence in a proceeding shall comply with the board's or presiding officer's order concerning prefiled testimony and documentary evidence, unless otherwise ordered, or unless otherwise provided by statute or other provision of law.

7.10(4) Prefiled testimony and exhibits must be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit."

7.10(5) Prefiled testimony and exhibits shall include, where applicable:

a. All supporting workpapers.

(1) Unless otherwise ordered by the board or presiding officer, electronic workpapers in native electronic formats that comply with the standards in rule 7.7(17A,476) shall be provided. Noncompliant electronic workpapers shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

(2) All other workpapers and hard-copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.

(3) Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.

(4) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the standards in rule 7.7(17A,476). Noncompliant electronic computer-generated exhibits shall be

provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

e. Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:

(1) Electronic workpapers - two copies and two hard-copy printouts.

(2) Other workpapers - five copies.

(3) Specific studies or financial literature - two copies.

(4) Computer-generated exhibits - two copies.

7.10(6) If a party has filed part or all of prefiled testimony and exhibits as confidential pursuant to 199—1.9(22), and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the board denies the request to hold the testimony and exhibits confidential, the party must refile the testimony and exhibits without the confidential stamp on each page.

199—7.11(17A,476) Documentary evidence in books and materials. When documentary evidence being offered is contained in a book, report, or other document, the offering party should ordinarily file only the material, relevant portions in an exhibit or read them into the record. If a party offers the entire book, report, or other document containing the evidence being offered, the party shall plainly designate the evidence so offered.

199—7.12(17A,476) Motions. Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. Motions shall substantially comply with the form prescribed in 199—subrule 2.2(14). Motions shall be filed and served pursuant to rule 7.4(17A,476). Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within 7 days of the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at 199—subrules 7.15(4) and 7.15(5).

199—7.13(17A,476) Intervention.

7.13(1) Petition. Unless otherwise ordered by the board or presiding officer, a request to intervene in a proceeding shall be by petition to intervene filed no later than 20 days following the order setting a procedural schedule. However, when a statutory or other provision of law requires the board to issue a decision in the case in six months or less, the petition to intervene must be filed no later than 10 days following the order setting a procedural schedule, unless otherwise ordered by the board or presiding officer. A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10).

7.13(2) Response. Any party may file a response within seven days of service of the petition to intervene unless the time period is extended or shortened by the board or presiding officer.

7.13(3) Grounds for intervention. Any person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the board or presiding officer. In determining whether to grant intervention, the board or presiding officer shall consider:

a. The prospective intervenor's interest in the subject matter of the proceeding;

b. The effect of a decision that may be rendered upon the prospective intervenor's interest;

c. The extent to which the prospective intervenor's interest will be represented by other parties;

d. The availability of other means by which the prospective intervenor's interest may be protected;

e. The extent to which the prospective intervenor's participation may reasonably be expected to assist in the development of a sound record through presentation of relevant evidence and argument; and

f. Any other relevant factors.

7.13(4) In determining the extent to which the prospective intervenor's interest will be represented by other parties, the consumer advocate's role of representing the public interest shall not be interpreted as representing every potential interest in a proceeding.

7.13(5) The board or presiding officer may limit a person's intervention to particular issues or to a particular stage of the proceeding, or may otherwise condition the intervenor's participation in the proceeding. Leave to intervene shall generally be granted by the board or presiding officer to any person with a cognizable interest in the proceeding.

7.13(6) When two or more intervenors have substantially the same interest, the board or presiding officer, in the board's or presiding officer's discretion, may order consolidation of petitions and briefs and limit the number of attorneys allowed to participate actively in the proceedings to avoid a duplication of effort.

7.13(7) A person granted leave to intervene is a party to the proceeding. However, unless the board or presiding officer rules otherwise for good cause shown, an intervenor shall be bound by any agreement, arrangement, or order previously made or issued in the case.

199—7.14(17A,476) Consolidation and severance.

7.14(1) *Consolidation.* The board or presiding officer may consolidate any or all matters at issue in two or more contested cases. When deciding whether to consolidate, the board or presiding officer shall consider:

a. Whether the matters at issue involve common parties or common questions of fact or law;

b. Whether consolidation is likely to expedite or simplify consideration of the issues involved;

c. Whether consolidation would adversely affect the substantial rights of any of the parties to the proceedings; and

d. Any other relevant factors.

7.14(2) *Severance.* The board or presiding officer may order any contested case or portions thereof severed for good cause.

199—7.15(17A,476) Discovery.

7.15(1) Discovery procedures applicable in civil actions are available to parties in contested cases.

7.15(2) Unless otherwise ordered by the board or presiding officer or agreed to by the parties, data requests or interrogatories served by any party shall either be responded to or objected to, with concisely stated grounds for relief, within seven days of receipt. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to five days.

7.15(3) Unless otherwise ordered by the board or presiding officer, time periods for compliance with all forms of discovery other than those stated in subrule 7.15(2) shall be as provided in the Iowa Rules of Civil Procedure.

7.15(4) Prior to filing any motion related to discovery, parties shall make a good-faith effort to resolve discovery disputes without the involvement of the board or presiding officer.

7.15(5) Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within ten days of the filing of the motion unless the time is shortened by order of the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to five days. The board or presiding officer may rule on the basis of the written motion and any response, or may order argument or other proceedings on the motion.

199—7.16(17A,476) Subpoenas.

7.16(1) *Issuance.*

a. An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In the absence of good cause for permitting later action, a request for a subpoena must be received at least seven days before the scheduled hearing.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

7.16(2) *Motion to quash or modify.* Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason.

199—7.17(17A,476) Prehearing conference. An informal conference of parties may be ordered at the discretion of the board or presiding officer or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

199—7.18(17A,476) Settlements. Parties to a contested case may propose to settle all or some of the issues in the case. The board or presiding officer will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

7.18(1) *Proposal of settlements.* Two or more parties may by written motion propose settlements for adoption by the board or presiding officer. The motion shall contain a statement adequate to advise the board or presiding officer and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the board or presiding officer at any time.

7.18(2) *Conference.* After proposal of a settlement that is not supported by all parties, and prior to approval, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the settlement proposal. Written notice of the date, time, and place shall be furnished at least seven days in advance to all parties to the proceeding. Attendance at any settlement conference shall be limited to the parties to a proceeding and their representatives. A party that has been given notice and opportunity to participate in the conference and does not do so shall be deemed to have waived its right to contest a proposed settlement, unless good cause is shown for the failure to participate.

7.18(3) *Comment period.* When a party to a proceeding does not join in a settlement proposed for adoption by the board or presiding officer, the party may file comments contesting all or part of the settlement with the board. Unless otherwise ordered by the board or presiding officer, the party shall file its comments within 14 days of filing of the motion proposing settlement, and shall serve such comments on all parties to the proceeding at the time of filing. Unless otherwise ordered by the board or presiding officer, parties shall file reply comments within 7 days of filing of the comments.

7.18(4) *Contents of comments.* A party contesting a proposed settlement must specify in its comments the portions of the settlement that it opposes, the legal basis of its opposition, and the factual issues that it contests. Any failure by a party to file comments may, at the board's or presiding officer's discretion, constitute waiver by that party of all objections to the settlement.

7.18(5) *Contested settlements.* If the proposed settlement is contested, in whole or in part, on any material issue of fact by any party, the board or presiding officer may schedule a hearing on the contested issue(s). The board or presiding officer may decline to schedule a hearing where the contested issue of fact is not material or where the contested issue is one of law.

7.18(6) *Unanimous proposed settlement.* In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the board or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) shall not apply to a proposed settlement filed concurrently by all parties to the proceeding.

7.18(7) *Inadmissibility.* Any discussion, admission, concession, or offer to settle, whether oral or written, made during any negotiation on a settlement shall be privileged to the extent provided by law, including, but not limited to, Iowa R. Evid. 5.408.

199—7.19(17A,476) Stipulations. Parties to any proceeding or investigation may, by stipulation filed with the board, agree upon the facts or law or any portion thereof involved in the controversy, subject to approval by the board or presiding officer.

199—7.20(17A,476) Investigations. The availability of discovery pursuant to Iowa Code section 17A.13 or the Iowa Rules of Civil Procedure shall not be construed to limit the investigatory powers of the board, its representatives, or the consumer advocate.

199—7.21(17A,476) Withdrawals. A party requesting a contested case proceeding may, with the permission of the board or presiding officer, withdraw that request at any time prior to the issuance of a proposed or final decision in the case.

199—7.22(17A,476) Ex parte communication. Ex parte communication is prohibited as provided in Iowa Code section 17A.17. Parties or their representatives shall not communicate directly or indirectly with the board or presiding officer in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate. The board or presiding officer shall not communicate directly or indirectly with parties or their representatives in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate.

199—7.23(17A,476) Hearings.

7.23(1) *Board or presiding officer.* The board or presiding officer presides at the hearing and may rule on motions and issue such orders and rulings as will ensure the orderly conduct of the proceedings. The board or presiding officer shall maintain the decorum of the hearing and may refuse to admit, may set limits on, or may expel from the hearing anyone whose conduct is disorderly.

7.23(2) *Witnesses.* Each witness shall be sworn or affirmed by the board, presiding officer, or the court reporter and be subject to examination and cross-examination. The board or presiding officer may limit questioning in a manner consistent with law. In appropriate circumstances, the board or presiding officer may order that witnesses testify as members of a witness panel.

7.23(3) *Order of presenting evidence.* The board or presiding officer shall determine the order of the presentation of evidence based on applicable law and the interests of efficiency and justice, taking into account the preferences of the parties. Normally, the petitioner shall open the presentation of evidence. In cases where testimony has been prefiled, each witness shall be available for cross-examination on all testimony prefiled by or on behalf of that witness when the witness takes the stand, either alone or as a member of a witness panel.

7.23(4) *Evidence.*

a. Subject to terms and conditions prescribed by the board or presiding officer, parties have the right to introduce evidence, cross-examine witnesses, and present evidence in rebuttal. Ordinarily, prefiled testimony is used in hearings pursuant to rule 7.10(17A,476). Nonsubstantive corrections to prefiled testimony may be made at the beginning of the testimony. However, if more than three corrections need to be made, the sponsoring party shall file corrected prefiled testimony prior to the hearing. The sponsoring party must provide one copy of prefiled testimony and included exhibits to the court reporter.

b. The board or presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with law.

c. Stipulation of facts is encouraged. The board or presiding officer may make a decision based on stipulated facts.

d. Unless previously included with prefiled testimony, the party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence shall be appropriately marked and made part of the evidentiary record. If an exhibit is admitted, unless previously included with prefiled testimony, the sponsoring party must provide at least one copy of the exhibit to each opposing party, one copy for each

board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered.

e. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with the permission of the board or presiding officer, present the testimony. The board or presiding officer may require the offering party to file a written statement of the excluded oral testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record. Unless previously included with prefiled testimony, the sponsoring party must provide at least one copy of the document or exhibit to each opposing party, one copy for each board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered.

7.23(5) *Objections.* Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. All objections shall be timely made on the record and state the grounds relied on. The board or presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.23(6) *Further evidence.* At any stage during or after the hearing, the board or presiding officer may order a party to present additional evidence and may conduct additional proceedings as appropriate.

7.23(7) *Participation at hearings by nonparties.* The board or presiding officer may permit any person to be heard and to examine and cross-examine witnesses at any hearing, but such person shall not be a party to the proceedings unless so designated. The testimony or statement of any person so appearing shall be given under oath and such person shall be subject to cross-examination by parties to the proceeding, unless the board or presiding officer orders otherwise.

7.23(8) *Briefs.*

a. Unless waived by the parties with the consent of the board or presiding officer, the board or presiding officer shall set times for the filing and service of briefs. Unless otherwise ordered by the board or presiding officer, initial briefs shall be filed simultaneously by all parties and reply briefs shall be filed simultaneously.

b. Unless otherwise ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).

c. Initial briefs shall contain a concise statement of the case. Arguments based on evidence introduced during the proceeding shall specify the portions of the record where the evidence is found. Initial briefs shall include all arguments the party intends to offer in support of its case and against the record case of the adverse party or parties. Unless otherwise ordered, a reply brief shall be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party's failure to address an issue by brief shall not be deemed a waiver of that issue and shall not preclude the board or presiding officer from deciding the issue on the basis of evidence appearing in the record.

d. Every brief of more than 20 pages shall contain on its front leaves a table of contents with page references. Each party's initial brief shall not exceed 90 pages and each subsequent brief shall not exceed 40 pages, exclusive of the table of contents, unless otherwise ordered. Such orders may be issued ex parte. A brief that exceeds these page limits shall be deemed a defective filing and may be rejected as provided in subrule 7.4(5).

e. Briefs shall comply with the following requirements.

(1) The size of pages shall be 8½ by 11 inches.

(2) All printed matter must appear in at least 11-point type.

(3) There shall be margins of at least one inch on the top, bottom, right, and left sides of the sheet.

(4) The body of the brief shall be double-spaced.

(5) Footnotes may be single-spaced but shall not exceed one-half page in length.

(6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

7.23(9) *Oral arguments.* The board or presiding officer may set a time for oral argument at the conclusion of the hearing, or may set a separate date and time for oral argument. The board or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party's failure to address an issue in oral argument shall not be deemed a waiver of the issue.

7.23(10) *Record.* The record of the case is maintained in the board's records and information center at the office of the board. Unless held confidential pursuant to 199—1.9(22), parties and members of the public may examine the record and obtain copies of documents other than the transcript. The transcript will be available for public examination, but copying of the transcript may be restricted by the terms of the contract with the court reporting service.

7.23(11) *Default.*

a. If a party fails to appear at a hearing after proper service of notice, or fails to answer or otherwise respond to an appropriate pleading directed to and properly served upon that party, the board or presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the board or presiding officer. However, within 15 days after the date of notification or mailing of the decision, a motion to vacate may be filed with the board. The motion to vacate must state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts must be substantiated by affidavit attached to the motion. Unless otherwise ordered, adverse parties shall have 10 days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the board may review it on the board's own motion within 15 days after the date of notification or mailing of the decision.

c. The time for appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

d. Properly substantiated and timely filed motions to vacate shall be granted for good cause shown. The burden of proof as to good cause is on the moving party. "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

e. A presiding officer's decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case. A presiding officer's decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 7.25(17A,476).

f. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the board or presiding officer shall schedule another hearing and the contested case shall proceed accordingly.

g. A default decision may award any relief consistent with the record in the case. The default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a timely motion to vacate, an appeal pursuant to rule 7.26(17A,476), or a request for stay pursuant to rule 7.28(17A,476).

199—7.24(17A,476) Reopening record. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record shall be made prior to the expiration of the time for appeal from the proposed decision, and the motion shall stay the time for filing an appeal. A motion to reopen the record shall substantially comply with the form prescribed in 199—subrule 2.2(12). Affidavits of witnesses who will present new evidence shall be attached to the motion and shall include an explanation of the competence of the witness to sponsor the evidence and a description of the evidence to be included in the record.

199—7.25(17A,476) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the board may consider the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision would provide an adequate remedy. Any request for interlocutory review must be filed within ten days of issuance of the challenged order, but no later than the time for compliance with the order or ten days prior to the date of hearing, whichever is first.

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. A copy of the presiding officer's proposed decision and order in a contested case shall be sent by first-class mail, on the date the order is issued, to the last-known address of each party. The decision shall normally include "Proposed Decision and Order" in the title and shall inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

7.26(2) Appeal from proposed decision. A proposed decision and order of the presiding officer in a contested case shall become the final decision of the board unless, within 15 days after the decision is issued, the board moves to review the decision or a party files an appeal of the decision with the board. The presiding officer may shorten the time for appeal. In determining whether a request for a shortened appeal period should be granted, the presiding officer may consider the needs of the parties for a shortened appeal period, relevant objections of the parties, the relevance of any written objections filed in the case, and whether there are any issues that indicate a need for the 15-day appeal period.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. The appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.

7.26(4) The board shall not consider any claim of error based on evidence which was not introduced before the presiding officer. Newly discovered material evidence must be presented to the presiding officer pursuant to a motion to reopen the record, unless the board orders otherwise.

7.26(5) Contents of notice of appeal. The notice of appeal shall include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules.

a. A brief statement of the facts.

b. A brief statement of the history of the proceeding, including the date and a description of any ruling claimed to be erroneous.

c. A statement of each of the issues to be presented for review.

d. A precise description of the error(s) upon which the appeal is based. If a claim of error is based on allegations that the presiding officer failed to correctly interpret the law governing the proceeding, exceeded the authority of a presiding officer, or otherwise failed to act in accordance with law, the appellant shall include a citation to briefs or other documents filed in the proceeding before the presiding officer where the legal points raised in the appeal were discussed. If a claim of error is based on allegations that the presiding officer failed to give adequate consideration to evidence introduced at hearing, the appellant shall include a citation to pages of the transcript or other documents where the evidence appears.

e. A precise statement of the relief requested.

f. A statement as to whether an opportunity to file a brief or make oral argument in support of the appeal is requested and, if an opportunity is sought, a statement explaining the manner in which briefs and arguments presented to the presiding officer are inadequate for purposes of appeal.

g. Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

7.26(6) Responsive filings and cross-appeals. If parties wish to respond to the notice of appeal, or file a cross-appeal, they must file the response or notice of cross-appeal within 14 days after the filing of the notice of appeal, unless otherwise ordered by the board. When a statutory or other provision of law

requires the board to issue a decision in the case in less than six months, the response or cross-appeal must be filed within 7 days of filing the notice of appeal.

a. Responses shall specifically respond to each of the substantive paragraphs of the notice of appeal and shall state whether an opportunity to file responsive briefs or to participate in oral argument is requested.

b. Parties who file a cross-appeal must comply with the requirements for filing a notice of appeal contained in this rule, other than the requirement to file notice of the cross-appeal within 15 days after the proposed decision is issued.

7.26(7) Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the board shall issue an order that may establish a procedural schedule for the appeal or may be the board's final decision on the merits of the appeal.

199—7.27(17A,476) Rehearing and reconsideration.

7.27(1) *Application for rehearing or reconsideration.* Any party to a contested case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the contested case is issued. This subrule shall not be construed as prohibiting reconsideration of board orders in other than contested cases.

7.27(2) *Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included. An application shall substantially comply with the form prescribed in 199—subrule 2.2(13).

7.27(3) *Requirements for objections to applications for rehearing or reconsideration.* Notwithstanding the provisions of subrule 7.9(2), an answer or objection to an application for a rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board. The answer or objection to the application shall substantially comply with the form prescribed in 199—subrule 2.2(8).

199—7.28(17A,476) Stay of agency decision.

7.28(1) Any party to a contested case proceeding may petition the board for a stay or other temporary remedy pending judicial review of the proceeding. The petition shall state the reasons justifying a stay or other temporary remedy and be served on all other parties pursuant to subrule 7.4(6).

7.28(2) In determining whether to grant a stay, the board shall consider the factors listed in Iowa Code section 17A.19(5)(c).

7.28(3) A stay may be vacated by the board upon application of any party.

199—7.29(17A,476) Emergency adjudicative proceedings.

7.29(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue an emergency adjudicative order in compliance with Iowa Code section 17A.18A to order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency. Before issuing an emergency adjudicative order, the board may consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to provide reasonably reliable information under the circumstances;

b. Whether the specific circumstances that pose immediate danger to the public health, safety, or welfare are likely to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

7.29(2) *Issuance of order.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the board's discretion, to justify the determination of an immediate danger and the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by the most reasonably available method, which may include one or more of the following methods: personal delivery; certified mail; first-class mail; fax; or E-mail. To the degree practical, the board shall select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the board shall make reasonable efforts to contact the persons who are required to comply with the order by telephone, in person, or otherwise.

7.29(3) *Completion of proceedings.* Issuance and delivery of a written emergency adjudicative order will normally include notification of a procedural schedule for completion of the proceedings.

These rules are intended to implement Iowa Code chapter 17A and sections 474.5 and 476.2.

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2 Effective date of 7.4(1)*"f"*(2) delayed 70 days by Administrative Rules Review Committee.

3 See Utilities Division, IAB 7/30/86

4 Effective date of subrule 7.1(8) delayed 70 days by the Administrative Rules Review Committee at its meeting held October 10, 2006.

CHAPTER 8
CIVIL PENALTIES
[Prior to 10/8/86, Commerce Commission[250]]

199—8.1(476) Civil penalty for willful violation. The board may assess a penalty against a public utility upon finding that the utility willfully violated a provision of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board.

A willful violation exists where the evidence shows that the utility intentionally or knowingly violated a board rule, a provision of an order lawfully issued by the board in a proceeding involving the same utility, or a provision of Iowa Code chapter 476.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

199—8.2(476) Procedure. A request for imposition of civil penalties must be made within 180 days of the date the party filing the request knew or should have known of the alleged violation. The request shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made. The request shall be in writing and must be delivered by United States Postal Service or personal service. The 180-day limit is tolled by commencing an informal complaint proceeding in accordance with Iowa Administrative Code 199—Chapter 6.

8.2(1) *Request by nonboard party.* As a part of a request for a formal proceeding in accordance with Iowa Administrative Code 199—6.5(476) or as part of any other contested case proceeding, the consumer advocate or any other person may request the board to impose civil penalties against a utility for a willful violation of a provision of Iowa Code chapter 476, a board rule, or an order lawfully issued by the board in a proceeding involving the same utility.

In a complaint proceeding, the request for imposition of civil penalties must appear on the face of a request for formal proceeding filed in accordance with the provisions of Iowa Administrative Code 199—Chapter 6. Upon receiving approval from the board, a party may amend its request for a formal proceeding to request the board to impose civil penalties at any time prior to the close of the submission of evidence. In any other contested case proceeding, the request must be made by written motion prior to the close of the submission of evidence.

8.2(2) *Board request.* On its own motion, the board may raise the issue of imposing civil penalties against a utility for a willful violation of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board in a proceeding involving the same utility, as part of a contested case proceeding with adequate notice or by commencing a formal complaint proceeding in accordance with the provisions of Iowa Administrative Code 199—Chapter 6.

8.2(3) *Hearing.* If necessary, a hearing shall be held in accordance with the provisions of Iowa Administrative Code 199—Chapter 6 where there is an issue of adjudicative fact. The utility may waive its right to a hearing. A separate hearing on an adjudicative fact is not required if the same issue of adjudicative fact has been fully litigated by the identical parties with adequate notice as part of a contested case proceeding.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

199—8.3(476) Penalties assessed. The board, in its discretion, may levy penalties of not more than $100 per violation or $1000 per day of a continuing violation, whichever is greater.

In determining the amount of penalty to be imposed for a willful violation, the board may consider the following factors in exercising its statutory discretion to impose civil penalties up to the maximum amount:

1. Gravity of the offense;
2. The utility's prior record of Code, rule, and order violations;
3. The actual or potential harm or injury to an individual or the public resulting from the violation.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

199—8.4(476) Payment of penalty. The remittance shall be made payable to the Iowa Utilities Board and forwarded to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. Remittance must be made within 35 days after final agency action.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

199—8.5(476) Rate-regulated utilities. A penalty assessed by the board pursuant to this rule against a utility must be recorded by the utility as a below-the-line, miscellaneous deduction from the income account and shall not be included directly or indirectly in the utility's rates or charges to customers.

This rule is intended to implement Iowa Code sections 476.20 and 476.51.

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CHAPTER 9
RESTORATION OF AGRICULTURAL LANDS DURING AND AFTER PIPELINE CONSTRUCTION

199—9.1(479,479B) General information.

9.1(1) *Authority.* The standards contained herein are prescribed by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29 and 479B.20, relating to land restoration standards for pipelines. The requirements of this chapter do not apply to land located within city boundaries, unless the land is used for agricultural purposes, or to interstate natural gas pipelines.

9.1(2) *Purpose.* The purpose of this chapter is to establish standards for the restoration of agricultural lands during and after pipeline construction. Agricultural lands disturbed by pipeline construction shall be restored in compliance with these rules. The rules in this chapter shall constitute the minimum land restoration standards for any pipeline construction for which a project-specific plan is not required. When a project-specific land restoration plan is required, following notice and comment, the board may impose additional or more stringent standards as necessary to address issues specific to the nature and location of the particular pipeline project.

9.1(3) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

a. *"Agricultural land"* shall mean:

(1) Land which is presently under cultivation, or

(2) Land which has previously been cultivated and not subsequently developed for nonagricultural purposes, or

(3) Cleared land capable of being cultivated.

b. *"Drainage structures"* or *"underground improvements"* means any permanent structure used for draining agricultural lands, including tile systems and buried terrace outlets.

c. *"Landowner"* means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property.

d. *"Pipeline"* means any pipe, pipes, or pipelines used for the transportation or transmission of any solid, liquid, or gaseous substance, except water, in intrastate or interstate commerce.

e. *"Pipeline company"* means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines.

f. *"Pipeline construction"* means a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

g. *"Proper notice"* to the county inspector means that the pipeline company or its contractor shall keep the person responsible for the inspection continually informed of the work schedule and any schedule changes, and shall provide at least 24 hours' written notice before trenching, permanent tile repair, or backfilling is undertaken at any specific location. The pipeline company may request that the county inspector designate a person to receive such notices.

h. *"Soil conservation practices"* means any land conservation practice recognized by federal or state soil conservation agencies including, but not limited to, grasslands and grassed waterways, hay land planting, pasture, and tree plantings.

i. *"Soil conservation structures"* means any permanent structure recognized by federal or state soil conservation agencies including but not limited to toe walls, drop inlets, grade control works, terraces, levees, and farm ponds.

j. *"Till"* means to loosen the soil in preparation for planting or seeding by plowing, chiseling, discing, or similar means. For the purposes of this chapter, agricultural land planted using no-till planting practices is also considered tilled.

k. *"Topsoil"* means the upper part of the soil which is the most favorable material for plant growth and which can ordinarily be distinguished from subsoil by its higher organic content and darker color.

199—9.2(479,479B) Filing of land restoration plans. For intrastate natural gas and all hazardous liquid pipeline projects, land restoration plans shall be prepared and filed with the appropriate petition pursuant to Iowa Code section 479.29(9) or 479B.20(9) and this chapter for pipeline construction projects which require a pipeline permit from the Iowa utilities board, or for amendments to permits that propose pipeline construction or relocation.

9.2(1) *Content of plan.* A land restoration plan shall include but not be limited to the following:

a. A brief description of the purpose and nature of the pipeline construction project.

b. A description of the sequence of events that will occur during pipeline construction.

c. A description of how compliance with subrules 9.4(1) to 9.4(10) will be accomplished.

d. The point of contact for landowner inquiries or claims as provided for in rule 9.5(479,479B).

9.2(2) *Plan variations.* The board may by waiver accept variations from this chapter in such plans if the pipeline company is able to satisfy the standards set forth in 199 IAC 1.3(17A,474,476) and if the alternative methods would restore the land to a condition as good as or better than provided for in this chapter.

9.2(3) *Mitigation plans and agreements.* Preparation of a separate land restoration plan may be waived by the board if an agricultural impact mitigation or similar agreement is reached by the pipeline company and the appropriate agencies of the state of Iowa and the requirements of this chapter are substantively satisfied therein. If a mitigation plan or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and shall be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

199—9.3(479,479B) Procedure for review of plan.

9.3(1) An intrastate natural gas pipeline company, or a hazardous liquid pipeline company, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.

9.3(2) After the board has accepted the plan, but prior to construction, the pipeline company shall provide copies of the plan to all landowners of property that will be disturbed by the construction, and to the county board of supervisors and the county engineer of each affected county.

199—9.4(479,479B) Restoration of agricultural lands.

9.4(1) *Topsoil separation and replacement.*

a. *Removal.* Topsoil removal and replacement in accordance with this rule is required for any open excavation associated with the construction of a pipeline unless otherwise provided in these rules. The actual depth of the topsoil, not to exceed 36 inches, will first be stripped from the area to be excavated above the pipeline and, to a maximum of 12 inches, from the adjacent subsoil storage area. Topsoil shall also be removed and replaced in accordance with these rules at any location where land slope or contour is significantly altered to facilitate construction. A pipeline company shall, upon a landowner's request, measure topsoil depth at selected locations before and after construction.

b. *Soil storage.* The topsoil and subsoil shall be segregated, stockpiled, and preserved separately during subsequent construction operations. The stored topsoil and subsoil shall have sufficient separation to prevent mixing during the storage period. Topsoil shall not be used to construct field entrances or drives, or be otherwise removed from the property, without the written consent of the landowner. Topsoil shall not be stored or stockpiled at locations that will be used as a traveled way by construction equipment without the written consent of the landowner.

c. *Topsoil removal not required.* Topsoil removal is not required where the pipeline is installed by plowing, jacking, boring, or other methods which do not require the opening of a trench. If provided for in a written agreement with the landowner, topsoil removal is not required if the pipeline can be installed in a trench with a top width of 18 inches or less.

d. Backfill. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface, and the cover layer of the area used for subsoil storage, contain only the topsoil originally removed. The depth of the replaced topsoil shall conform as nearly as possible to the depth removed. Where excavations are made for road, stream, drainage ditch, or other crossings, the original depth of topsoil shall be replaced as nearly as possible.

9.4(2) *Temporary and permanent repair of drain tile.*

a. Pipeline clearance from drain tile. Where underground drain tile is encountered, the pipeline shall be installed in such a manner that the permanent tile repair can be installed with at least 12 inches of clearance from the pipeline.

b. Temporary repair. The following standards shall be used to determine if temporary repair of agricultural drainage tile lines encountered during pipeline construction is required.

(1) Any underground drain tile damaged, cut, or removed and found to be flowing or which subsequently begins to flow shall be temporarily repaired as soon as practicable, and the repair shall be maintained as necessary to allow for its proper function during construction of the pipeline. The temporary repairs shall be maintained in good condition until permanent repairs are made.

(2) If tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repair is made within ten days of the time the damage occurred.

(3) Temporary repair is not required if the angle between the trench and the tile lines places the tile end points too far apart for temporary repair to be practical.

(4) If temporary repair of the line is not made, the upstream exposed tile line shall not be obstructed but shall nonetheless be screened or otherwise protected to prevent the entry of foreign materials and small animals into the tile line system, and the downstream tile line entrance shall be capped or filtered to prevent entry of mud or foreign material into the line if the water level rises in the trench.

c. Marking. Any underground drain tile damaged, cut, or removed shall be marked by placing a highly visible flag in the trench spoil bank directly over or opposite such tile. This marker shall not be removed until the tile has been permanently repaired and the repairs have been approved and accepted by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

d. Permanent repairs. Tile disturbed or damaged by pipeline construction shall be repaired to its original or better condition. Permanent repairs shall be completed as soon as is practical after the pipeline is installed in the trench and prior to backfilling of the trench over the tile line. Permanent repair and replacement of damaged drain tile shall be performed in accordance with the following requirements:

(1) All damaged, broken, or cracked tile shall be removed.

(2) Only unobstructed tile shall be used for replacement.

(3) The tile furnished for replacement purposes shall be of a quality, size and flow capacity at least equal to that of the tile being replaced.

(4) Tile shall be replaced so that its original gradient and alignment are restored, except where relocation or rerouting is required for angled crossings. Tile lines at a sharp angle to the trench shall be repaired in the manner shown on Drawing No. IUB PL-1 at the end of this chapter.

(5) The replaced tile shall be firmly supported to prevent loss of gradient or alignment due to soil settlement. The method used shall be comparable to that shown on Drawing No. IUB PL-1 at the end of this chapter.

(6) Before completing permanent tile repairs, all tile lines shall be examined visually, by probing, or by other appropriate means on both sides of the trench within any work area to check for tile that might have been damaged by construction equipment. If tile lines are found to be damaged, they must be repaired to operate as well after construction as before construction began.

e. Inspection. Prior to backfilling of the applicable trench area, each permanent tile repair shall be inspected for compliance by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

f. Backfilling. The backfill surrounding the permanently repaired drain tile shall be completed at the time of the repair and in a manner that ensures that any further backfilling will not damage or misalign the repaired section of the tile line. The backfill shall be inspected for compliance by the county inspector.

If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

g. Subsurface drainage. Subsequent to pipeline construction and permanent repair, if it becomes apparent the tile line in the area disturbed by construction is not functioning correctly or that the land adjacent to the pipeline is not draining properly, which can reasonably be attributed to the pipeline construction, the pipeline company shall make further repairs or install additional tile as necessary to restore subsurface drainage.

9.4(3) *Removal of rocks and debris from the right-of-way.*

a. Removal. The topsoil, when backfilled, and the easement area shall be free of all rock larger than three inches in average diameter not native to the topsoil prior to excavation. Where rocks over three inches in size are present, their size and frequency shall be similar to adjacent soil not disturbed by construction. The top 24 inches of the trench backfill shall not contain rocks in any greater concentration or size than exist in the adjacent natural soils. Consolidated rock removed by blasting or mechanical means shall not be placed in the backfill above the natural bedrock profile or above the frost line. In addition, the pipeline company shall examine areas adjacent to the easement and along access roads and shall remove any large rocks or debris which may have rolled or blown from the right-of-way or fallen from vehicles.

b. Disposal. Rock which cannot remain in or be used as backfill shall be disposed of at locations and in a manner mutually satisfactory to the company and the landowner. Soil from which excess rock has been removed may be used for backfill. All debris attributable to the pipeline construction and related activities shall be removed and disposed of properly. For the purposes of this rule, debris shall include spilled oil, grease, fuel, or other petroleum or chemical products. Such products and any contaminated soil shall be removed for proper disposal or treated by appropriate in situ remediation.

9.4(4) *Restoration after soil compaction and rutting.*

a. Agricultural restoration. Agricultural land, including off right-of-way access roads traversed by heavy construction equipment that will be removed, shall be deep tilled to alleviate soil compaction upon completion of construction on the property. If the topsoil was removed from the area to be tilled, the tillage shall precede replacement of the topsoil. At least three passes with the deep tillage equipment shall be made. Tillage shall be at least 18 inches deep in land used for crop production and 12 inches deep on other lands and shall be performed under soil moisture conditions which permit effective working of the soil. Upon agreement, this tillage may be performed by the landowners or tenants using their own equipment.

b. Rutted land restoration. Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. On land from which topsoil was removed, the rutting shall be remedied before the topsoil is replaced.

9.4(5) *Restoration of terraces, waterways, and other erosion control structures.* Existing soil conservation practices and structures damaged by the construction of a pipeline shall be restored to the elevation and grade existing prior to the time of pipeline construction. Any drain lines or flow diversion devices impacted by pipeline construction shall be repaired or modified as needed. Soil used to repair embankments intended to retain water shall be well compacted. Disturbed vegetation shall be reestablished, including a cover crop when appropriate. Restoration of terraces shall be in accordance with Drawing No. IUB PL-2 at the end of this chapter. Such restoration shall be inspected for compliance by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

9.4(6) *Revegetation of untilled land.*

a. Crop production. Agricultural land not in row crop or small grain production at the time of construction, including hay ground and land in conservation or set-aside programs, shall be reseeded, including use of a cover crop when appropriate, following completion of deep tillage and replacement of the topsoil. The seed mix used shall restore the original or a comparable ground cover unless otherwise requested by the landowner. If the land is to be placed in crop production the following year, paragraph *"b"* below shall apply.

b. Delayed crop production. Agricultural land used for row crop or small grain production which will not be planted in that calendar year due to the pipeline construction shall be seeded with an appropriate cover crop following replacement of the topsoil and completion of deep tillage. However, cover crop seeding may be delayed if construction is completed too late in the year for a cover crop to become established and in such instances is not required if the landowner or tenant proposes to till the land the following year. The landowner may request ground cover where the construction is completed too late in the year for a cover crop to become established to prevent soil erosion.

9.4(7) *Future installation of drain tile or soil conservation structures.*

a. Future drain tile. At locations where the proposed installation of underground drain tile is made known in writing to the company prior to the securing of an easement on the property and has been defined by a qualified technician, the pipeline shall be installed at a depth which will permit proper clearance between the pipeline and the proposed tile installation. The pipeline company shall consult with the landowner concerning the landowner's plans for future drain tile installation.

b. Future practices and structures. At locations where the proposed installation of soil conservation practices and structures is made known in writing to the company prior to the securing of an easement on the property and has been defined by a qualified technician, the pipeline shall be installed at a depth which will allow for future installation of such soil conservation practices and structures and retain the integrity of the pipeline. The pipeline company shall consult with the landowner concerning the landowner's plans for future installation of soil conservation practices and structures.

9.4(8) *Restoration of land slope and contour.* Upon completion of construction, the slope, contour, grade, and drainage pattern of the disturbed area shall be restored as nearly as possible to its preconstruction condition. However, the trench may be crowned to allow for anticipated settlement of the backfill. Excessive or insufficient settlement of the trench area, which visibly affects land contour or undesirably alters surface drainage, shall be remediated by means such as regrading and, if necessary, import of appropriate fill material. Disturbed areas in which erosion causes formation of rills or channels, or areas of heavy sediment deposition, shall be regraded as needed. On steep slopes, methods such as sediment barriers, slope breakers, or mulching shall be used as necessary to control erosion until vegetation can be reestablished.

9.4(9) *Restoration of areas used for field entrances and temporary roads.* Upon completion of construction and land restoration, field entrances or temporary roads built as part of the construction project shall be removed and the land made suitable for return to its previous use. Areas affected shall be regraded as required by subrule 9.4(8) and deep tilled as required by subrule 9.4(4). If by agreement or at landowner request, and subject to any necessary approval by local public road authorities, a field entrance or road is to be left in place, it shall be left in a graded and serviceable condition.

9.4(10) *Construction in wet conditions.* Construction in wet soil conditions shall not commence or continue at times when or locations where the passage of heavy construction equipment may cause rutting to the extent that the topsoil and subsoil are mixed, or underground drainage structures may be damaged. To facilitate construction in soft soils, the pipeline company may elect to remove and stockpile the topsoil from the traveled way, install mats or padding, or use other methods acceptable to the county inspector. Topsoil removal, storage, and replacement shall comply with subrule 9.4(1).

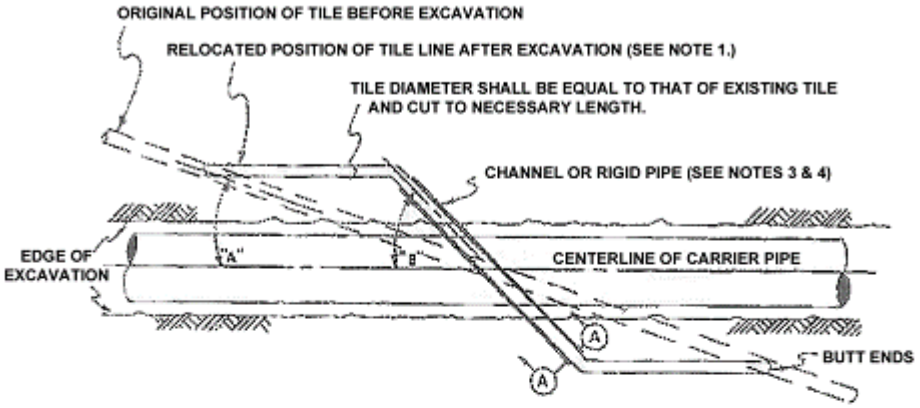
199—9.5(479,479B) Designation of a pipeline company point of contact for landowner inquiries or claims. For each pipeline construction project subject to this chapter, the pipeline company shall designate a point of contact for landowner inquiries or claims. The designation shall include the name of an individual to contact and a toll-free telephone number and address through which that person can be reached. This information shall be provided to all landowners of property that will be disturbed by the pipeline project prior to commencement of construction. Any change in the point of contact shall be promptly communicated in writing to landowners. A designated point of contact shall remain available for all landowners for at least one year following completion of construction and for landowners with unresolved damage claims until such time as those claims are settled.

199—9.6(479,479B) Separate agreements. This chapter does not preclude the application of provisions for protecting or restoring property that are different from those contained in this chapter, or in a land restoration plan, which are contained in easements or other agreements independently executed by the pipeline company and the landowner. The alternative provision shall not be inconsistent with state law or these rules. The agreement shall be in writing and a copy provided to the county inspector. The pipeline company may request that the county designate a specific person to receive the agreements.

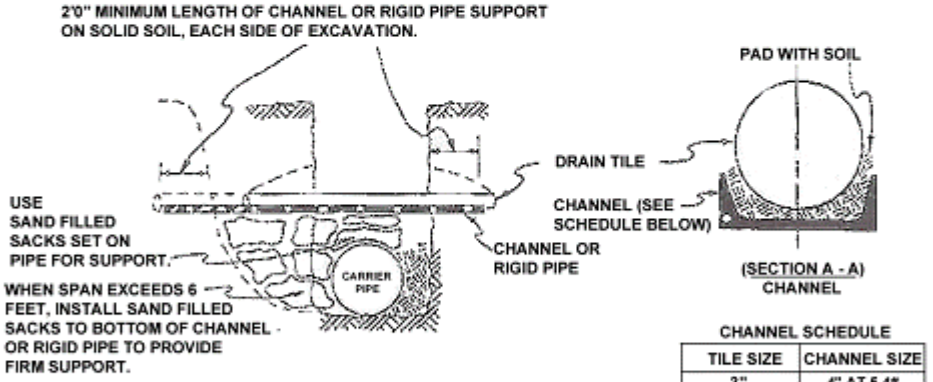
199—9.7(479,479B) Enforcement. A pipeline company shall fully cooperate with county inspectors in the performance of their duties under Iowa Code sections 479.29 and 479B.20, including giving proper notice of trenching, permanent tile repair, or backfilling. If the pipeline company or its contractor does not comply with the requirements of Iowa Code section 479.29 or 479B.20, with the land restoration plan, or with an independent agreement on land restoration or line location, the county board of supervisors may petition the utilities board for an order requiring corrective action to be taken or seeking imposition of civil penalties, or both. Upon receipt of a petition from the county board of supervisors, the board will schedule a hearing and such other procedures as appropriate. The county will be responsible for investigation and for prosecution of the case before the board.

Drawing No. IUB PL-1

RESTORATION OF DRAIN TILE



(PLAN VIEW)



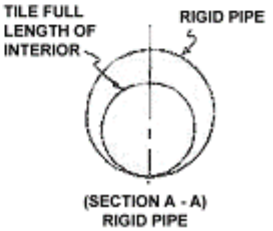
(METHOD OF SUPPORT - - ELEVATION)

CHANNEL SCHEDULE

TILE SIZE	CHANNEL SIZE
3"	4" AT 5.4#
4" - 5"	5" AT 6.7#
6" - 9"	7" AT 9.8#
10" & LARGER	10" AT 15.3#

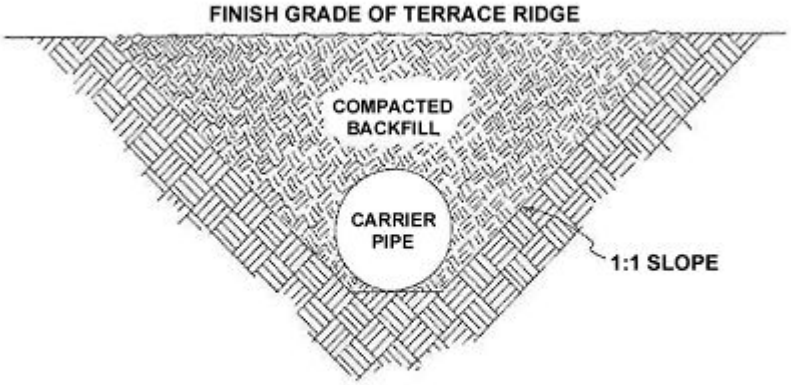
NOTES:

1. TILE SHALL BE RELOCATED AS SHOWN WHEN ANGLE "A" BETWEEN PIPELINE AND ORIGINAL TILE IS LESS THAN 20° UNLESS OTHERWISE AGREED TO BY LANDOWNER AND COMPANY.
2. ANGLE "B" SHALL BE 45° FOR USUAL WIDTHS OF TRENCH. FOR EXTRA WIDTHS, IT MAY BE GREATER.
3. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
4. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF THE ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL SECTIONS SHOWN AND IF APPROVED BY THE LANDOWNER.



Drawing No. IUB PL-2

RESTORATION OF TERRACE



NOTE:

COMPACTION OF BACKFILL TO BE EQUAL TO THAT OF THE UNDISTURBED ADJACENT SOIL.

IUB PL-2

These rules are intended to implement Iowa Code sections 479.29 and 479B.20.

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CHAPTER 10
INTRASTATE GAS AND UNDERGROUND GAS STORAGE
[Prior to 10/8/86, Commerce Commission[250]]

199—10.1(479) General information.

10.1(1) *Authority.* The standards relating to intrastate gas and underground gas storage in this chapter are prescribed by the Iowa utilities board (board) pursuant to Iowa Code section 479.17.

10.1(2) *Purpose.* The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities.

10.1(3) *Definitions.* Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

"Approximate right angle" means within 5 degrees of a 90 degree angle.

"Board" means the utilities board within the utilities division of the department of commerce.

"Multiple line crossing" means a point at which a proposed pipeline will either overcross or undercross an existing pipeline.

"Permit" means a new, amended, or renewal permit issued after appropriate application to and determination by the board.

"Pipeline" means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

"Pipeline company" means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

"Renewal permit" means the extension and reissuance of a permit after appropriate application to and determination by the board.

"Underground storage" means storage of gas in a subsurface stratum or formation of the earth.

10.1(4) *Railroad crossings.* Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

199—10.2(479) Petition for permit.

10.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed. Required exhibits shall be in the following form:

a. *Exhibit A.* A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with such other information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.

If it becomes apparent that there will be deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in that area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

b. *Exhibit B.* Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of such maps shall be filed. The maps may be to any scale appropriate for the level of detail

to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated.

(2) The name of the county, county and section lines, and section, township and range numbers.

(3) The location and identity of public roads, railroads, major streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

c. *Exhibit C.* A showing on forms prescribed by this board of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent.

d. *Exhibit D.* Satisfactory attested proof of solvency and financial ability to pay damages in the sum of $250,000 or more; or surety bond satisfactory to this board in the penal sum of $250,000 with surety approved by this board, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to this board as a guarantee for the payment of damages in the sum of $250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of $250,000.

e. *Exhibit E.* Consent or other showing of right of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition and hearing shall be filed with the petition.

If the exact and specific route is uncertain at the time of petition, a statement shall be made by petitioner that all consents or other showing of right will be obtained prior to construction and copies filed with this board.

f. *Exhibit F.* This exhibit shall contain the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. *Exhibit G.* If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. *Exhibit H.* This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and for each such property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the line to the rights being sought.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B).

j. Underground storage. If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

10.2(2) Petitions proposing new pipeline construction on an existing easement where the company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

A petition for permit proposing a new pipeline construction on an existing easement where the company has previously constructed a pipeline will not be acted upon by the board if a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration, or court action. This paragraph will not apply if the damage claim is under litigation or arbitration.

10.2(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction will not be acted upon by the board if the company does not have on file with the board a written statement as to how damages resulting from the construction of the pipeline shall be determined and paid.

The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

b. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

c. Nothing in this rule shall prevent a party from negotiating with the company for terms which are different, more specific, or in addition to the statement filed with the board.

This rule is intended to implement Iowa Code sections 479.5, 479.17, 479.26, 479.42, and 479.43.

199—10.3(479) Informational meetings. Informational meetings shall be held for any proposed pipeline project over five miles in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure of over 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or rights therein would be affected. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit and shall comply with the following:

10.3(1) *Facilities.* Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

10.3(2) *Location.* The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit.

10.3(3) *Route deviation.* Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.

10.3(4) *Notices.* Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the board; a map showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3)*"b."*

b. The prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose address is known. The certified meeting notice shall be deposited in the U.S. mails not less than 30 days prior to the date of the meeting.

c. The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties whose residence is not known provided a good-faith effort to notify can be demonstrated by the pipeline company.

10.3(5) *Personnel.* The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

a. Service requirements and planning which have resulted in the proposed project.

b. When the pipeline will be constructed.

c. In general terms, the elements involved in pipeline construction.

d. In general terms, the rights which the prospective petitioner will seek to acquire through easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

10.3(6) *Coordinating with board.* The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

This rule is intended to implement Iowa Code section 479.5.

199—10.4(479) Notice of hearing.

10.4(1) When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 199—10.8(479). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to or at the hearing.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

10.4(2) If a petition for permit seeks the right of eminent domain, petitioner shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to the owners and parties in possession of lands over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to their last known address, and this notice shall be mailed not later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all addresses to which notice was sent by certified mail and the date of the mailing.

10.4(3) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained, a copy of the notice of hearing shall be served upon the owners and parties in possession of those lands. Service shall be by ordinary mail, addressed to the last known address, mailed not later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all parties to which it was mailed and the date of mailing, shall be filed with the board not less than five days prior to the hearing.

199—10.5(479) Objections. All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection shall be filed with the secretary of this board not less than five days prior to date of hearing. This board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet such objections.

199—10.6(479) Hearing. Hearing shall be not less than 10 or more than 30 days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of this board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of this board or at any other place within the state of Iowa as this board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.

199—10.7(479) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit shall be issued. Otherwise the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed

within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

A pipeline permit shall normally expire 25 years from date of issue. No permit shall ever be granted for a longer period than 25 years.

199—10.8(479) Renewal permits. A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and prior to expiration of the permit. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by 199—10.4(479). Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

199—10.9(479) Amendment of permits.

10.9(1) An amendment of pipeline permit by the board is required in any of the following circumstances:

a. Construction of a pipeline paralleling an existing line of petitioner;

b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);

c. Relocation of an existing pipeline of petitioner which:

(1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or

(2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 199—10.3(479) shall be held for these relocations.

d. Contiguous extension of an underground storage area of petitioner; or

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

10.9(2) Petition for amendment. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by this board, an amendment to the permit will be issued. Such amendment shall be subject to the same conditions with respect to completion of construction within two years and the filing of final routing maps as attached to pipeline permits.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

199—10.10(479) Fees and expenses.

10.10(1) *Permit expenses.* The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting a pipeline permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

10.10(2) *Construction inspection.* The petitioner shall reimburse the board for the actual unrecovered expenses incurred due to inspection of pipeline construction or testing activities following from a permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

10.10(3) *Annual inspection fee.* A pipeline company shall pay an annual inspection fee on all pipelines under permit of 50 cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state of Iowa. The fee shall be paid for the calendar year in advance between January 1 and February 1 of each year. When new pipeline subject to the fee is installed, the fee shall be paid beginning the following calendar year. Pipelines removed from service shall remain subject to the fee until the calendar year following the year the board is notified of the removal from service in accordance with rule 10.18(479).

199—10.11(479) Inspections. This board shall from time to time examine the construction, maintenance and condition of pipelines, underground storage facilities and equipment used in connection with pipelines or facilities in the state of Iowa to determine if the same are unsafe or dangerous and whether they comply with the appropriate standards of pipeline safety. One or more members of this board, or one or more duly appointed representatives of the board may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

199—10.12(479) Standards for construction, operation and maintenance.

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through June 27, 2007.

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through June 27, 2007.

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through June 27, 2007.

d. ASME B31.8 - 2003, "Gas Transmission and Distribution Piping Systems."

e. 199 IAC 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

f. At railroad crossings, 199 IAC 42.7(476), "Engineering standards for pipelines."

Conflicts between the standards established in paragraphs 10.12(1)*"a"* through *"f"* or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

10.12(2) If review of Exhibit C, or inspection of facilities which are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, no final action will be taken by the board on the petition without a satisfactory showing by the petitioner that the noncompliance has been or will be corrected.

10.12(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

199—10.13(479) Minimum safety standards. Rescinded IAB 2/21/90, effective 3/28/90.

199—10.14(479) Crossings of highways, railroads, and rivers.

10.14(1) Iowa Code chapter 479 gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended the appropriate other authorities be contacted well in advance of construction to determine what restrictions or conditions may be placed on the crossing, and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

10.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, shall not be constructed unless a showing

of consent by the appropriate authority has been provided by the petitioner as required in paragraph 10.2(1)*"e."*

199—10.15(479) River crossings. Rescinded IAB 3/6/91, effective 4/10/91.

199—10.16(479) When a permit is required. A pipeline permit shall be required for any pipeline which will be operated at a pressure of over 150 pounds per square inch gage or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR Part 192. Questions on whether a pipeline requires a permit are to be resolved by the board.

199—10.17(479) Accidents and incidents. Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through June 27, 2007, shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is $15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

199—10.18(479) Reportable changes to pipelines under permit.

10.18(1) The board shall receive prior notice of any of the following actions affecting a pipeline under permit:

a. Abandonment or removal from service.

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.

c. Pressure test, uprating, or increase in operating pressure.

d. Change in product being transported.

e. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

f. Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

10.18(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

199—10.19(479) Sale or transfer of permit.

10.19(1) No permit shall be sold without prior written approval of the board. A petition for approval shall be jointly filed by the buyer and seller, shall include assurances that the buyer is authorized to transact business in the state of Iowa; is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and if the sale is prior to completion of construction of the pipeline shall show that the buyer has the financial ability to pay up to $250,000 in damages.

10.19(2) No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.

10.19(3) The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer.

199—10.20(479) Amendments to rules. Rescinded IAB 6/25/03, effective 7/30/03.

These rules are intended to implement Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42, 479.43 and 546.7.

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CHAPTER 11
ELECTRIC LINES

[Previously Ch 2, renumbered 10/20/75 Supp.]
[Prior to 10/8/86, Commerce Commission[250]]

199—11.1(478) General information.

11.1(1) *Authority.* The standards pertaining to electric transmission lines in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 478.18(1), 478.19 and 478.20. This chapter shall apply to any individual, company, corporation, or city engaged in the construction, operation, and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478.

11.1(2) *Purpose.* The purpose of this chapter is to establish standards for electric franchise proceedings before the Iowa utilities board.

11.1(3) *Iowa electrical safety code.* Overhead and underground electric supply line minimum requirements to be applied in installation, operation, and maintenance are found in 199—Chapter 25, Iowa electrical safety code.

11.1(4) *Date of filing.* A petition for franchise shall be considered filed with the board on the date of the United States Postal Service postmark if the filing is made by mail, or on the date received at the board's records center if the filing is made in person or sent other than by United States mail.

11.1(5) *Franchise —when required.* An electric franchise shall be required for the construction, operation, and maintenance of any electric line which is capable of operating at 69,000 volts or more outside of cities, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by an electric company or an end user.

11.1(6) *Definitions.* For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

"Board" means the utilities board within the utilities division of the department of commerce.

"Capable of operating" shall mean the standard voltage rating at which the line, wire or cable can be operated consistent with the level of the insulators and the conductors used in construction of the line, wire, or cable based on manufacturer's specifications, industry practice, and applicable industry standards.

11.1(7) *Route selection.* The planning for a route that is the subject of a petition for franchise must begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2). When a route near and parallel to these features has points where electric line construction is not practicable and reasonable, deviations may be proposed at those points, when accompanied by a proper evidentiary showing, generally of engineering reasons, that the initial route or routes examined did not meet the practicable and reasonable standard. Although deviations based on landowner preference or minimizing interference with land use may be permissible, the petitioner must be able to demonstrate that route planning began with a route or routes near and parallel to roads, railroad rights-of-way, or division lines of land.

Further, no transmission line shall be constructed outside of cities, except by agreement, within 100 feet of any dwelling house or other building, except where such line crosses or passes along a public highway or is located alongside or parallel with the right-of-way of any railroad company, consistent with the provisions of Iowa Code section 478.20.

11.1(8) *Railroad crossings.* Where a petition for temporary construction permit is made as provided for in Iowa Code section 478.31, an affidavit filed by the petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476) and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of railroad approval for the crossing.

199—11.2(478) Forms of petition for franchise, extension, or amendment of franchise.

11.2(1) *Forms of petition for a new or amended franchise.* A petition for a new or amended franchise filed with the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate.

a. *Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. In the case of the multicounty projects, the description shall identify all counties involved in the total project and any termini located in other counties.

b. *Exhibit B.* A map showing the route of the line drawn with reasonable accuracy considering the scale. Two copies shall be submitted. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including starting and end points and, when paralleling a road or railroad, which side it is on. Line sections with double circuit construction or underbuild shall be designated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, major streams and bodies of water, and any other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities.

(5) The name and boundaries of any public lands or parks, recreational areas, preserves or wildlife refuges.

(6) All electric supply lines, including petitioner's within six-tenths of a mile of the route, including the nominal voltage and whether overhead or buried, and the name and address of the owners. Any lines to be removed or relocated shall be designated.

(7) The location of railroad rights-of-way, including the name and address of the owners.

(8) The location of airports or landing strips within one mile of the route, along with the name and address of the owners.

(9) The location of pipelines used for the transportation of any solid, liquid, or gaseous substance, except water, within six-tenths of a mile of the route, along with the name and address of the owners.

(10) The name and address of the owners of telephone, communication, or cable television lines within six-tenths of a mile of the route. The location of these lines need not be shown.

(11) The name and address of the owners of rural water districts organized pursuant to Iowa Code chapter 357A with facilities within six-tenths of a mile of the route. The location of these facilities need not be shown.

c. *Exhibit C.* Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. *Exhibit D.* The exhibit shall consist of a written text containing the following:

(1) An allegation, with supporting testimony, that the line is necessary to serve a public use, plus such additional substantiated allegations as may be required by Iowa Code section 478.3(2).

(2) If the route or any portion thereof is not near and parallel to roads, railroad right-of-way, or along division lines of the lands, according to government surveys, a showing of why such parallel routing is not practicable or reasonable.

(3) If the route and manner of construction would result in separate pole lines for two or more electric supply lines occupying the same road right-of-way in a manner not in compliance with 199 IAC 11.6(1), a request that the board authorize separate pole lines and justification for the authorization.

(4) Any other information or explanations in support of the petition.

(5) If a new franchise must be sought for an existing electric line, historical information as specified in 199 IAC 11.2(2)*"d"*(1) to (4).

e. *Exhibit E.* This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the form of notice by the board pursuant to 199

IAC 11.5(2)*"a."* It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought, and for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all persons with an ownership interest in the property and of all tenants.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed easement, the location of and distance to any building within 100 feet of the proposed electric line, and any other features pertinent to the location of the line and its supports or to the rights being sought.

f. *Exhibit F.* The showing of notice to potentially affected parties as required by 199 IAC 11.5(4).

g. *Exhibit G.* The affidavit required by Iowa Code section 478.3 on the holding of an informational meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit. This exhibit is required only if an informational meeting was conducted.

11.2(2) *Form of petition for extension of franchise.* A petition for an extension of franchise filed with the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate.

a. *Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. The description shall identify any termini located in other counties.

b. *Exhibit B.* A map showing the route of the line drawn with reasonable accuracy considering the scale. Two copies shall be submitted. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including starting and end points and, when paralleling a road or railroad, which side it is on. Line sections with double circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, railroads, major streams and bodies of water, and any other significant natural or man-made features or landmarks.

(4) The name and corporate limits of cities.

c. *Exhibit C.* Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. *Exhibit D.* The exhibit shall consist of a written text containing the following:

(1) A listing of all existing franchises for which extension in whole or in part is sought, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) A listing of all amendments to the franchises listed in (1), including the docket number, amendment number, date of issue, and the purpose of the amendment.

(3) A description of any substantial rebuilds, reconstructions, alterations, relocations, or changes in operation not included in a prior franchise or amendment action.

(4) A description of any changes in ownership or operating and maintenance responsibility.

(5) An allegation, with supporting testimony, that the line remains necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(6) Any other information or explanations in support of the petition.

199—11.3(478) Additional filing instructions.

11.3(1) *Forms.* The following forms are available from the board, and the appropriate form shall be used when filing any petition. An original and three copies of the petition and exhibits shall be filed.

a. Petition for Franchise. Temporary Construction Permits may also be requested on this form where the permits are allowed by Iowa Code section 478.31.

b. Petition for Extension of Franchise.

c. Petition for Amendment to Franchise.

d. Petition for Permit to Survey.

e. Exhibit C: Engineering Specifications for Overhead Transmission Line.

f. Exhibit C-UG: Engineering Specifications for Underground Transmission Line.

11.3(2) *When filing is required.*

a. A petition for franchise shall be filed with the board for the construction of any electric line outside of a city which is capable of operating at a nominal voltage of 69 kilovolts or more, except that a franchise is not required for electric lines located entirely within the boundaries of property owned by an electric company or an end user.

b. A petition for extension of franchise may be filed at any time after the issuance of the franchise, but must be filed prior to its expiration. The extension of more than one franchise may be requested in a single petition, including for all franchised lines in a county as provided for in Iowa Code section 478.13.

However, an extension of franchise is unnecessary for an electric line which is capable of operating at 69 kilovolts or more, when the line has been permanently retired from operation at 69 kilovolts or more, and the board has been notified of the retirement. The line may remain in service at a lesser voltage. The notice shall include the franchise number and issue date, the docket number, and, if the entire franchised line is not retired, a map showing the location of the portion retired.

c. A petition for amendment to franchise shall be filed with the board for approval prior to:

(1) Increasing the operating voltage of any electric line, or the level to which it is capable of operating, to a voltage greater than that specified in the existing franchise.

(2) Construction of an additional circuit which is capable of operating at a nominal voltage of 69 kilovolts or more on a previously franchised line, where an additional circuit at such voltage is not authorized by the existing franchise.

(3) Relocation of a franchised electric line to a route different from that authorized by an existing franchise. For the purpose of this subrule, relocation means changing the route of an existing electric line in a manner which requires that new or additional interests in property be obtained, or that new or additional authorization be obtained from highway or railroad authorities, for a total distance of one mile or more, except that an amendment is not required for relocations made pursuant to Iowa Code section 319.5. Petitions for amendment to franchise may be filed for relocations of less than one mile if the right of eminent domain is sought.

(4) An amendment to franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

11.3(3) *Form of papers.*

a. All petition papers shall be cut or folded so as not to exceed a width of 8½ inches and a length of 11 inches.

b. All petition maps or drawings shall be cut or folded so as not to exceed a width of 8½ inches and a length of 11 inches. The unfolded sheet shall be limited to a maximum size of 24 inches by 36 inches.

c. All maps and drawings submitted to the board shall be neatly and clearly drawn, shall have an appropriate legend, and shall have a title block or heading which indicates its origin and purpose.

d. Insofar as practicable, all papers, maps or drawings to be submitted as hearing exhibits shall be cut or folded so as not to exceed a width of 8½ inches and a length of 11 inches.

11.3(4) *Multiple county.* For a proposed line to be constructed in more than one county a petition for each county shall be filed in a form which provides for a general description of the total project, including a separate legal description for the line route in each county so that an official notice may be prepared

for each county separately. A franchise or certificate for construction of lines or improvements will be prepared for each county separately, although they may be consolidated and acted upon by one order.

11.3(5) *Segmental ownership.*

a. Petitions covering line routes, having segments of the total line with different owners, shall establish the need to serve the public use for the total line.

b. Petitions covering line routes, having segments of the total line with different owners, shall include affidavits furnished by the other owners certifying that said other owners will actually construct a particular segment.

11.3(6) *Termini.* This means the electrically functional end points of an electric line, without which it could not serve a public use. Examples include generating stations, substations, or other electric lines. In any franchise petition the termini must be identified in Exhibit A, B, or D.

11.3(7) *Compliance with Iowa electrical safety code.* If review of Exhibit C, or inspection of an existing electric line which is the subject of a franchise petition, finds noncompliance with 199 IAC 25, the Iowa electrical safety code, no final action will be taken by the board on the petition without a satisfactory showing by petitioner that the areas of noncompliance have been or will be corrected. Any disputed safety code compliance issues will be resolved by the board.

This rule is intended to implement Iowa Code section 474.5 and chapter 478.

199—11.4(478) Informational meetings. Not less than 30 days or more than two years prior to filing a petition or related petitions requesting franchise for a new transmission line which is capable of operating at 69 kilovolts (or for which line, easement will be sought for 69 kV) or more, with one or more miles of the total proposed route across privately owned real estate, the prospective petitioner(s) shall hold informational meetings in each county in which real property or real property rights will be affected. Informational meetings shall comply with the following:

11.4(1) *Facilities.* Prospective petitioners for franchise shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

11.4(2) *Location.* The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a franchise in that county.

11.4(3) *Personnel.* The prospective petitioner shall provide qualified personnel to speak for the petitioner in matters relating to the following:

a. Utility service requirements and planning which have resulted in the proposed construction.

b. When the line will be constructed.

c. In general terms, the physical construction, appearance and typical location of poles and conductors with respect to property lines.

d. In general terms, the rights which petitioner shall seek to acquire by easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

i. If the undertaking is a joint effort by more than one entity, the other participants shall also be represented at the informational meeting by qualified personnel to speak for them in the matters set forth in 11.4(3)*"a"* through 11.4(3)*"h."*

11.4(4) *Coordinating with board.* The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

11.4(5) *Amendments to franchise.* Prior to filing any petition for amendment to franchise where petitioner must obtain new or additional interests in real property for a total of one route mile or more, informational meetings shall be held which meet the requirements of 199 IAC 11.4(478).

11.4(6) *Length of easements.* The length of easements required for conductor and crossarm overhang of private property, even if no supporting structures are located on that land, shall be included in determining whether an informational meeting is required pursuant to Iowa Code section 478.2.

199—11.5(478) Notices.

11.5(1) *Informational meeting notice.* Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment rolls as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; a map showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

b. Prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose residence is known. The certified article shall be deposited in the U.S. mail not less than 30 days prior to the time set for the meeting.

c. Prospective petitioner shall cause the meeting notice including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the time set for the meeting. Publication shall be considered notice to affected parties whose residence is not known.

11.5(2) *Notice of franchise petition.*

a. Whenever a petition for a franchise, extension of franchise, or amendment of franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the line or lines extend. The petitioner shall cause this notice to be published in a newspaper located in each county for two consecutive weeks. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all parties of the proceeding, except owners of record and parties in possession of land to be crossed for which voluntary easements have not been obtained at the time of the first publication of the notice.

b. The petitioner shall, in addition to published notice, serve notice in writing of the filing of the petition to the owners of record and the parties in possession of the lands over which easements have not been obtained. The served notices shall be by ordinary mail, addressed to the last-known address, mailed not later than the first day of publication of the official notice. One copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all parties to which it was mailed and the date of mailing, shall be filed with the board not later than five days after the date of second publication of the official notice.

c. Published notices of petitions for franchise or amendment of franchise, or extensions of franchise other than countywide extensions, shall include provisions whereby interested parties can examine a map of the route. When the petition is filed, petitioner shall state whether a map is to be published with the notice, or whether the notice is to include a telephone number and an address through which parties can request a map from petitioner at no charge. The map required by this subrule need not be as detailed as the Exhibit B map, but shall include at minimum the proposed route, section lines,

section and township numbers, roads and railroads, city boundaries, and rivers and major bodies of water. A copy of this map shall be filed with the petition.

d. When a petition for countywide extension of franchise is filed, the petitioner shall state whether the published notice will contain a legal description of the route or will include a telephone number and an address through which parties can request a map from the petitioner at no charge. The map content shall be as described in subparagraph 11.5(2)*"c."* A copy of this map shall be filed with the petition.

11.5(3) *Notice of eminent domain proceedings.* If a petition for a franchise or amendment of franchise seeks the right of eminent domain, petitioner shall, in addition to published notice of hearing, serve the written notice required by Iowa Code section 478.6, in the form prescribed by the board, of the time and place of hearing to owners of record and parties in possession of lands over which eminent domain is sought. Service shall be by certified United States mail, return receipt requested, addressed to their last-known address, and this notice shall be mailed no later than the first day of publication of the official notice of hearing concerning the petition. The written notice shall include a copy of the Exhibit E filed with the board for the affected property. Not less than five days prior to the date of hearing, the petitioner shall file with the board the return receipt for the certified article. The ordinary mail notice of 11.5(2) is not required to parties for which statutory written notice is served in accordance with this paragraph.

11.5(4) *Notice to other parties.* Petitioners for a franchise or amendment to franchise shall give written notice by ordinary mail, mailed at the time the petition is filed with the board, accompanied by a map showing the route of the proposed electric supply line, to the affected parties described in 11.2(1)*"b"*(6) through (11) and the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all parties to which it was mailed, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

11.5(5) *Notice of franchised line construction.*

a. Within 90 days after completion of an electric line construction or reconstruction project authorized by a franchise or amendment to franchise, the holder of the franchise shall notify the board in writing of the completion. The notice shall include the franchise and docket numbers and the date the franchise was issued.

b. If the project is not completed by a date two years after the date of issuance of the franchise or amendment to franchise, prior to that date the holder of the franchise shall so notify the board in writing and, if construction has been initiated, shall report its progress.

c. If the facilities authorized by a franchise are not constructed in whole or in part within two years of the date the franchise is granted, or within two years after final unappealable disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the franchise holder petitions the board for an extension of time pursuant to Iowa Code section 478.21.

11.5(6) *Notice of deferred construction.* Rescinded IAB 5/14/03, effective 6/18/03.

11.5(7) *Notice of transfer or assignment of franchise.* The holder of a franchise shall notify the board in writing, when transferring any franchise or portion of a franchise, stating the applicable franchise number and docket number which are affected and a description of the route of the transmission line when less than the total franchised line is affected, together with the name of the transferee and date of transfer, not more than 30 days after the effective date of transfer.

11.5(8) *Notice of proposed construction of electric lines capable of operating only at less than 34,500 volts.* Rescinded IAB 4/8/98, effective 5/13/98.

11.5(9) *Notice of relocations not requiring an amendment to franchise.* Whenever an electric line under franchise is relocated in a manner which does not require an amendment to franchise, the holder of the franchise shall notify the board in writing of the relocation, stating the franchise and docket numbers and date of franchise issuance for the affected line, and providing revised Exhibits A and B which reflect the changes in the route.

11.5(10) *Notice of electric line reconstruction not requiring an amendment to franchise.* Whenever an electric line is reconstructed with different materials or specifications than appear on the most recent Exhibit C and an amendment to franchise is not required, the holder of the franchise shall notify the

board in writing of the reconstruction, stating the franchise and docket numbers and date of franchise issuance for the affected line, and providing a revised Exhibit C which reflects the changes in the manner of construction.

199—11.6(478) Common and joint use.

11.6(1) *Common use construction.* Whenever an overhead electric line capable of operating at 69 kilovolts or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the board authorizes, for good cause shown, the construction of separate pole lines.

11.6(2) *Joint use construction.* Rescinded IAB 5/14/03, effective 6/18/03.

11.6(3) *Relocating of lines.* When an electric supply line is to be constructed in a location occupied by an electric supply line or a communication line, the expense of relocating the existing line shall be borne by the utility proposing the new electric supply line. The electric utility proposing the new line shall not be required to pay any part of the used life of the existing line, but shall pay only the nonbetterment expense of relocating the existing line.

199—11.7(478) Termination of franchise petition proceedings.

11.7(1) Upon notice to the board by a petitioner that a franchise petition is withdrawn, if the notification is made prior to the publication of a public notice, the proceeding may be terminated and the docket closed without formal action by the board.

11.7(2) If petitioner takes no action, for a period of 12 months after written notification by the board, to cure an incomplete or deficient franchise petition, or fails to publish notice within 90 days after the form of notice is provided by the board, the board may dismiss the petition as abandoned. If dismissal would cause an existing line to be without a franchise, the board may also pursue imposition of civil penalties.

199—11.8(478) Fees and expenses. The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise.

These rules are intended to implement Iowa Code sections 474.5 and 546.7 and chapter 478.

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CHAPTER 12
INTERSTATE NATURAL GAS PIPELINES AND UNDERGROUND STORAGE

199—12.1(479A) Authority. The Iowa utilities board is authorized to act as an agent for the federal government pursuant to Iowa Code section 479A.1 in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state of Iowa.

199—12.2(479A) Inspections. The board or its representatives shall from time to time inspect the construction, maintenance, and operation of pipelines or underground storage facilities and equipment in the state of Iowa to determine if the same are unsafe or dangerous and whether they comply with the applicable standards of pipeline safety. The inspections will be made in the board's capacity as an interstate agent for the U.S. Department of Transportation.

199—12.3(479A) Notice prior to construction. Rescinded IAB 7/19/06, effective 8/23/06.

199—12.4(479A) Maps and records. Rescinded IAB 7/19/06, effective 8/23/06.

199—12.5(479A) Fees and expenses. Rescinded IAB 7/19/06, effective 8/23/06.

199—12.6(479A) Incident reporting. Whenever a telephone notice or written report concerning a pipeline incident is made to the U.S. Department of Transportation, the board shall also receive telephone notice. A copy of written incident reports and safety-related condition reports shall be provided to the board.

199—12.7(479A) Land restoration. Rescinded IAB 7/19/06, effective 8/23/06.

These rules are intended to implement Iowa Code chapter 479A.

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CHAPTER 13
HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

199—13.1(479B) General information.

13.1(1) *Authority.* The standards in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are prescribed by the Iowa utilities board pursuant to Iowa Code section 479B.1.

13.1(2) *Purpose.* The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate a hazardous liquid pipeline and for the underground storage of hazardous liquids.

13.1(3) *Definitions.* Words and terms not otherwise defined in this chapter shall be understood to have their usual meaning. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

"Approximate right angle" means within 5 degrees of a 90 degree angle.

"Board" means the utilities board within the utilities division of the department of commerce.

"Hazardous liquid" means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

"Multiple line crossing" means a point at which a proposed pipeline will either cross over or under an existing pipeline.

"Permit" means a new, amended, or extended permit issued after appropriate application to and determination by the board.

"Pipeline" means any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid.

"Pipeline company" means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.

"Renewal permit" means the extension and reissuance of a permit after appropriate application to and determination by the board.

"Underground storage" means storage of hazardous liquid in a subsurface stratum or formation of the earth.

13.1(4) *Railroad crossings.* Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476) and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

199—13.2(479B) Petition for permit.

13.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed. Required exhibits shall be in the following form:

a. *Exhibit A.* A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with other information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.

If it becomes apparent there will be a deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in the area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedure set forth shall be followed upon the filing of a petition for amendment of a permit.

b. *Exhibit B.* Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of the maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated.

(2) The name of the county, county and section lines, and section, township and range numbers.

(3) The location and identity of public roads, railroads, major streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

c. *Exhibit C.* An explanation of the purpose of the proposed project and a general description of the proposed pipeline, including its approximate length, size, products carried, and other information as may be pertinent to describe the project.

d. *Exhibit D.* Satisfactory attested proof of solvency and financial ability to pay damages in the sum of $250,000 or more; or surety bond satisfactory to the board in the penal sum of $250,000 with surety approved by the board, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to the board as a guarantee for the payment of damages in the sum of $250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of $250,000.

e. *Exhibit E.* Consent or other showing of right of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when consent is obtained prior to filing of the petition and hearing shall be filed with the petition.

If the exact and specific route is uncertain at the time of petition, a statement shall be made by petitioner that all consents or other showing of right will be obtained prior to construction and copies filed with the board.

f. *Exhibit F.* This exhibit shall contain the following information:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. *Exhibit G.* If informational meetings were required, an affidavit that the meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. *Exhibit H.* This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, the exhibit must be in final form before a hearing is scheduled. The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the line to the rights being sought.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided for in rule 199—9.2(479,479A,479B).

j. Underground storage. If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

13.2(2) Petitions proposing new pipeline construction on an existing easement where the company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction and, if so, shall include the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

A petition for permit proposing a new pipeline construction on an existing easement where the company has previously constructed a pipeline will not be acted upon by the board if a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration, or court action. This paragraph will not apply if the damage claim is under litigation or arbitration.

13.2(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction will not be acted upon by the board if the company does not have on file with the board a written statement as to how damages resulting from the construction of the pipeline shall be determined and paid.

The statement shall contain the following information: the type of damages which will be compensated, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

b. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479B.4. If no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

c. Nothing in this rule shall prevent a party from negotiating with the company for terms which are different, more specific, or in addition to the statement filed with the board.

13.2(4) Existing pipelines. Petitions for permit for pipelines in operation on July 1, 1995, shall be made in accordance with Iowa Code section 479B.4.

This rule is intended to implement Iowa Code sections 479B.4, 479B.5, 479B.13, 479B.16, and 479B.26.

199—13.3(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project over five miles in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure of over 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or rights therein would be affected. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit and shall comply with the following:

13.3(1) *Facilities.* Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited

to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

13.3(2) *Location.* The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit.

13.3(3) *Route deviation.* Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right-of-way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.

13.3(4) *Notices.* Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment rolls as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The meeting notice shall state the name of the prospective petitioner; state the address of the prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right-of-way desired; include a map showing the proposed route; advise that the affected party has the right to be present at the informational meeting and to file objections with the board; contain the following statement: "Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made"; and designate the date, time, and place of the meeting. Mailed notices shall also include a copy of the statement of damage claims as required by 13.2(3)*"b."*

b. The prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose addresses are known. The certified meeting notice shall be deposited in the U.S. mails not less than 30 days prior to the date of the meeting.

c. The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties whose residence is not known provided a good faith effort to notify can be demonstrated by the pipeline company.

13.3(5) *Personnel.* The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

a. The purpose of and need for the proposed project.

b. When the pipeline will be constructed.

c. In general terms, the elements involved in pipeline construction.

d. In general terms, the rights which the prospective petitioner will seek to acquire through easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

13.3(6) *Coordinating with board.* The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

This rule is intended to implement Iowa Code section 479B.4.

199—13.4(479B) Notice of hearing.

13.4(1) When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 13.8(479B). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to or at the hearing.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

13.4(2) If a petition for permit seeks the right of eminent domain, petitioner shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to the owners and parties in possession of lands over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to their last-known address; and this notice shall be mailed not later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all addresses to which notice was sent by certified mail and the date of the mailing.

13.4(3) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained, a copy of the notice of hearing shall be served upon the owners and parties in possession of those lands. Service shall be by ordinary mail, addressed to the last-known address, mailed not later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all parties to which it was mailed and the date of mailing, shall be filed with the board not less than five days prior to the hearing.

199—13.5(479B) Objections. A person, including a governmental entity, whose rights or interests may be affected by the object of a petition may file a written objection. The written objection shall be filed with the secretary of the board not less than five days prior to date of hearing. The board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet objections.

199—13.6(479B) Hearing. Hearing shall be not less than 10 or more than 30 days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. The board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of the board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of the board or at any other place within the state of Iowa as the board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.

199—13.7(479B) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a permit shall be issued. Otherwise, the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed within two years

from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

A permit shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years.

199—13.8(479B) Renewal permits. A petition for renewal of permit may be filed at any time subsequent to issuance of a permit and prior to expiration. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by subrule 13.4(1). Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479B.14.

199—13.9(479B) Amendment of permits.

13.9(1) An amendment of pipeline permit by the board is required in any of the following circumstances:

a. Construction of a pipeline paralleling an existing line of petitioner;

b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);

c. Relocation of an existing pipeline of petitioner which:

(1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or

(2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 13.3(479B) shall be held for these relocations.

d. Contiguous extension of an underground storage area of petitioner; or

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

13.9(2) Petition for amendment. The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by the board, an amendment to a permit will be issued. The amendment shall be subject to the same conditions with respect to completion of construction within two years and the filing of final routing maps as attached to a permit.

199—13.10(479B) Fees and expenses. The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting a pipeline permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

199—13.11 Reserved.

199—13.12(479B) Land restoration. Pipelines shall be constructed in compliance with 199 IAC Chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

199—13.13 Reserved.

199—13.14(479B) Crossings of highways, railroads, and rivers.

13.14(1) Iowa Code chapter 479B gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended the appropriate other authorities be contacted well in advance of construction to determine what restrictions or conditions may be placed on the crossing, and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

13.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the petitioner as required in paragraph 13.2(1)*"e."*

199—13.15 to **13.17** Reserved.

199—13.18(479B) Reportable changes to pipelines under permit.

13.18(1) The board shall receive prior notice of any of the following actions affecting a pipeline under permit:

a. Abandonment or removal from service.

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline to within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for amendment of a permit.

c. Change in product being transported.

d. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

e. Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

13.18(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and facility descriptions, where appropriate, and the name and telephone number of a person to contact for additional information.

199—13.19(479B) Sale or transfer of permit.

13.19(1) No permit shall be sold without prior written approval of the board. A petition for approval shall be jointly filed by the buyer and seller and shall include assurances that the buyer is authorized to transact business in the state of Iowa; that the buyer is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and, if the sale is prior to completion of construction of the pipeline, that the buyer has the financial ability to pay up to $250,000 in damages.

13.19(2) No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.

13.19(3) The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer.

199—13.20(479B) Amendments to rules. Rescinded IAB 6/25/03, effective 7/30/03.

These rules are intended to implement Iowa Code chapter 479B.

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CHAPTER 14
Reserved

UTILITIES AND
TRANSPORTATION DIVISIONS

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

[Ch 15 renumbered as Ch 7,10/20/75]
[Prior to 10/8/86, Commerce Commission[250]]

199—15.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601, et seq., shall have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

"AEP facility" means any of the following: (1) an electric production facility which derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning; (2) a hydroelectric facility at a dam; (3) land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility; or (4) transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

"Alternate energy purchase (AEP) program" means a utility program that allows customers to contribute voluntarily to the development of alternate energy in Iowa.

"Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

"Backup power" means electric energy or capacity supplied by an electric utility to qualifying facilities and AEP facilities to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

"Board" means the Iowa utilities board.

"Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with qualifying facilities and AEP facilities, to the extent the costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

"Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

"Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of qualifying facilities and AEP facilities.

"Purchase" means the purchase of electric energy or capacity or both from qualifying facilities and AEP facilities by an electric utility.

"Qualifying facility" means a cogeneration facility or a small power production facility which is a qualifying facility under 18 CFR Part 292, Subpart B.

"Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

"Sale" means the sale of electric energy or capacity or both by an electric utility to qualifying facilities and AEP facilities.

"Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by qualifying facilities and AEP facilities in addition to that which the facility generates itself.

"System emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

199—15.2(476) Scope.

15.2(1) *Applicability.*

a. Subrule 15.2(2) and rule 199—15.10(476) of this chapter apply to all electric utilities, all qualifying facilities, and all AEP facilities.

b. Rule 199—15.3(476) of this chapter applies to electric utilities which are subject to rate regulation by the board.

c. Rules 199—15.4(476) and 199—15.5(476) of this chapter apply to qualifying facilities and electric utilities which are subject to rate regulation by the board.

d. Rules 199—15.6(476) to 199—15.9(476) of this chapter apply to all qualifying facilities and AEP facilities, and electric utilities which are subject to rate regulation by the board.

e. Rule 199—15.11(476) of this chapter lists additional requirements that apply to AEP facilities, and electric utilities which are subject to rate regulation by the board, pursuant to Iowa Code sections 476.41 to 476.45.

15.2(2) *Negotiated rates or terms.* These rules do not:

a. Limit the authority of any electric utility, any qualifying facility, or any AEP facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by these rules; or

b. Affect the validity of any contract entered into between an electric utility and a qualifying facility or AEP facility for any purchase.

199—15.3(476) Information to board. In addition to the information required to be supplied to the board under 18 CFR 292.302, all rate-regulated electric utilities shall supply to the board copies of contracts executed for the purchase or sale, for resale, of energy or capacity. If the purchases or sales are made other than pursuant to the terms of a written contract, then information as to the relevant prices and conditions shall be supplied to the board. All information required to be supplied under this rule shall be filed with the board by May 1 and November 1 of each year for all transactions occurring since the last filing was made.

199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities. For purposes of this rule, "electric utility" means a rate-regulated electric utility.

15.4(1) *Obligation to purchase from qualifying facilities.* Each electric utility shall purchase, in accordance with these rules, any energy and capacity which is made available from a qualifying facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.4(4).

15.4(2) *Obligation to sell to qualifying facilities.* Each electric utility shall sell to any qualifying facility, in accordance with these rules and the other requirements of law, any energy and capacity requested by the qualifying facility.

15.4(3) *Obligation to interconnect.* Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with rule 199—15.8(476). However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

15.4(4) *Transmission to other electric utilities.* If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

15.4(5) *Parallel operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities. For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

15.5(1) *Rates for purchases.* Rates for purchases shall:

a. Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

b. Not discriminate against qualifying cogeneration and small power production facilities. Nothing in these rules requires any electric utility to pay more than the avoided costs, as set forth in these rules, for purchases.

15.5(2) *Relationship to avoided costs.* For purposes of this subrule, "new capacity" means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies the requirements of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in rule 15.6(476); except that a rate for purchases other than from new capacity may be less than the avoided cost if the board determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to the requirements of this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

15.5(3) *Standard rates for purchases.* Each electric utility shall file and maintain with the board tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kilowatts or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility's avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the board for an allowance of the capacity credit. The petition shall be handled by the board as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

The board may require utilities interconnected with qualifying facilities to provide metering and other equipment necessary for the collection test and monitoring of information concerning the time and conditions under which energy and capacity are available from the qualifying facility. The costs of such metering shall be treated by the utility in the same manner as any other research expenditure.

15.5(4) *Other purchases.* Rates for purchases from qualifying facilities with a design capacity of greater than 100 kilowatts shall be determined in contested case proceedings before the board, unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

15.5(5) *Purchases "as available" or pursuant to a legally enforceable obligation.* Each qualifying facility shall have the option either:

a. To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

b. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: The avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

15.5(6) *Factors affecting rates for purchases.* In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

a. The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.

b. The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.

c. The time of day or season during which capacity or energy is available, including:

(1) The ability of the utility to dispatch the qualifying facility;

(2) The expected or demonstrated reliability of the qualifying facility;

(3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

(4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation; and

(6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

15.5(7) *Periods during which purchases not required.* Any electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that any electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. Any electric utility which fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the board.

199—15.6(476) Rates for sales to qualifying facilities and AEP facilities by rate-regulated utilities. For purposes of this rule, "utility" means a rate-regulated electric utility. Rates for sales to qualifying facilities and AEP facilities shall be just, reasonable and in the public interest, and shall not discriminate against qualifying facilities and AEP facilities in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities and AEP facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of qualifying facilities and AEP facilities can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.7(476) Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities. For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

15.7(1) Upon request of qualifying facilities and AEP facilities, each electric utility shall provide supplementary power, backup, maintenance power, and interruptible power. Rates for such service shall meet the requirements of subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

The board may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

a. Impair the electric utility's ability to render adequate service to its customers, or

b. Place an undue burden on the electric utility.

15.7(2) Reserved.

199—15.8(476) Interconnection costs. For purposes of this rule, "utility" means a rate-regulated electric utility.

15.8(1) Qualifying facilities and AEP facilities shall be obligated to pay any interconnection costs, as defined in this chapter. These costs shall be assessed on a nondiscriminatory basis with respect to other customers with similar load characteristics.

15.8(2) Utilities shall be reimbursed by qualifying facilities and AEP facilities for interconnection costs at the time the costs are incurred. Upon petition by any party involved and for good cause shown, the board may allow for reimbursement of costs over a reasonable period of time and upon such conditions as the board may determine; provided, however, that no other customers of the utility shall bear any of the costs of interconnection.

199—15.9(476) System emergencies. For purposes of this rule, "electric utility" means a rate-regulated electric utility. Qualifying facilities and AEP facilities shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

15.9(1) Provided by agreement between the qualifying facility or AEP facility and the electric utility; or

15.9(2) Ordered under Section 202(c) of the Federal Power Act. During any system emergency, an electric utility may immediately discontinue:

a. Purchases from qualifying facilities and AEP facilities if purchases would contribute to the emergency; and

b. Sales to qualifying facilities and AEP facilities, provided that the discontinuance is on a nondiscriminatory basis.

199—15.10(476) Standards for interconnection, safety, and operating reliability. For purposes of this rule, "electric utility" or "utility" means both rate-regulated and non-rate-regulated electric utilities.

15.10(1) *Acceptable standards.* Qualifying facilities and AEP facilities shall meet the applicable provisions in the publications listed below in order to be eligible for interconnection to an electric utility system:

a. General Requirements for Synchronous Machines, ANSI C50.10-1990.

b. IEEE Standard for Salient-Pole 50 Hz and 60 Hz, Synchronous Generators and Generator/Motors for Hydraulic Turbine Applications Rated 5 MVA and above, IEEE C50.12-2005.

c. IEEE Standard for Cylindrical-Rotor 50 Hz and 60 Hz, Synchronous Generators Rated 10 MVA and above, IEEE C50.13-2005.

d. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

e. National Electrical Code, ANSI/NFPA 70-2005.

f. IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE 519-1992.

g. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE 1547-2003.

For those facilities which are of such design as to not be subject to the standards noted in paragraphs 15.10(1)*"a"* through *"d,"* data on the manufacturer, type of device, and output current wave form (at full load) and output voltage wave form (at no load and at full load) shall be submitted to the utility

for review and approval prior to interconnection. A copy of the utility decision (whether approving or disapproving), including the data specified in paragraphs 15.10(1)*"a"* through *"d"* and the exact location of the facility, shall be filed with the board within one week of the date of the decision. The utility decision, or its failure to decide within a reasonable time, may be appealed to the board. The appeal shall be treated as a contested case proceeding.

15.10(2) *Modifications required.* Rescinded IAB 7/23/03, effective 8/27/03.

15.10(3) *Interconnection facilities.* Interconnections between qualifying facilities or AEP facilities and electric utility systems shall be equipped with devices, as set forth below, to protect either system from abnormalities or component failures that may occur within the facility or the electric utility system. Inclusion of the following protective systems shall be considered as a minimum standard of accepted good practice unless otherwise ordered by the board:

a. The interconnection must be provided with a switch that provides a visible break or opening. The switch must be capable of being padlocked in the open position.

b. The interconnection shall include overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

c. Facilities with a design capacity of 100 kilowatts or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

d. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

15.10(4) *Access.* Both the operator of the qualifying facility or AEP facility and the utility shall have access to the interconnection switch at all times.

15.10(5) *Inspections.* The operator of the qualifying facility or AEP facility shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 15.10(3) for inspection and testing.

15.10(6) *Emergency disconnection.* In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the qualifying facility or AEP facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections. If the facility and the utility are unable to agree on conditions for reconnection of the facility, a contested case proceeding to determine the conditions for reconnection may be commenced by the facility or the utility upon filing of a petition.

199—15.11(476) Additional rate-regulated utility obligations regarding AEP facilities. For purposes of this rule, "MW" means megawatt, "MWH" means megawatt-hour, and "utility" means a rate-regulated electric utility.

15.11(1) *Obligation to purchase from AEP facilities.* Each utility shall purchase, pursuant to contract, its share of at least 105 MW of AEP generating capacity and associated energy production. The utility's share of 105 MW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 FERC Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105 MW is determined to be as follows:

	Percentage Share of Iowa Peak	Utility Share of 105 MW
Interstate Power and Light	47.43%	49.8 MW
MidAmerican Energy	52.57%	55.2 MW

A utility is not required to purchase from an AEP facility that is not owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following: (1) is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from AEP facilities; and (2) does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

15.11(2) *Purchases pursuant to a legally enforceable obligation.* Each AEP facility shall provide electricity on a best-efforts basis pursuant to a legally enforceable obligation for the delivery of electricity over a specified contract term.

15.11(3) *Annual reporting requirement.* Beginning April 1, 2004, each utility shall file an annual report listing nameplate MW capacity and associated monthly MWH purchased from AEP facilities, itemized by AEP facility.

15.11(4) *Tariff filings.* The electric utility shall maintain a tariff schedule of standard AEP contract provisions offered. The initial tariffs and subsequent revisions shall be subject to board approval. Provisions of any individual AEP contract which differ from or exceed the utility tariff of standard AEP contract provisions shall also be subject to board approval, unless otherwise agreed upon by the individual AEP facility and utility.

15.11(5) *Net metering.* Each utility shall offer to operate in parallel through net metering (with a single meter monitoring only the net amount of electricity sold or purchased) with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the fixed or negotiated buy-back rate, and any electricity provided to the AEP facility by the utility is sold to the facility at the tariffed rate.

199—15.12(476) Rates for purchases from qualifying alternate energy and small hydro facilities by rate-regulated electric utilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.13(476) Rates for sales to qualifying alternate energy production and small hydro facilities by rate-regulated utilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.14(476) Additional services to be provided to qualifying alternate energy production and small hydro facilities. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.15(476) Interconnection costs. Rescinded IAB 7/23/03, effective 8/27/03.

199—15.16(476) System emergencies. Rescinded IAB 7/23/03, effective 8/27/03.

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

199—15.17(476) Alternate energy purchase programs.

Any consumer-owned utility, including any electric cooperative corporation or association or any municipally owned electric utility, may apply to the board for a waiver under this rule.

This rule shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers.

15.17(1) *Obligation to offer programs.*

a. Beginning January 1, 2004, each electric utility, whether or not subject to rate regulation by the board, shall offer an alternate energy purchase program that allows customers to contribute voluntarily to the development of alternate energy in Iowa, and allows for the exceptions listed in paragraph 15.17(1)*"c."*

b. Each electric utility subject to rate regulation by the board, except for utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall demonstrate on an annual basis that it produces

or purchases sufficient energy from program AEP facilities located in Iowa to meet the needs of its Iowa program. These Iowa-based AEP facilities shall not include AEP facilities for which the utility has sought cost recovery under rule 199—20.9(476) prior to July 1, 2001.

c. The electric utility may partially or fully base its program on energy produced by AEP facilities located outside of Iowa under any of the following circumstances:

(1) The energy is purchased by the electric utility pursuant to a contract in effect prior to July 1, 2001, and continues until the expiration of the contract, including any options to renew that are exercised by the electric utility.

(2) The electric utility has a financial interest, as of July 1, 2001, in an AEP facility that is located outside of Iowa or in an entity that has a financial interest in an AEP facility located outside of Iowa; or

(3) The energy is purchased by an electric utility that is not subject to rate regulation by the board, or which elects rate regulation pursuant to Iowa Code section 476.1A, and that is required to purchase all of its electric power requirements from one or more suppliers that are physically located outside of Iowa.

15.17(2) *Customer notification.*

a. Each electric utility shall notify eligible customer classes of its alternate energy purchase program and proposed program modifications at least 60 days prior to implementation of the program or program modification. The notification shall include, as applicable:

(1) A description of the availability and purpose of the program or program modification, clarifying that customer contributions will not involve the direct sale of alternate energy to individual customers;

(2) The effective date of the program or program modification;

(3) Customer classes eligible for participation;

(4) Forms and levels of customer contribution available to program participants;

(5) A utility telephone number for answering customers' questions about the program; and

(6) Customer instructions that explain how to participate in the program.

b. In addition to the notification requirements under paragraph 15.17(2)*"a,"* each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall:

(1) Include fuel report information described under subrule 15.17(5); and

(2) Submit the proposed notification to the board for approval at least 30 days prior to the proposed date of issuance of the notification.

15.17(3) *Program plan filing requirements for rate-regulated utilities.* On or before October 1, 2003, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a plan for the utility's alternate energy purchase program. Initial program plans and any subsequent modifications will be subject to board approval. Modification filings need only include information about elements of the program that are being modified. The initial program plan filing shall include:

a. The program tariff;

b. The program effective date;

c. A sample of the customer notification, including a description of the method of distribution;

d. Customer classes eligible for participation and the schedule for extending participation to all customer classes;

e. Identification of each AEP facility used for the program, including:

(1) Fuel type;

(2) Nameplate capacity;

(3) Estimated annual kWh output;

(4) Estimated in-service date;

(5) Ownership, including any utility affiliation;

(6) A copy of any contract for utility purchases from the facility;

(7) A description of the method or procedure used to select the facility;

(8) Facility location; and

(9) If the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1)*"c"*;

f. The forms and levels of customer contribution available to program participants, including, but not limited to:

(1) kWh rate premiums applied to percentages of participant kWh usage, with an explanation of how the kWh rate premiums are derived; or

(2) kWh rate premiums applied to fixed kWh blocks of participant usage, with an explanation of how the kWh rate premiums are derived; or

(3) Fixed contributions, with an explanation of how the fixed amounts are derived;

g. The maximum allowable time lag between the beginning of customer contributions and the in-service date for identified AEP facilities, and the procedures for suspending customer contributions if the maximum time lag is exceeded;

h. The intended treatment of program participants under 199—20.9(476) energy automatic adjustment and AEP automatic adjustment clauses;

i. An accounting plan for identifying and tracking participant contributions and program costs, including:

(1) Identification of incremental program costs not otherwise recovered through the utility's rates, including but not limited to: program start-up and administration costs; program marketing costs; and program energy and capacity costs associated with identified AEP facilities;

(2) Methods for quantifying, assigning, and allocating costs of the program and for segregating those costs in the utility's accounts; and

j. Marketing and customer information plan, including schedules and copies of all marketing and information materials, as available.

15.17(4) *Annual reporting requirements for rate-regulated utilities.* On or before April 1, 2005, and annually thereafter, each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall file with the board a report of program activity for the previous calendar year. The annual report shall include:

a. Program information including:

(1) The number of program participants, by customer class;

(2) Participant contribution revenues, by customer class, by form and level of contribution, and associated participant kWh sales;

(3) Program electricity generated from each program AEP facility and the associated costs; and

(4) Other program costs, by cost type.

b. An annual reconciliation of participant contributions and program costs.

(1) Program costs are incremental costs associated with the utility's alternate energy purchase program not otherwise recovered through the utility's base tariff rates, and electricity costs dedicated to the program and separated from the utility's 199—20.9(476) energy or AEP automatic adjustment clauses.

(2) The excess of participant contributions over program costs is an annual program surplus, and the excess of program costs over participant contributions is an annual program deficit.

(3) Annual program surpluses and deficits are cumulative over successive years.

(4) A program deficit may be recovered through the utility's 199—20.9(476) AEP automatic adjustment clause.

(5) Any program surplus shall be used to offset prior years' program deficits previously recovered through the AEP automatic adjustment clause, and the offset amount shall be credited through the utility's AEP automatic adjustment clause.

c. Identification of any other AEP or renewable energy requirements being met with program AEP facilities and identification of any revenues derived from the separate sale of the renewable energy attributes of program AEP facilities.

d. Documentation that shows the energy produced by the utility's program AEP facilities in Iowa (whether contracted, leased, or owned), not including AEP facilities for which the utility has sought cost

recovery under 199—20.9(476) prior to July 1, 2001, is sufficient to meet the requirement of the utility's Iowa alternate energy purchase program.

e. A description of program marketing and customer information activities, including schedules and copies of all marketing and information materials related to the program.

f. Program modifications and uses for any program surplus that are under consideration, including procurement or assignment of additional electricity from AEP facilities.

g. A copy of the utility's annual fuel report to customers under subrule 15.17(5).

15.17(5) *Annual fuel reporting requirements for rate-regulated utilities.*

a. Each electric utility subject to rate regulation by the board, excluding utilities that elect rate regulation pursuant to Iowa Code section 476.1A, shall annually report to all its Iowa customers its percentage mix of fuel and energy inputs used to produce electricity. The report shall, to the extent practical, specify percentages of electricity produced by coal, nuclear energy, natural gas, oil, AEP electricity produced for the utility's alternate energy purchase program, non-program AEP electricity, and resources purchased from other companies. The percentages for AEP electricity shall further specify percentages of electricity produced by wind, solar, hydropower, biomass, and other technologies.

b. The report shall include an estimate of sulfur dioxide (SO_2), nitrogen oxide (NOx), and carbon dioxide (CO_2) emissions for each known fuel and energy input type. The emission estimate shall be expressed in pounds per 1000 kWh.

15.17(6) *Tariff filing requirements for non-rate-regulated utilities.*

a. On or before January 1, 2004, each electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A shall file with the board a tariff for the utility's alternate energy purchase program. Initial tariff filings and any subsequent modifications shall be filed for informational purposes only. Tariff modification filings need only include information about elements of the program that are being modified. The initial tariff filings shall include, as applicable:

(1) The program tariff;

(2) The program effective date;

(3) A sample of the customer notification, including a description of the method of distribution;

(4) Customer classes eligible for participation;

(5) Identification of any specific AEP facilities to be included in the program, including: fuel type; nameplate capacity; estimated annual kWh output; estimated in-service date; ownership, including any utility affiliation; location; and, if the facility is located outside of Iowa, an explanation of how the facility qualifies under paragraph 15.17(1)*"c"*; and

(6) Forms and levels of customer contribution available to program participants.

b. Joint filings. An electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A may file its tariff jointly with other non-rate-regulated utilities or through an agent. A joint tariff filing shall contain the information required by paragraph 15.17(6)*"a,"* separately identified for each utility participating in the joint tariff. The information for each utility may be provided by reference to an attached document or to a section of the joint tariff filing. A joint tariff filing filed by an agent shall state the agent's relationship to each utility and include a document from each utility authorizing the agent to act on the utility's behalf.

199—15.18(476B) Certification of eligibility for wind energy tax credits under Iowa Code chapter 476B. Any person applying for certification of eligibility for state tax credits for wind energy pursuant to Iowa Code section 476B.5 as amended by 2005 Iowa Acts, chapter 179, section 166, is subject to this rule.

15.18(1) *Filing requirements.* Any person applying for certification of eligibility for wind energy tax credits must file with the board an application that contains substantially all of the following information:

a. Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by

each owner, and a statement attesting that owners meeting the eligibility requirements of Iowa Code Supplement section 476B.5 are not owners of more than two eligible renewable energy facilities. In determining whether the two-facility limit is exceeded, the Board will consider not only the legal entity that owns the utility, if other than a natural person, but the equity owners of the legal entity. If the owner of the facility is other than a natural person, information regarding the equity owners must be provided.

c. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a qualified facility as defined in Iowa Code Supplement section 476B.1);

(2) Total nameplate generating capacity rating;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service (that is, placed in service on or after July 1, 2005, but before January 1, 2009, for eligibility under Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179).

d. A copy of the executed power purchase agreement or other agreement to purchase electricity. If the power purchase agreement has not yet been finalized and executed, the board will accept as an other agreement an executed agreement signed by at least two parties that includes both a commitment to purchase electricity from the facility upon completion of the project and most of the essential elements of a contract.

The board will also accept a copy of an executed interconnection agreement or transmission service agreement, in lieu of a power purchase agreement, if the facility owner has instead agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

e. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179 (1 cent per kWh, wind energy only tax credits).

15.18(2) *Review and notification.* Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code Supplement section 476B.5. In the absence of a timely appeal, the preliminary determination shall be final.

15.18(3) *Incomplete application and additional information.* If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

15.18(4) *Loss of eligibility status.* Within 18 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 18 months of board approval, the facility will lose eligibility status.

However, if the facility is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the filing requirement, attesting to the unavailability of necessary equipment. After granting a 12-month extension, if the board determines that the facility was not operational within 30 months of board approval, the facility will lose eligibility status. Otherwise,the facility may reapply to the board for new eligibility.

15.18(5) *Allocation of capacity among eligible applicants.* Iowa Code Supplement section 476B.5 establishes the maximum amount of nameplate generating capacity of facilities eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility

determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with 199 IAC 15.18(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

15.18(6) *Waiting list for excess applications.* The board will maintain a waiting list of excess eligibility applications for facilities that might have received preliminary eligibility under 199 IAC 15.18(2), but for the maximum capacity and capability restrictions under 199 IAC 15.18(5). The priorities of the waiting list will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under 199 IAC 15.18(5), the board will review the applications on the waiting list based on their priorities, before reviewing new applications. Applications will be removed from the waiting list after they are either approved or denied. Beginning August 31, 2007, each applicant on the waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code Supplement chapter 476B.

199—15.19(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C. Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code Supplement section 476C.3 is subject to this rule.

15.19(1) *Filing requirements.* Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the board an application that contains substantially all of the following information:

a. Information regarding the applicant, including the legal name, address, telephone number, and (as applicable) facsimile transmission number and electronic mail address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The "legal status of each owner" refers to the ownership requirements of Iowa Code Supplement section 476C.1(6)*"b,"* which provides that an eligible renewable energy facility must be at least 51 percent owned by one or more or any combination of the following:

(1) A resident of Iowa;

(2) An authorized farm corporation, authorized limited liability company, or authorized trust, as defined in Iowa Code section 9H.1;

(3) A family farm corporation, family farm limited liability company, or family farm trust, as defined in Iowa Code section 9H.1;

(4) A revocable trust as defined in Iowa Code section 9H.1;

(5) A testamentary trust as defined in Iowa Code section 9H.1;

(6) A small business as defined in Iowa Code section 15.102;

(7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499;

(8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or

(9) A school district located in Iowa.

c. A statement attesting that each owner meeting the eligibility requirements of Iowa Code Supplement section 476C.1(6)*"b"* does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility, or refuse conversion facility, as defined in Iowa Code Supplement section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code Supplement section 476C.1;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2012, for eligibility under Iowa Code Supplement chapter 476C; and

(5) For eligibility under Iowa Code Supplement chapter 476C, demonstration that the facility's combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent (as defined in Iowa Code Supplement section 476C.1(7)), divided by the number of separate owners meeting the requirements of Iowa Code Supplement chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

h. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code Supplement chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

15.19(2) *Review and notification.* Upon receipt of a complete application, the board will review it to make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board will notify the applicant by letter of the approval or denial of the application within 30 days of the date the application was filed. If the board fails to send the letter within 30 days, the application will be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within 30 days of the date of the denial, pursuant to the provisions of Iowa Code chapter 17A and Iowa Code Supplement section 476C.3(2). In the absence of a timely appeal, the preliminary determination shall be final.

15.19(3) *Incomplete application and additional information.* If an incomplete application is filed, the board may, upon request and for good cause shown, grant an extension of time to allow the applicant to provide additional information. Also, the board and its staff may request additional information at any time for purposes of determining initial or continuing eligibility for tax credits.

15.19(4) *Loss of eligibility status.* Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status. However, the facility may reapply to the board for new eligibility.

15.19(5) *Allocation of capacity among eligible applicants.* Iowa Code Supplement section 476C.3(4) establishes the maximum amounts of nameplate generating capacities and energy production capacity equivalents eligible for the tax credits. In the event the board receives applications for tax credits that, in total, exceed the statutory limits, the board will rule on the applications in the order they are received, based upon the date of receipt. Because the board does not track the time of day

that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed its application on that particular date. If such a petition is submitted, the board will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition. Applicants who opt in must comply with 199 IAC 15.19(4) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

15.19(6) *Waiting lists for excess applications.* The board will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under 199 IAC 15.19(2), but for the maximum capacity and capability restrictions under 199 IAC 15.19(5). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under 199 IAC 15.19(5), the board will review the applications on the waiting lists based on their priorities, before reviewing new applications. Applications will be removed from the waiting lists after they are either approved or denied. Beginning August 31, 2007, each applicant on a waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code Supplement chapter 476C.

199—15.20(476B) Applications for wind energy tax credits under Iowa Code chapter 476B. The wind energy tax credits equal one cent per kilowatt-hour of electricity generated by and purchased from eligible wind energy facilities under 199 IAC 15.18(476B), for tax years beginning on or after July 1, 2006. The owners of an eligible facility may apply for wind energy tax credits for up to ten tax years following the date the facility is placed in service. Wind energy tax credits will not be issued for wind energy purchased after June 30, 2019.

For the first tax year for which tax credits can be claimed, the kilowatt-hours generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credits for the 2007 tax year can include energy produced and purchased between April 1, 2006, and December 31, 2007.

15.20(1) *Application process for wind energy tax credits.* A wind energy facility must be approved as eligible by the board under 199 IAC 15.18(476B) in order to qualify for wind energy tax credits. The wind energy facility must also be approved by the board of supervisors of the county in which the facility is located, in accordance with Iowa Code section 476B.6(1). Once the owners receive approval from their board of supervisors, additional approval from the board of supervisors is not required for subsequent tax years.

Wind energy tax credits shall not be allowed for a facility for which the owners have claimed an exemption from property tax under Iowa Code sections 427B.26 or 441.21(8), or claimed an exemption from sales tax under Iowa Code section 423.3(54). The facility will be subject to the assessment of property tax in accordance with department of revenue rule 701 IAC 80.13(427B).

Tax credit applications for eligible facilities must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199 IAC 1.9(5)*"c"*) and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199 IAC 1.9(8)*"b"*(3). Accordingly, the applicant should mark each of the pages of the tax credit application "CONFIDENTIAL" in bold or large letters.

a. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199 IAC 15.20(476B)), and the following 14 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199 IAC 15.18(476B), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under 199 IAC 15.18(476B).

(3) A copy of the board of supervisors' approval, from the county in which the facility is located, issued pursuant to Iowa Code section 476B.6(1).

(4) A statement attesting that the owners have not claimed an exemption for the facility from property tax under Iowa Code section 427B.26 or 441.21(8), or from sales tax under Iowa Code section 423.3(54).

(5) A statement attesting that neither the owners nor the purchaser have received renewable energy tax credits for the facility under 199 IAC 15.21(476C).

(6) A copy of the executed power purchase agreement or other agreement to purchase electricity. Alternatively, a copy of an executed interconnection agreement or transmission service agreement is acceptable if the owners have elected to sell electricity from the facility directly or indirectly to a wholesale power pool market.

(7) A statement attesting that the electricity for which tax credits are sought has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the wind energy tax credits, the definition of "related person" is the same as specified in department of revenue subrules 701 IAC 42.25(2) and 52.26(2). That is, the definition of "related person" uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

(8) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2009).

(9) The total number of kilowatt-hours of electricity generated by the facility during the tax year.

(10) Invoices or other information that documents the number of kilowatt-hours of electricity generated by the eligible facility and sold to an unrelated purchaser during the tax year.

(11) Information regarding the facility owners, including the name, address, and tax identification number of each owner, and the percentage of equity interest held by each owner during the period for which wind energy tax credits will be sought under Iowa Code chapter 476B. If an owner is other than a natural person, information regarding the equity owners must also be provided. This information shall be consistent with information provided in the original application for facility eligibility, as amended, under 199 IAC 15.18(476B).

(12) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(13) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(14) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity, for each of the partners, members, shareholders, or beneficiaries of the entity. The wind energy tax credits will flow through to

the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company, to receive the wind energy tax credits issued under Iowa Code chapter 476B, and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof, of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the wind energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

b. The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

(1) The completeness of the application.

(2) The facility's eligibility status under 199 IAC 15.18(476B).

(3) Whether the reported kilowatt-hours of electricity generated by and purchased from the facility during the tax year seem accurate and eligible for wind energy tax credits.

15.20(2) *Review process and computation of wind energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue wind energy tax credit certificates to the facility owners, in accordance with department of revenue requirements and procedures under rules 701 IAC 42.25(422,476B), 52.26(422,476B), and 58.15(422,476B).

199—15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C. The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or $4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or $4.50 per 1 million British thermal units of heat for a commercial purpose, generated by and purchased from eligible renewable energy facilities under 199 IAC 15.19(476C), for tax years beginning on or after July 1, 2006. Either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits, for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy purchased after December 31, 2021.

For the first tax year for which tax credits can be claimed, the kilowatt-hours, standard cubic feet, or British thermal units generated by and purchased from an eligible facility may exceed 12 months' production.

EXAMPLE: An eligible facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which tax credits can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include renewable energy produced and purchased between April 1, 2006, and December 31, 2007.

15.21(1) *Application process for renewable energy tax credits.* A renewable energy facility must be approved as eligible by the board under 199 IAC 15.19(476C) in order to qualify for renewable energy tax credits. Tax credit applications must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications will be held confidential by the board and the department of revenue as, among other things, documents containing customer-specific or personal information (199 IAC 1.9(5)*"c"*) and information related to tax returns (Iowa Code section 422.20). The information will be held confidential by the board upon filing, and by the department of revenue upon receipt from the board, and will be subject to the provisions of 199 IAC

1.9(8)*"b"*(3). Accordingly, the applicant should mark each of the pages of the tax credit application "CONFIDENTIAL" in bold or large letters.

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits, as designated under 199 IAC 15.19(1)*"g."* If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199 IAC 15.21(476C)), and the following 12 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199 IAC 15.19(476C), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under 199 IAC 15.19(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under 199 IAC 15.20(476B).

(4) A copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under 199 IAC 15.19(1)*"g."*

(5) A statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2012).

(7) The total number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) Invoices or other information that documents the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year.

(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under 199 IAC 15.19(476C).

(10) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(11) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(12) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division II or III, the application shall include a list of the partners, members, shareholders, or beneficiaries of the entity. This list shall include the name, address, tax identification number, and pro-rata share of earnings from the entity for each of the partners, members, shareholders, or beneficiaries of the entity. The renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, the entity may designate specific partners if the business is

a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company to receive the renewable energy tax credits issued under Iowa Code chapter 476C and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, division V, or under Iowa Code chapter 423, 432, or 437A.

b. The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

(1) The completeness of the application.

(2) The facility's eligibility status under 199 IAC 15.19(476C).

(3) Whether the reported kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by and purchased from the facility during the tax year seem accurate and eligible for renewable energy tax credits.

15.21(2) *Review process and computation of renewable energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue renewable energy tax credit certificates to the facility owners or designated purchaser, in accordance with department of revenue requirements and procedures under 701 IAC 42.26(422,476C), 52.27(422,476C), and 58.16(422,476C).

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

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CHAPTER 16
ACCOUNTING
[Prior to 10/8/86, Commerce Commission[250]]

199—16.1(476) Accounting—general information.

16.1(1) *Application of rules.* These rules shall apply to any utility operating within the state of Iowa under the jurisdiction of the board pursuant to Iowa Code chapter 476, subject to the following conditions:

a. A utility may request a waiver of any of the rules in this chapter by filing a request for waiver pursuant to 199 IAC 1.3(17A,474,476,78GA,HF2206).

b. The adoption of these rules shall in no way preclude the board from altering or amending them, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

c. These rules shall in no way relieve any utility from any of its duties under the laws of this state.

16.1(2) *Effect of rules.* In prescribing uniform systems of accounts for public utilities, the board does not commit itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining other matters before the board. The prescribed systems of accounts are designed to set out the facts in connection with all sources of funds including incomes and amounts due and receivable from each source, and the amount expended and due for each purpose distinguishing clearly all payments for operating expenses from those of new construction, extensions and additions to property; and to provide for balance sheets showing various assets and liabilities and various forms of proprietary interest under uniform classifications; and, therefrom, the board will determine, in connection with such matters as may be under advisement from time to time, what consideration shall be given to the various items in the several accounts.

16.1(3) *Implementation of rules.* Rescinded IAB 6/25/03, effective 7/30/03.

199—16.2(476) Uniform systems of accounts—electric. The uniform systems of accounts for public utilities and licensees subject to the provisions of the Federal Power Act, 18 CFR Part 101 published in the Federal Energy Regulatory Commission's rules and regulations, in effect on April 1, 2000, and the January 1, 2002, uniform systems of accounts for rural electric cooperatives prescribed for electric borrowers of the Rural Utilities Service, as applicable, are adopted with the following modifications:

16.2(1) Definition 7 published in 18 CFR Part 101 is changed to read: "Commission" means the board except where reference is made to the licensing authority of the Federal Energy Regulatory Commission (as in definitions 22 and 27), where Commission shall mean the Federal Energy Regulatory Commission. This change does not apply to definitions found in Rural Utilities Service uniform systems of accounts for rural electric cooperatives.

16.2(2) Definition 29 published in 18 CFR Part 101 is changed to read: "Public Utility" means any natural or legal person, or other entity, defined as a public utility and made subject to the authority of the board by Iowa Code section 476.1. This change does not apply to definitions found in Rural Utilities Service uniform systems of accounts for rural electric cooperatives.

16.2(3) Rescinded IAB 6/25/03, effective 7/30/03.

16.2(4) General instruction 1-B of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "Utilities subject to rate regulation by the board shall keep all the accounts of these systems of accounts which are applicable to their affairs, and utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only."

16.2(5) General instruction 1-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "It is recommended but not required that electric utilities not subject to rate regulation, other than electric cooperatives, keep all applicable accounts in accordance with the Federal Energy Regulatory Commission uniform systems of accounts, 18 CFR Part 101." Rural electric cooperatives not subject to rate regulation may choose to keep all applicable accounts in accordance with the Rural Utilities Service uniform systems of accounts.

16.2(6) General instruction 2-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "This shall not prohibit the electric utilities from using such additional

accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders providing the board is notified of the nature, amount and purpose of such accounts in the annual report to the board and at such other times as may be requested by the board."

16.2(7) The definitions for the uniform systems of accounts for electric utilities, when used in account 424, Promotional Practices, are modified to include the following definitions:

a. The word *"affiliate"* shall mean any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

b. The word *"appliance"* or *"equipment"* shall mean any device, including a fixture, which consumes electric energy and any ancillary device required for its operation.

c. The word *"consideration"* shall mean any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

d. The word *"financing"* shall include acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

e. The word *"person"* shall include an individual, group, firm, partnership, corporation, cooperative, association, or other organization, but not including state or local political subdivisions or municipal corporations.

f. The words *"public utility"* or *"utility"* shall include persons defined to be public utilities in Iowa Code section 476.1.

g. The words *"promotional practices"* shall mean any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service; provided that the words "promotional practices" shall not include the following activities:

(1) Providing repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

(2) Inspection and adjustment of appliances or equipment by a public utility.

(3) Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at a cost or above.

(4) Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the board.

(5) Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.

(6) Providing discounts or financing to employees of a public utility to encourage their use of the utility's service.

(7) Merchandising and related inventorying of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions which due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.

(8) The replacement of or alterations to a customer's obsolete or inefficient system.

(9) Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.

(10) Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at $10 or less shall not be considered to be a promotional practice.

(11) Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.

(12) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

16.2(8) The uniform systems of accounts for electric utilities are modified to include the following:

a. 424 Promotional Practices. This account shall include the cost of labor, materials used, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate, without board written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: Studies to determine comparative capital or operating costs and expenses, or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value" in this instance is defined as the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person; provided that a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this board are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of electric utility service, except under published tariffs.

(11) Labor items related to promotional practices:

1. Salary of employees engaged directly or indirectly in promotional practices defined.
2. Clerical and stenographic work performed in relation to promotional practices.
3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.

b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list, add the following:

(1) Promotional advertising expenses.

(2) Institutional or goodwill advertising expenses.

(3) Rate justification advertising expenses.

c. 426.4 Political Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising whether on a national, regional, or local basis, which are designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account shall also include expenditures for influencing the decisions of public officials, not including expenditures as are directly related to appearances before regulatory or other governmental bodies in connection with the utility's existing or proposed operations.

(2) Entries relating to political advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where political advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"c."*

(4) Labor items related to political advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Material and expenses related to political advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5. See paragraph 16.2(8)*"k"* or FERC account 302.

d. 426.7 Promotional Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"d."*

(4) Labor items related to promotional advertising:

1. Direct supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and Expenses related to promotional advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.
7. Printing of booklets, dodgers, bulletins, etc.
8. Supplies and expenses in preparing advertising materials.
9. Office supplies and expenses.

NOTE A: The cost of advertisements which sets forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility), shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising, and the cost shall be charged to FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement, and the costs shall be distributed between this account and FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising which is designed to create, enhance, or sustain the utility's image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"e."*

(4) Labor items related to institutional or goodwill advertising:

1. Supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing or conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to institutional or goodwill advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.
8. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Pronouncements primarily lauding the utility or the area or community it serves.
- Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community it serves.
- Advertising activities to inform the public of the utility's participation in programs to improve the economic condition of the area or community it serves.
- Advertising activities to inform the public of the utility's role of good citizenship.
- Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public which is not inclusive in account 909.3, Informational Consumer Advertising Expenses. See paragraph 16.2(8)*"i."*
- Advertising activities to inform the public of the utility's consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in accounts 909.1, 909.2, and 909.3.

f. 426.9 Rate Justification Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a regional or local basis which is designed to promote public acceptance of utility rate increases or the utility's filed rates. The account shall also include all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested shall be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"f."*

(4) Labor items related to rate justification advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to rate justification advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.

g. 909.1 Conservation Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily inform the customer of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer. Include in this account advertising activity relating to the electric utility which is related directly to the company's provision of service to the customer during energy, fuel, and related shortages.

(2) Entries relating to conservation advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where conservation advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"g."*

(4) Labor items related to conservation advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to conservation advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which will result in less consumption of energy.
- Advertising designed to convince consumers to turn down thermostats, turn off lights when not in use, and turn off appliances, television sets, etc., when not in use.

h. 909.2 Environmental Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily are designed to inform the public concerning the methods by which customers can participate with the utility in preserving and improving the environment. However, advertising which is primarily designed to laud the utility's achievements or projects purporting to preserve or enhance the environment, shall be recorded in account 426.8. See paragraph 16.2(8)*"e."*

(2) Entries relating to environmental advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate or any party involved in a discovery proceeding.

(3) Where environmental advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"h."*

(4) Labor items related to environmental advertising:

1. Direct supervision of advertising activities.

2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparation of booklets, bulletins, etc., used in direct mail.

4. Preparation of window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to environmental advertising:

1. Advertising in newspapers, periodicals, billboards, etc.

2. Fees and expenses of advertising agencies and commercial artists.

3. Postage on direct-mail advertising.

4. Printing of booklets, dodgers, bulletins, etc.

5. Supplies and expenses in preparing advertising materials.

6. Office supplies and expenses.

7. Novelties for general distribution.

i. 909.3 Informational Consumer Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect their health and safety, and to utilize their electric equipment safely and economically.

(2) Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where informational advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"i."*

(4) Labor items related to informational consumer advertising:

1. Direct supervision of advertising activities.

2. Preparing materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.

4. Preparing window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to informational consumer advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.

2. Fees and expenses of advertising agencies and commercial artists.

3. Postage on direct-mail advertising.

4. Printing of booklets, dodgers, bulletins, etc.

5. Supplies and expenses in preparing advertising materials.

6. Office supplies and expenses.

7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which make use of the utility's service.
- Information as to new rates, billing practices, new inspection, or meter-reading schedules.
- Notification of emergency conditions and procedures to be followed during the emergency.
- Advice concerning hazards associated with the utility's electric service.

(6) Exclude from this account and charge to FERC account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also, exclude all expenses of promotional, institutional, or goodwill, and political advertising. See paragraphs 16.2(8)*"c,"*, 16.2(8)*"d,"* and 16.2(8)*"e,"* which refer to accounts 426.4, Political Advertising Expenses, 426.7, Promotional Advertising Expenses, and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

Advertising expense directly related to obtaining a franchise or renewing an old franchise shall be charged to FERC account 302, Franchise and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new debt financing shall be charged to FERC account 181, Unamortized Debt Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

j. 909.4 Load Factor Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities designed to improve load factor so that plant and equipment already installed can be operated more efficiently and to a greater degree of capability, thereby resulting in lower overall costs to the consumer.

(2) This shall include advertising expenditures which are designed to further industrial and commercial development of the company's service area.

(3) Entries relating to load factor advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(4) Where load factor advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"j."*

(5) Labor items relating to load factor advertising:

1. Direct supervision of advertising activities.
2. Preparation of advertising materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(6) Materials and expenses related to load factor advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below is an example of the advertising to be included in this account:

- Encouragement for manufacturers to go to night operations.

k. 913 Advertising Expenses. Delete the entire current text of FERC account 913 and add subaccount 913.5, Franchise Advertising Expenses.

(1) This account shall include only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising matter shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(4) Materials and expenses related to franchise advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

l. 930.2 Miscellaneous Expenses.

16.2(9) FERC accounts 421.1 or 421.2 as they are defined and exist in the uniform systems of accounts shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the board for good cause shown.

16.2(10) FERC account 105 of the uniform systems of accounts 18 CFR Part 101 is modified in subparagraph "D" by deleting the following language: "in account 411.6 or 411.7, as appropriate except when determined to be significant by the board. Upon such a determination, the amounts shall be transferred to account 256, Deferred Gains from Disposition of Utility Plant, or account 187, Deferred Losses from Disposition of Utility Plant, and amortized to accounts 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, as appropriate," and substituting in lieu thereof: "in account 421.1 or 421.2, as appropriate unless otherwise authorized or required by the board for good cause shown."

199—16.3(476) Uniform systems of accounts—gas. The uniform systems of accounts for natural gas companies subject to the provisions of the Natural Gas Act, 18 CFR Part 201 published in the Federal Energy Regulatory Commission's rules and regulations, in effect on April 1, 2002, is adopted with the following modifications:

16.3(1) Definition 7 is changed to read: "Commission" means the board except where reference is made to the authority of the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act and where the board does not have the same or similar authority under Iowa Code chapter 476, where "Commission" shall mean FERC.

16.3(2) Definition 22 is changed to read: "Natural gas company" means a person furnishing gas by piped distribution system to the public for compensation.

16.3(3) Rescinded IAB 6/25/03, effective 7/30/03.

16.3(4) General instruction 1-B of the uniform systems of accounts for gas utilities is modified to add the following sentence: "Gas utilities subject to rate regulation by the board shall keep all the accounts of these systems of accounts which are applicable to their affairs, and gas utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only."

16.3(5) General instruction 1-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: "It is recommended but not required that gas utilities not subject to rate regulation keep all applicable accounts in accordance with the FERC uniform systems of accounts 18 CFR Part 201."

16.3(6) General instruction 2-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: "This shall not prohibit the gas utilities from using additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the board is notified of the nature, amount and purpose of such accounts in the annual report to the board and at such other times as may be requested."

16.3(7) The definitions for the uniform systems of accounts for gas utilities, when used in account 424, Promotional Practices, are modified to include the following definitions:

a. The word *"affiliate"* shall mean any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

b. The word *"appliance"* or *"equipment"* shall mean any device, including a fixture, which consumes electric energy and any ancillary device required for its operation.

c. The word *"consideration"* shall mean any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

d. The word *"financing"* shall include acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

e. The word *"person"* shall include any individual, group, firm, partnership, corporation, cooperative, association, or other organization, but not including state or local political subdivisions or municipal corporations.

f. The words *"public utility"* or *"utility"* shall include persons defined to be public utilities in Iowa Code section 476.1.

g. The words *"promotional practices"* shall mean any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service; provided that the words *"promotional practices"* shall not include the following activities:

(1) Providing repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

(2) Inspection and adjustment of appliances or equipment by a public utility.

(3) Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at cost or above.

(4) Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the board.

(5) Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.

(6) Providing discounts or financing to employees of a public utility to encourage their use of the utility's service.

(7) Merchandising and related inventory of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions which due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.

(8) The replacement of or alterations to a customer's obsolete or inefficient system.

(9) Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.

(10) Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at $10 or less shall not be considered to be a promotional practice.

(11) Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.

(12) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency.

16.3(8) The uniform systems of accounts for gas utilities are modified to include the following:

a. 424 Promotional Practices. This account shall include the cost of labor, materials used, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices, which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate without board written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: Studies to determine comparative capital or operating costs and expenses, or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value" in this instance is defined as the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person; provided that a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this board are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of gas utility service, except under published tariffs.

(11) Labor items related to promotional practices:

1. Salary of employees engaged directly or indirectly in promotional practices defined.
2. Clerical and stenographic work performed in relation to promotional practices.
3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.

b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list, add the following:

(1) Promotional advertising expenses.

(2) Institutional or goodwill advertising expenses.

(3) Rate justification advertising expenses.

c. 426.4 Political Advertising Expenses.

(1) Account 426.4 pertains to items in subparagraph 16.3(8)*"a"*(12)"1" and paragraph 16.3(8)*"b"* listed above. This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a national, regional, or local basis, which are designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account shall also include expenditures for influencing the decisions of public officials not including such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the utility's existing or proposed operations.

(2) Entries relating to political advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where political advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"c."*

(4) Labor items related to political advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to political advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5 shown in paragraph 16.3(8)*"j"* or FERC account 302.

d. 426.7 Promotional Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"d."*

(4) Labor items related to promotional advertising:

1. Direct supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to promotional advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.
7. Printing of booklets, dodgers, bulletins, etc.
8. Supplies and expenses in preparing advertising materials.
9. Office supplies and expenses.

NOTE A: The cost of advertisements which set forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility) shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising, and the cost shall be charged to account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement, and the costs shall be distributed between this account and account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising which is designed to create, enhance, or sustain the utility's image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"e."*

(4) Labor items related to institutional or goodwill advertising:

1. Supervision of advertising activities.

2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.

4. Preparing window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to institutional or goodwill advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.

2. Advertising matters such as posters, bulletins, booklets, and related items.

3. Fees and expenses of advertising agencies and commercial artists.

4. Postage on direct-mail advertising.

5. Printing of booklets, dodgers, bulletins, etc.

6. Supplies and expenses in preparing advertising materials.

7. Office supplies and expenses.

8. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Pronouncements primarily lauding the utility or the area or community it serves.
- Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community it serves.
- Advertising activities to inform the public of the utility's participation in programs to improve the economic condition of the area or community the utility serves.
- Advertising activities to inform the public of the utility's role of good citizenship.
- Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public which are not inclusive in account 909.3, Informational Consumer Advertising Expenses. See paragraph 16.3(8)*"i."*
- Advertising activities to inform the public of the utility's consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in accounts 909.1, 909.2 and 909.3. See paragraphs 16.3(8)*"g,"* 16.3(8)*"h,"* and 16.3(8)*"i,"* respectively.

f. 426.9 Rate Justification Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a regional or local basis, which is designed to promote public acceptance of utility rate increases or the utility's filed rates. The account shall also include all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested shall be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"f."*

(4) Labor items related to rate justification advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

2. Preparing booklets, bulletins, etc., used in direct mail.

3. Preparing window and other displays.

4. Clerical and stenographic work.

5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to rate justification advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.

g. 909.1 Conservation Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily inform the customer of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer. Include in this account advertising activity relating to the gas utility, which is related directly to the company's provision of service to the customer during energy, fuel, and related shortages.

(2) Entries relating to conservation advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where conservation advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"g."*

(4) Labor items related to conservation advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to conservation advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which will result in less consumption of energy.
- Advertising designed to convince consumers to turn down thermostats, turn off appliances, etc., when not in use.

h. 909.2 Environmental Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily are designed to inform the public concerning the methods by which customers can participate with the utility in preserving and improving the environment. However, advertising which is primarily designed to laud the utility's achievements or projects purporting to preserve or enhance the environment shall be recorded in account 426.8. See paragraph 16.2(3)*"e."*

(2) Entries relating to environmental advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or

scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where environmental advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"h."*

(4) Labor items related to environmental advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to environmental advertising:

1. Advertising in newspapers, periodicals, billboards, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

i. 909.3 Informational Consumer Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing gas service to protect their health and safety, and to utilize their gas equipment safely and economically.

(2) Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where informational advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"i."*

(4) Labor items related to informational consumer advertising:

1. Direct supervision of advertising activities.
2. Preparing materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to informational consumer advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.

7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which makes use of the utility's service.
- Information as to new rates, billing practices, new inspection, or meter-reading schedules.
- Notification of emergency conditions and procedures to be followed during the emergency.
- Advice concerning hazards associated with the utility's gas service.

(6) Exclude from this account and charge to FERC account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also, exclude all expenses of promotional, institutional, or goodwill, and political advertising. See paragraphs 16.3(8)*"c,"* 16.3(8)*"d,"* and 16.3(8)*"e,"* which refer to accounts 426.4, Political Advertising Expenses, 426.7, Promotional Advertising Expenses, and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

Advertising expense directly related to obtaining a franchise or renewing an old franchise shall be charged to FERC account 302, Franchise and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new debt financing shall be charged to FERC account 181, Unamortized Debt Discount and Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

j. 913.5 Franchise Advertising Expenses.

(1) This account shall include only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising matter shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(4) Materials and expenses related to franchise advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

k. 930.2 Miscellaneous General Expenses.

16.3(9) FERC accounts 421.1 or 421.2 as they are defined and exist in the uniform systems of accounts shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the board for good cause shown.

16.3(10) FERC accounts 105 and 105.1 of the uniform systems of accounts 18 CFR Part 201 are modified in subparagraph "D" by deleting the following language: "in FERC account 411.6 or 411.7, as appropriate except when determined to be significant by the board. Upon such a determination, the amounts shall be transferred to FERC account 256, Deferred Gains from Disposition of Utility Plant, or FERC account 187, Deferred Losses from Disposition of Utility Plant, and amortized to FERC account 411.6, Gains from Disposition of Utility Plant, or FERC account 411.7, Losses from Disposition of Utility Plant, as appropriate," and substituting in lieu thereof: "in FERC account 421.1 or 421.2, as appropriate, unless otherwise authorized or required by the board for good cause shown."

199—16.4(476) Uniform systems of accounts—water. The 1996 uniform systems of accounts for Class A, B, and C water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) uniform systems of accounts are adopted with the following modifications:

16.4(1) Accounting instruction 2-D of the NARUC uniform systems of accounts for water utilities is modified by adding the sentence: "This shall not prohibit water utilities from using such additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the board is notified of the nature, amount, and purpose of such accounts in the annual report to the board and at such other times as may be requested by the board."

16.4(2) Account 414, as defined and existing in the NARUC uniform systems of accounts 414.A, shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property to another, unless otherwise authorized or required by the board for good cause shown.

199—16.5(476) Uniform systems of accounts—telephone. Local exchange utilities subject to regulation by the board shall keep accounts consistent with generally accepted accounting principles (GAAP) or the accounting regulations adopted by the Federal Communications Commission. Each local exchange utility shall indicate in its annual report which method of accounting it has adopted and the location of the accounting records associated with Iowa operations.

199—16.6(476) Uniform systems of accounts—telegraph. The uniform systems of accounts for telegraph utilities adopted by the FCC, editorial revision, effective December 7, 1963, are adopted with the following modifications:

The general instructions of the FCC uniform systems of accounts for telegraph companies are modified by adding the following sentence: "This shall not prohibit the telephone companies from using such additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the board is notified of the nature, amount and purpose of such accounts in the annual report to the board and at such other times as may be requested by the board."

199—16.7(476) Filing of present promotional practices. Each public utility subject to rate regulation shall file with the board within 60 days of the effective date of this rule a schedule setting forth each of the promotional practices in which engaged as defined in the board's uniform systems of accounts. All practices for which the costs are to be charged to account 424 (electric and gas) or 31.324 (telephone) shall be set forth. The accounts currently being charged with these practices shall be so listed. The company shall show the following data for each promotional practice.

1. The name, number, or letter designation of each such promotional practice.
2. The class of persons to which such promotional practice is being offered or granted.
3. Whether such promotional practice is being uniformly offered or granted to the persons within such class.
4. A description of such promotional practice which shall include a statement of the terms and conditions governing same.
5. A description of the advertising or publicity employed with respect to such promotional practice.

6. If such promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of such affiliate or person and the nature of such party's participation shall be disclosed.

7. The expiration date of the practice, if known, or an estimated date.

8. Other information relevant to a complete understanding of such promotional practice.

9. The date or estimated date of the beginning of such promotional practices.

Any promotional practice proposed subsequent to the initial listing outlined above shall be described in writing by the utility and such documentation provided the board no less than 30 days prior to its expected implementation.

16.7(1) Annual report. Rescinded IAB 11/6/96, effective 12/11/96.

16.7(2) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199 IAC 35 shall be deemed not to be a promotional practice for purposes of this rule and shall be exempt from the requirements of this rule.

199—16.8(476) Compiling advertisements and expenses. The burden of compiling and classifying advertisements and promotional expenses consistent with the directions of accounts 426, 426.4, et seq., 913. 1, et seq., Uniform systems of Accounts — Electric and Gas, 31.324, et seq., 31.642, et seq., Uniform systems of Accounts — Telephone, and 910 Uniform systems of Accounts — Water shall be borne by public utility companies. In this connection the burden of proof as to the accuracy of such classifications and expenses, as with other cost items, shall reside with the utility.

Where a given advertisement or group of advertisements may fall within more than one of the categories defined by accounts 426.4, et seq., 913.1, et seq., Uniform systems of Accounts — Electric and Gas, 31.323, et seq., 31.642, et seq., Uniform systems of Accounts — Telephone, and 910 Uniform systems of Accounts — Water, the utilities shall apportion the expenses of such advertisements between the categories.

Every advertisement published, broadcast, or otherwise displayed or disseminated to the public by a public utility which is to be paid for by the utility's customers and is not required by the board or other state or federal regulation shall include the following statement: "The cost of this ad will be paid for by the customers of (Company Name)." This requirement shall not apply to advertisements for products or services that are or become subject to competition as determined by the board or are treated and accounted for as part of a utility's unregulated operations. When a public utility determines that the costs of an ad are to be charged in part to the customers and in part to the public utility, the public utility shall display the following notice: "x**%** of the cost of this ad will be paid for by the customers of (Company Name)." Any statement included in advertisements under this rule shall not affect the ability of the board to determine the proper ratemaking treatment of the cost of the advertisement.

199—16.9(476) Postemployment benefits other than pensions.

16.9(1) Accrual accounting for postemployment benefits other than pensions in accordance with Statement of Financial Accounting Standard No. 106 (SFAS 106) will be permitted where:

a. The accrued postemployment benefit obligations have been funded in a segregated and restricted account or alternative arrangements have been approved by the board.

b. The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by SFAS 106.

c. The transition obligation is amortized in accordance with SFAS 106.

16.9(2) The requirements of this rule do not apply to a local exchange utility regulated by the board if the utility accounts for its postemployment benefits other than pensions in a manner consistent with the regulations of the Federal Communications Commission.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.8, 476.9, 476.17, and 546.7.

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[1] Effective date 1/9/85 of rule 16.8 delayed 70 days by the Administrative Rules Review Committee.

[2] Subrules 16.5(48) to 16.5(85) shall be effective on the date when Part 32 becomes effective as FCC rules, except subrule 16.5(49), paragraph *"c"* is effective 9/2/87.

CHAPTER 17
ASSESSMENTS
[Prior to 10/8/86, Commerce Commission[250]]

199—17.1(475A,476,546) Purpose. The purpose of this chapter is to describe and implement the method the board uses to assess expenses incurred by the board and the consumer advocate on utilities and other parties pursuant to Iowa Code Supplement section 476.10 and Iowa Code section 476.101(10). Rules in this chapter refer to the Iowa Code sections and rules that govern assessments under Iowa Code chapters 478, 479, 479A, and 479B. As used in this chapter, a reference to expenses of the board includes expenses of the entire utilities division.

199—17.2(475A,476) Definitions. The following definitions apply to the rules in this chapter.

17.2(1) A "direct assessment" is the charge to a person bringing a proceeding before the board or to persons participating in matters before the board:

a. For expenses incurred by the board attributable to the board's duties related to such proceeding or matter; and

b. For certified expenses incurred and directly chargeable by the consumer advocate in the performance of its duties related to such proceeding or matter.

The term "person" includes any legal entity. However, "person" does not include the consumer advocate.

17.2(2) A "remainder assessment" is the charge to all persons providing service over which the board has jurisdiction for the total expenses incurred during each fiscal year in the performance of the board's duties under law and the certified expenses of the consumer advocate after deducting the direct assessments. The remainder assessment may consist of two parts: expenses that can be identified with a specific type of utility service, and expenses that cannot be so identified.

17.2(3) "Overhead expenses" are all operating costs of the board and the consumer advocate excluding salaries and related benefit costs borne by the state.

17.2(4) "Gross operating revenues from intrastate operations" include all revenues from Iowa intrastate utility operations during the last calendar year, except uncollectible revenues, amounts included in the accounts for interdepartmental sales and rents, and gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues.

199—17.3(476) Expenses to be included in direct assessments. In its direct assessments, the board does not bill more than costs assigned to a docket.

17.3(1) Salaries of board and consumer advocate employees are computed at an expertise level on an hourly rate obtained by dividing the individual's merit class average annual salary and related benefit costs borne by the state by the appropriate number of standard working hours for the year.

The time of all board and consumer advocate employees engaged on the matter for which a direct assessment is to be made, whether on the property of a public utility, in the offices of the board, or elsewhere, including travel time, is included.

17.3(2) Travel expenses incurred in an investigation or in rendering services by the board and the consumer advocate personnel or by others employed by the board or consumer advocate are included. Travel expenses include costs of transportation, lodging, meals and other normal expenses attributable to traveling.

17.3(3) Costs of necessary consultants, facilities, or equipment are included.

17.3(4) Overhead expenses of the board and the consumer advocate reasonably attributable to activities of the board and consumer advocate that can be directly assessed under Iowa Code Supplement section 476.10 or Iowa Code section 476.101(10) are included. The following method is used to

calculate the overhead expense factor used to calculate the overhead expenses reasonably attributable to activities of the board and consumer advocate.

a. The overhead expense factor used in direct billing overhead expenses is recalculated and implemented with the July billing each year. The overhead expense factor is determined using the following formula:

$$\text{20XX Fiscal Year Overhead Expense Factor} = \frac{\text{20XX Approved Budget Fiscal Year Expenditures}}{\text{20XX Approved Budget Fiscal Year Salaries}}$$

b. The "Approved Budget Fiscal Year Expenditures" and "Approved Budget Fiscal Year Salaries" are for those of the board and the consumer advocate added together.

c. For each merit class salary, the overhead expense factor is multiplied by the salary computed pursuant to subrule 17.3(1) to produce the hourly rate to be charged in the direct assessment.

199—17.4(476) Direct assessments under Iowa Code Supplement section 476.10.

17.4(1) Applicability. This rule applies only to direct assessments under Iowa Code Supplement section 476.10.

17.4(2) The board will not directly assess an individual who files a complaint against a public utility, so long as the individual's participation in the proceeding is in good faith. The board will not directly assess an individual who files a protest or inquiry or intervenes in a proceeding involving a rate change by a public utility, so long as the individual's participation in the proceeding is in good faith. The board will not directly assess any person for filing written or oral comments in a rule-making proceeding.

17.4(3) Ordinarily, the board will not directly assess a person who intervenes in a board proceeding. However, the board may decide to directly assess a person who intervenes if the board determines that the person's intervention or participation is not in good faith, the intervention significantly expands the scope of the proceeding without contribution to the public interest, or the board determines there are unusual circumstances warranting assessment. If the board determines there are unusual circumstances warranting assessment, it will issue an order at the earliest reasonable opportunity.

17.4(4) The board considers the following factors in deciding whether to directly assess a person, and the amount to be directly assessed, pursuant to Iowa Code Supplement section 476.10.

a. Whether the person's intervention and participation in a board proceeding expanded the scope of the proceeding without contributing to the public interest.

b. Whether the person's intervention and participating in a board proceeding was in good faith.

c. The financial resources of the person.

d. The impact of assessment on participation by intervenors.

e. The nature of the proceeding or matter.

f. The contribution of the person's participation to the public interest.

g. Whether directly assessing costs would be fair and in the public interest.

h. Other factors deemed appropriate by the board in a particular case.

17.4(5) The board may decide not to directly assess a person after considering the factors in subrule 17.4(4).

17.4(6) In determining the financial resources of the person in 17.4(4)*"c"* above, the board may use revenue information previously submitted by the person to the board. If the person has not previously provided revenue information to the board, or has submitted incomplete information, the board may request that the person submit revenue information and, if the person does not do so, may make assumptions regarding the person's financial resources for purposes of the direct assessment.

17.4(7) Most Iowa Code section 476.97 proceedings are considered for direct assessment under Iowa Code Supplement section 476.10 and this rule. The only exception is a section 476.97 complaint brought under section 476.101(8), which is assessed under section 476.101(10).

199—17.5(476) Reporting of operating revenues. Each year, the board sends an annual report form to every public utility. On or before April 1 of each year, every public utility shall file with the board its annual report that includes a verified report, on forms prescribed by the board, showing its gross operating revenues from Iowa intrastate operations during the preceding calendar year. Such revenues are to be reported on the accrual basis or the cash basis consistent with the annual report filed with the board.

199—17.6(475A,476) Compilation and billing of assessment.

17.6(1) *Direct assessments.* The board shall ascertain, and add to the direct assessment, certified expenses incurred by the consumer advocate directly chargeable to the person. The board does not review the expenses certified to it by the consumer advocate. The board may present a bill for the direct assessment to any person either at the conclusion of the proceeding or matter, or from time to time during its progress.

17.6(2) *Remainder assessments.*

a. The revenues for the remainder assessment shall be compiled by the board based on the report provided pursuant to rule 17.5(476).

b. The board shall ascertain the total of the division's expenses incurred during each fiscal year and add to it the certified expenses of the consumer advocate. Next, the board shall add together all amounts directly assessed, pipeline assessments, electric transmission line assessments, federal reimbursements, and miscellaneous reimbursements. This total shall be deducted from the total of the division's and consumer advocate's expenses. The remaining amount is the amount to be recovered through the remainder assessment. Subject to paragraphs 17.6(2*)"c"* and *"d,"* the board may assess the remaining amount to all persons providing service over which the board has jurisdiction in proportion to the respective gross operating revenues of such persons from Iowa intrastate operations over which the board has jurisdiction during the last calendar year.

c. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only to the entities providing that type of service over which the board has jurisdiction.

d. The remainder assessments for gas and electric public utilities exempted from rate regulation pursuant to Iowa Code chapter 476 will be computed at one-half the rate used to compute the assessment for other persons.

e. The board may make the remainder assessments on a quarterly basis, based upon estimates of the expenditures for the fiscal year for the division and the consumer advocate. The board shall conform the amount of the estimated prior fiscal year's assessments to the actual fiscal year expenditures not more than 90 days following the close of the fiscal year.

f. If a utility has gross operating revenue of $50,000 or less for the prior calendar year, the board may decide not to bill the utility for its share of the remainder assessment.

17.6(3) The bill or accompanying letter of transmittal to each utility shall indicate the assessable revenue for the utility, the rate at which the assessment was computed, and the assessment amount. Bills must be paid within 30 days of receipt unless an objection is filed in writing pursuant to Iowa Code Supplement section 476.10.

199—17.7(476) Funding of Iowa energy center and global warming center. The board will send a bill to each gas and electric utility for funding the Iowa energy center and global warming center. Within 30 days of receipt of the bill, each gas and electric utility shall remit to the utilities division of the department of commerce a check made payable to the treasurer of state for one-tenth of one percent of the total gross operating revenue during the last calendar year derived from its intrastate public utility operations for the funding of the Iowa energy center and global warming center. This remittance shall not be represented on customers' bills as a separate item.

199—17.8(476) Assessments under Iowa Code section 476.101(10).

17.8(1) Applicability. This rule applies to assessments under Iowa Code section 476.101(10).

17.8(2) In making assessments under Iowa Code section 476.101(10), the board will allocate costs and expenses to all parties and participants. The allocation will not necessarily be an equal allocation.

17.8(3) The specific method of allocation will be made on a case-by-case basis, and ordinarily will be included in the final order in the docket.

17.8(4) The factors the board will consider may include, but are not limited to, Iowa revenues, grouping of parties and participants on the basis of position on the issues, and the factors under rule 17.4(476). Joint participation by similarly oriented parties and participants will be encouraged by favorable allocations.

17.8(5) The most recent revenue reports filed pursuant to rule 17.5(476) will be used to determine assessments, if available. If the participant has not previously provided revenue information to the board, or has provided incomplete revenue information, the board may request that the participant submit revenue information. If the participant does not do so, the board may make assumptions regarding the participant's revenue for purposes of the assessment. The board may make adjustments to the revenue figures as appropriate for the particular type of case.

199—17.9(478,479,479A,479B) Assessments under Iowa Code chapters 478, 479, 479A, and 479B.

17.9(1) This rule applies to assessments in electric franchise and pipeline permitting proceedings under Iowa Code chapters 478, 479, and 479B, and to board and consumer advocate costs under chapter 479A.

17.9(2) Assessments in electric franchise proceedings conducted pursuant to Iowa Code chapter 478 shall be as provided in Iowa Code section 478.4.

17.9(3) Assessments in pipeline permit proceedings and construction inspections conducted pursuant to Iowa Code chapter 479 shall be as provided in Iowa Code section 479.13 and rule 199—10.10(479).

17.9(4) Assessments for construction inspections conducted pursuant to Iowa Code chapter 479a shall be as provided in Iowa Code section 479A.6 and rule 199—12.5(479A). The board will assess costs of reviewing a utility's land restoration plan under section 479A.14(9) as provided in Iowa Code Supplement section 476.10.

17.9(5) Assessments in hazardous liquid pipeline permit proceedings conducted pursuant to Iowa Code chapter 479B shall be as provided in Iowa Code section 479B.10 and rule 199—13.10(479B).

These rules are intended to implement Iowa Code chapters 17A, 475A, 476, 478, 479, 479A, 479B, and 546 and Iowa Code Supplement section 476.10.

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CHAPTER 18
UTILITY RECORDS
[Prior to 10/8/86, Commerce Commission[250]]

199—18.1(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"FCC rules" are the rules and regulations of the Federal Communications Commission under the Communications Act of 1934 as published in the Code of Federal Regulations (CFR).

"FERC rules" are the rules and regulations of the Federal Energy Regulatory Commission under the Federal Power Act and Natural Gas Act as published in the CFR.

"NARUC guidelines" are the guidelines published by the National Association of Regulatory Utility Commissioners.

"RUS rules" are the rules and regulations of the Rural Utilities Service (RUS), 7 CFR Part 1767, of the United States Department of Agriculture applicable to electric and telephone borrowers of the RUS under the terms of their mortgages to the RUS.

199—18.2(476) Location of records. All records required by any rules of the board, or necessary for the administration thereof, shall be kept within this state unless otherwise authorized by the board. Any transfer of records from a location outside this state to another location outside this state shall also require prior board authorization, but a transfer from outside this state to a locale within this state may be made with only prior notification to the board.

The board is to be notified by each rate-regulated gas utility and electric utility within 30 days of any change in the address, telephone number, or business hours of the utility's principal office for Iowa operations. A utility providing gas and electric service may designate one principal office for both types of utility operations or a separate principal office for each type of utility operation. Notwithstanding any other provision of these rules, the following books, accounts, papers, and records, or current copies thereof, are required to be maintained at the utility's principal office for Iowa operations:

18.2(1) The utility's tariffs.

18.2(2) A record of the number and business location of the utility's administrative, technical, and operating personnel within the state.

18.2(3) The most recent inspection report.

18.2(4) The most recent rate case filing.

18.2(5) Annual reports for the past five years.

18.2(6) Shareholder's reports for the past five years.

18.2(7) Form IG-1 (gas utilities).

18.2(8) Form IE-1 (electric utilities).

18.2(9) Information regarding the location of other books, records, and accounts required to be maintained by the board pursuant to statute or rule.

199—18.3(476) Availability of records. All records required by any rules of the board which are of a general corporate nature or otherwise pertain to the utility's operations as a whole, shall be made available for examination by the board at the utility's principal place of business within this state during normal business hours, unless otherwise authorized by the board. However, any records which pertain to the utility's operations in only a specific location or geographic region, and which are customarily kept at a local office of the utility at that location or within that region, may be made available at that local office. The board may require a utility to notify the board of the nature of records kept at a local office and the locations of the offices. Relocation of records from one local office to another shall require prior notification to the board.

Upon receipt by a utility of a formal request in writing from the board for records or information pertaining to records required by any board rule, the utility shall provide the requested information to the board within 15 days of receiving the written request from the board unless the utility files an objection to the request or a request for an extension of time within 7 days of the utility's receipt of the information

request. The objection or request for extension of time shall be filed in writing and shall state the concise grounds for relief. If the board finds that the objection or request for extension of time does not have merit, the information originally requested shall be provided immediately upon receiving notice of the board's decision.

This rule is intended to implement Iowa Code section 476.31.

199—18.4(476) Electric utilities other than rural electric cooperatives.

18.4(1) *Units of property.* Electric utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Electric Plant in accordance with 199—16.2(476), which adopts the 2000 FERC rules, 18 CFR Part 101, Electric Plant Instructions.

18.4(2) *Preservation of records.* All electric utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of Part 125 of the FERC rules, 18 CFR Part 125, Preservation of Records of Public Utilities and Licensees, as issued on April 1, 2000. Rate-regulated companies shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.5(476) Rural electric cooperatives.

18.5(1) *Units of property.* Rural electric cooperatives (RECs) subject to rate regulation by the board shall adopt the RUS rules contained in RUS 7 CFR Part 1767 issued January 1, 2002. The REC shall maintain sufficient records to support additions to plant, retirement units, and replacements of electric plant, in accordance with 7 CFR Part 1767.10, Definitions, 7 CFR Part 1767.15, General Instructions, 7 CFR Part 1767.16, Electric Plant Instructions, and 7 CFR Part 1767.20, Plant Accounts.

18.5(2) *Preservation of records.* Rural electric cooperatives shall preserve the records of their operations in accordance with the provisions of the RUS rules contained in RUS Bulletin 180-2, Manual for Preservation of Borrowers Records (Electric), issued June 6, 1972.

199—18.6(476) Gas utilities.

18.6(1) *Units of property.* Gas utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Gas Plant in accordance with 199—16.3(476), which adopts the 2000 FERC rules, 18 CFR Part 201, Gas Plant Instructions.

18.6(2) *Preservation of records.* All gas utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of FERC rules, 18 CFR Part 225, Preservation of Records of Natural Gas Companies, as issued April 1, 2000. Rate-regulated companies shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.7(476) Water utilities.

18.7(1) *Units of property.* Water utilities subject to rate regulation shall maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Water Plant in accordance with 199—16.4(476) which adopts the 1996 NARUC uniform systems of accounts for Class A, B, and C water utilities.

18.7(2) *Preservation of records.* All water utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of the NARUC guidelines: Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, revised May 1985 edition. Regulated water utilities shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.8(476) Telephone utilities.

18.8(1) *Units of property.* Telephone utilities subject to rate regulation shall adopt, in addition to the requirements of 199 IAC Chapter 16, section 31.8, List of Retirement Units, or section 33.81, Units of

Property, as appropriate, of the FCC rules, 47 CFR 31 and 47 CFR 33, respectively, as issued October 1, 1976.

18.8(2) *Preservation of records.* All telephone utilities subject to regulation by the board shall preserve the records of their operations in accordance with the provisions of Part 42 of the FCC rules, 47 CFR 42, Preservation of Records of Communication Common Carriers as issued October 1, 1976. Rate-regulated companies shall further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

These rules are intended to implement Iowa Code sections 476.31 and 546.7.

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CHAPTER 19
SERVICE SUPPLIED BY GAS UTILITIES
[Prior to 10/8/86, Commerce Commission [250]]

199—19.1(476) General information.

19.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, contents and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 479 provides that the Iowa utilities board shall have full authority and power to promulgate rules as it deems proper and expedient in the supervision of the transportation or transmission and underground storage of gas within the state of Iowa.

The application of the rules in this chapter to municipally owned utilities furnishing gas is limited by Iowa Code section 476.1B.

19.1(2) *Application of rules.* The rules shall apply to any gas utility operating within the state of Iowa as defined in Iowa Code chapter 476 and shall supersede any tariff on file with this board which is in conflict with these rules. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with rule 199—1.3(17A,474,476,78GA,HF2206). The adoption of these rules shall in no way preclude the board from altering or amending them, pursuant to statute, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions. These regulations shall in no way relieve any utility from any of its duties under the laws of this state.

19.1(3) *Definitions.* The following words and terms, when used in these rules shall have the meaning indicated below:

The abbreviations used, and their meanings, are as follows:

Btu—British thermal unit

LP-Gas—Liquefied Petroleum Gas

psig—Pounds per Square Inch, Gauge

W.C.—Water Column

"Appliance" refers to any device which utilizes gas fuel to produce light, heat or power.

"Board" means the Iowa utilities board.

"Complaint" as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

"Cubic foot" of gas has the following meanings:

1. Where gas is supplied and metered to customers at the pressure (as defined in 19.7(2)) normally used for domestic customers' appliances, a cubic foot of gas shall be that quantity of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in (1) above, the utility shall specify in its rules the base for measurement of a cubic foot of gas (see 19.2(4)*"c"* (6)). Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas which, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, which, at a temperature of 60°F and a pressure of 30 inches of mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

"Customer" means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the gas service or heat from the gas utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

"Gas," unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility.

"Gas plant" means all facilities including all real estate, fixtures and property owned, controlled, operated or managed by a gas utility for the production, storage, transmission and distribution of gas and heat.

"Heating and calorific values." The following values shall be used:

1. *"British thermal unit"* (Btu) is the quantity of heat that must be added to one avoirdupois pound of pure water to raise its temperature from 58.5°F to 59.5°F under standard pressure.

2. *"Dry calorific value"* of a gas (total or net) is the value of the total or the net calorific value of the gas divided by the volume of dry gas in a standard cubic foot.

NOTE: The amount of dry gas in a standard cubic foot is .9826 cubic foot.

3. *"Net calorific value"* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air, and products of combustion being 60°F and all water formed by the combustion reaction remaining in the vapor state.

NOTE: The net calorific value of a gas is its total calorific value minus the latent heat of evaporation at standard temperature of the water formed by the combustion reaction.

4. *"Therm"* means 100,000 British thermal units.

5. *"Total calorific value"* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air and products of combustion being 60°F and all water formed by the combustion reaction condensed to the liquid state.

"Interruption of service" means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

"Loss factor" as used in rule 19.10(476) means test-year purchases less test-year sales. A five-year average of purchases less sales may be used if the test year is determined by the board to be abnormal.

"Main" means a gas pipe, owned, operated, or maintained by a utility, which is used for the purpose of transmission or distribution of gas, but does not include "service line".

"Meter," without other qualification, shall mean any device or instrument which is used by a utility in measuring a quantity of gas.

"Meter shop" is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

"Pressure," unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviation-psig).

"Rate-regulated utility" means any utility as defined in the definition of "utility" below which is subject to rate regulation provided for in Iowa Code chapter 476.

"Service line" means a distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer's piping, whichever is farther downstream, or the connection to a customer's piping if there is not a customer meter. A customer meter is the meter that measures the transfer of gas from a utility to a customer.

"Tap" or *"town border station"* means the delivery point or measuring station at which a gas distribution utility receives gas from a natural gas transmission company.

"Tariff" means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by a gas utility in fulfilling its role of furnishing gas service.

"Timely payment" is a payment on a customer's account made on or before the date shown on a current bill for service or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

"Utility" means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

199—19.2(476) Records, reports, and tariffs.

19.2(1) *Location and retention of records.* Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of Chapter 18 of the board's rules, Utility Records.

19.2(2) *Tariffs to be filed with the board.* The schedules of rates and rules of rate-regulated gas utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

19.2(3) *Form and identification.* All tariffs shall conform to the following rules:

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words, "Gas Tariff Filed with Board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)
Gas Tariff
Filed with
Iowa Utilities Board

(date)

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced, for example:

Tariff No. _____
Supersedes Tariff No. _____

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly identify the part eliminated.

(4) Any tariff modifications as defined in "3" above replacing tariff sheets shall be marked in the right margin with symbols as herein described to indicate the place, nature and extent of the change in text.

Symbol	*Meaning*
(C)	A change in regulation
(D)	A discontinued rate, treatment or regulation
(I)	An increased rate or new treatment resulting in increased rate

Symbol	*Meaning*
(N)	A new rate, treatment or regulation
(R)	A reduced rate or new treatment resulting in a reduced rate
(T)	A change in text but no change in rate, treatment or regulation

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with Board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Gas Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
(Content of tariff)	
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board. The utility may propose an effective date.

19.2(4) *Content of tariffs.* A tariff filed with the board shall contain:

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet number of the first page of each section.

b. All rates of utilities subject to rate regulation for service with indication of each rate for the type of gas and the class of customers to which each rate applies. There shall also be shown the prices per unit of service, the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including the method of calculating or estimating loads or minimums, delivery pressure, and any special terms or conditions applicable. All rates should be separated into "gas" and "nongas" components, and books and records shall be maintained on this basis. Books and records shall be available to the board for audits upon request. The gas components will be the result of the utility's periodic review of gas procurement practices (rule 19.11(476)) and PGA (rule 19.10(476)) proceeding. The nongas components will be established through rate case proceedings under Iowa Code section 476.3 or 476.6. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

Customer charges for all special services relating to providing the basic utility service including, but not limited to, reconnect charge and different categories of service calls shall be specified.

c. A copy of the utility's rules, or terms and conditions, describing the utility's policies and practices in rendering service shall include:

(1) A statement as to the equivalent total heating value of the gas in Btu's per cubic foot on which their customers are billed. If necessary, this may be listed by district, division or community.

(2) The list of the items which the utility furnishes, owns, and maintains on the customer's premises, such as service pipe, meters, regulators, vents and shut-off valves.

(3) General statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.

(4) General statement of the utility's policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.

(5) A statement indicating the minimum number of days allowed for payment after the due date of the customer's bill before service will be discontinued for nonpayment.

(6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.

(7) Forms of standard contracts required of customers for the various types of service available.

(8) All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

(9) A copy of each type of customer bill.

(10) Definitions of classes of customer.

(11) Rules for extending service in accordance with 19.3(10).

(12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

(13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.

(14) Rules governing disconnecting and reconnecting service.

(15) Notice required from customer for having service discontinued.

(16) Rules covering temporary, emergency, auxiliary, and stand-by service.

(17) Rules shall show any limitations on loads and cover the type of equipment which may or may not be connected.

(18) Rate-regulated utilities shall include a list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.

(19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.

(20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

(21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

(22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

19.2(5) *Annual, periodic and other reports to be filed with the board.*

a. *System map verification.* A utility shall file annually with the board a verification that it has a correct set of utility system maps for each operating or distribution area. The maps shall show:

(1) Peak shaving facilities location.

(2) Feeder and distribution mains indicating size and pressure.

(3) System metering (town border stations and other supply points).

(4) Regulator stations in system indicating inlet and outlet pressures.

(5) Calorimeter location.

(6) State boundary crossing.

(7) Franchise area.

(8) Names of all communities (post offices) served.

b. *Incident reports.* Rescinded IAB 1/30/08, effective 3/5/08.

c. *Construction programs.* Rescinded IAB 11/19/97, effective 12/24/97.

d. *Reports of gas service.* Each utility shall compile a monthly record of gas service. The record shall be completed within 30 days after the end of the month covered. The compilation is to be kept available, for inspection by the board or its staff, at the utility's principal office within the state of Iowa. Such record shall contain:

(1) The daily and monthly average of total heating values of gas in accordance with 19.7(6).

(2) The monthly acquisition and disposition of gas.

(3) Interruptions of service occurring during the month in accordance with 19.7(7). If there were no interruptions, then it should be so stated.

(4) The number of customer pressure investigations made and the results.

(5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.

(6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.

(7) Number of district regulators checked and nature of repairs required.

(8) Number of house regulators checked and nature of repairs required.

(9) Description of any unusual operating difficulties.

(10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

A summary of the 12 monthly gas service records for each calendar year shall be attached to and submitted with the utility's annual fiscal plant and statistical report to the board.

e. *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

f. *Filing customer bill forms.* A copy of each type of customer bill form in current use shall be filed with the board.

g. *Reports to federal agencies.* Copies of reports submitted pursuant to 49 CFR Part 191 as amended through June 27, 2007, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

h. *Change in rate.* A notification to the board shall be made of any planned change in rate of service by a utility even though the change in rate of service is provided for in its tariff filing with the board. This information shall reflect the amount of increase or decrease and the effective date of application. An up-to-date tariff sheet shall be supplied to the Iowa utilities board for its copy of the tariff showing the current rates.

i. *List of persons authorized to receive board inquiries.* Each utility shall file with the board in the annual report required by 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) pipeline permits (gas). Each utility shall file with the board a telephone contact number or numbers where the board can obtain current information 24 hours a day about incidents and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

j. *Residential customer statistics.* Each rate-regulated gas utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

(1) Number of accounts;

(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;

(3) Number of accounts past due;

(4) Number of accounts eligible for energy assistance and past due;

(5) Total revenue owed on accounts past due;

(6) Total revenue owed on accounts eligible for energy assistance and past due;

(7) Number of disconnection notices issued;

(8) Number of disconnection notices issued on accounts eligible for energy assistance;

(9) Number of disconnections for nonpayment;

(10) Number of reconnections;

(11) Number of accounts determined uncollectible; and

(12) Number of accounts eligible for energy assistance and determined uncollectible.

k. *Monthly, periodic and annual reports.* Each utility shall file such other monthly, periodic and annual reports as are requested by the board. Monthly and periodic reports shall be due in the board's office within 30 days after the end of the reporting period. All annual reports shall be filed with this board by April 1 of each year for the preceding calendar year.

This rule is intended to implement Iowa Code section 476.2.

199—19.3(476) General service requirements.

19.3(1) *Disposition of gas.* The meter and any service line pressure regulator shall be owned by the utility. The utility shall place a visible seal on all meters and service line regulators in customer use, such that the seal must be broken to gain entry.

a. All gas sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of gas may be readily computed without metering; or

(2) For temporary service installations.

b. The amount of all gas delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where gas is used in centralized heating, cooling or water-heating systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 19.3(1)*"b"* have been met.

d. For purposes of this subrule, a "master meter" means a single meter used in determining the amount of natural gas provided to a multioccupancy building or multiple buildings.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

f. All gas consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering or where metering is impractical.

19.3(2) *Condition of meter.* Rescinded IAB 11/12/03, effective 12/17/03. See 199 IAC 19.6(7).

19.3(3) *Meter reading records.* The meter reading records shall show:

a. Customer's name, address, rate schedule, or identification of rate schedule.

b. Identifying number or description of the meter(s).

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant, or reference thereto.

19.3(4) *Meter charts.* All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer's name and location and the chart multiplier.

19.3(5) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Where remote meter reading is used, whether outdoor on-premises or

off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them.

19.3(6) *Prepayment meters.* Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under such special rate schedule as may be filed under 19.2(4).

19.3(7) *Meter reading and billing interval.* Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without an exemption from the board. A waiver request must include the information required by 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a large volume customer after the initial month, that customer's bill shall be rendered monthly for the next 12 months, unless prior approval is received from the board for a shorter interval. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. The utility rules may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check electronic meter readings, a utility representative shall physically read the meter at least once every 12 months.

19.3(8) *Readings and estimates.* When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

When access to meters cannot be gained, the utility may leave with the customer a meter reading form. The customer may provide the meter reading by telephone, electronic mail (if it is allowed by the utility), or by mail. If the meter reading information is not returned in time for the billing operation, an estimated bill may be rendered. If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

The utility shall incorporate normalized weather data in its calculation of an estimated bill.

Utilities shall file with the board their procedures for calculating estimated bills, including their procedures for determining the reasonable degree-day data to use in the calculations. Utilities shall inform the board when changes are made to the procedures for calculating estimated bills.

19.3(9) *Temporary service.* When the utility renders a temporary service to a customer it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

19.3(10) *Plant additions, distribution main extensions, and service lines.*

a. Definitions. The following definitions shall apply to the terms as used in this subrule.

"Advance for construction," as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period," as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction," as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a distribution main extension

or service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Distribution main extension," as used in this subrule, means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

"Estimated annual revenues," as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated base revenues," as used in this subrule, shall be calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

"Estimated construction costs," as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the distribution main extension or service line; size, location, and characteristics of the distribution main extension or service line, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

"Plant addition," as used in this subrule, means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

"Service line," as used in this subrule, means the piping that extends from the distribution main to the meter set riser.

"Similarly situated customer," as used in this subrule, means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

"Utility," as used in this subrule, means a rate-regulated utility.

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction or a nonrefundable contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction or a nonrefundable contribution in aid of construction by the customer to make plant additions shall be available for board inspection. The utility shall allow the customer or developer, at the customer's or developer's option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction or a nonrefundable contribution in aid of construction if the estimated construction costs to provide a distribution main extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the distribution main extension would otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to

commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction. The utility may use a feasibility model to determine whether an advance for construction or a nonrefundable contribution in aid of construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost or a nonrefundable contribution in aid of construction. The utility may use a feasibility model to determine the amount of the advance for construction or nonrefundable contribution in aid of construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer has chosen to make an advance for construction rather than a nonrefundable contribution in aid of construction, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension exceeds the total estimated construction cost to provide the distribution main extension, the entire amount of the advance for construction shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension is less than the total estimated construction cost to provide the distribution main extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the distribution main extension.

3. In no event shall the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct a service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the service line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall be required to provide a nonrefundable contribution in aid of construction, within 30 days after completion, for that portion of the service line on private

property, exclusive of the riser, in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

(Estimated Construction Costs) ×

$$\frac{\text{(Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. *Extensions not required.* Utilities shall not be required to make distribution main extensions or attach service lines as described in this subrule, unless the distribution main extension or service line shall be of a permanent nature.

f. *Different payment arrangement.* This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

19.3(11) *Cooperation and advance notice.* In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

a. Every utility shall give to other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity, provided, however, that the requirements of this chapter shall not apply to routine extensions or minor changes in the local underground distribution facilities.

b. Every utility shall assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

This rule is intended to implement 42 U.S.C.A. §8372, 10 CFR 516.30, and Iowa Code section 476.8.

199—19.4(476) Customer relations.

19.4(1) *Customer information.* Each utility shall:

a. Maintain up-to-date maps, plans or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area.

b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. (199—7.4(476)IAC)

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

i. Promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)281-3839 or toll-free 1-877-565-4450, or by writing to 350 Maple Street, Des Moines, Iowa 50319, or by E-mail to iubcustomer@iub.state.ia.us."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)281-3839, or toll-free 1-877-565-4450, by writing to 350 Maple Street, Des Moines, Iowa 50319, or by E-mail to iubcustomer@iub.state.ia.us."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other natural gas utilities. Any utility which does not use the standard statement described in this paragraph shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

19.4(2) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

19.4(3) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit

is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

19.4(4) *Customer deposit records.* Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

19.4(5) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

19.4(6) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment), unless the utility is entitled to require a new or additional deposit. For refund purposes, the account shall be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the exemption provided by subrule 19.3(7), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

19.4(7) *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

19.4(8) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.

b. The dates on which the meter was read at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule or identification of the applicable rate schedule.

e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

19.4(9) *Customer billing information alternate.* A utility serving fewer than 5000 gas customers may provide the information in 19.4(8) on bill form or otherwise. If the utility elects not to provide the information of 19.4(8) on the bill form, it shall advise the customer, on the bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

19.4(10) *Payment agreements.*

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

19.4(11) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(7) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)*"e"*(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of $25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

19.4(12) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 19.4(13) but not less than three years.

19.4(13) *Adjustment of bills.* Bills which are incorrect due to billing errors or faulty metering installation are to be adjusted as follows:

a. Fast metering. Whenever a metering installation is tested and found to have overregistered more than 2 percent, the utility shall recalculate the bills for service.

(1) The bills for service shall be recalculated from the time at which the error first developed or occurred if that time can be definitely determined.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

(3) If the recalculated bills indicate that $5 or more is due an existing customer or $10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

b. Slow metering. Whenever a meter is found to be more than 2 percent slow, the tariff may provide for back billing the customer for the amount the test indicates has been undercharged for the period of inaccuracy.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, the tariff may provide for use of the registration of check metering installation, if any, or for estimating the quantity consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed.

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, $5 for an existing customer or $10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

(2) The period for back billing shall not exceed the last six months the meter was in service unless otherwise ordered by the board.

(3) Back billings shall be rendered no later than six months following the date of the metering installation test.

c. Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustment the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

d. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which

the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

19.4(14) *Credits and explanations.* Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

19.4(15) *Refusal or disconnection of service.* A utility shall refuse service or disconnect service to a customer, as defined in subrule 19.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15)*"b."* The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(7) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

(1) In the event of a condition determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

(1) For violation of or noncompliance with the utility's rules on file with the board.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility

representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45

days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted,

at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)*"d"*(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)*"d."*

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15)*"f."*

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

e. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 19.4(10)*"c"*(1)"4," provided the utility complies with the provisions of paragraph 19.4(15)*"d."*

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

19.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill rendered in accordance with paragraph 19.4(13)*"b"* (slow meters).

f. Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13*)"e."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.

h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

19.4(17) *When disconnection prohibited.* No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

19.4(18) *Change in character of service.* The following shall apply to a material change in the character of gas service:

a. *Changes under the control of the utility.* The utility shall make such changes only with the approval of the board, and after adequate notice to the customers (see 19.7(6)*"a"*).

b. *Changes not under control of the utility or customer.* The utility shall adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (see 19.7(6)*"b"*).

c. *Appliance adjustment charge.* The utility shall make any necessary adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

19.4(19) *Customer complaints.* Each utility shall investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to safety, service, or rates, and the operation of its system as will enable it to review and analyze its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.

199—19.5(476) Engineering practice.

19.5(1) *Requirement for good engineering practice.* The gas plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

19.5(2) *Standards incorporated by reference.*

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through June 27, 2007.

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through June 27, 2007.

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through June 27, 2007.

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through June 27, 2007.

(5) ASME B31.8 - 2003, "Gas Transmission and Distribution Piping Systems."

(6) NFPA No. 59-2004, "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants."

(7) At railroad crossings, 199 IAC 42.7(476), "Engineering standards for pipelines."

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2006, "National Fuel Gas Code."

(2) NFPA 501A-2005, "Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

19.5(3) *Adequacy of gas supply.* The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

19.5(4) *Gas transmission and distribution facilities.* The utility's gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Each utility shall be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the board will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

19.5(5) *Inspection of gas plant.* Each utility shall adopt a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

199—19.6(476) Metering.

19.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The board considers the publications listed in 19.6(3) to be representative of accepted good practice. Each utility shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

19.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before being placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. Leak testing of meters before return to service.

f. The limits of meter accuracy considered acceptable by the utility.

g. The nature of meter and meter test records maintained by the utility.

19.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000.

b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000.

c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000.

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (R1997).

e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

19.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

19.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

19.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit in the form of a check or money order made payable to the utility.

Within 5 days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 19.4(13). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

19.6(7) *Condition of meter.* No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with 19.6(2)*"b," "c,"* and *"e,"* shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

199—19.7(476) Standards of quality of service.

19.7(1) *Purity requirements.* All gas supplied to customers shall be substantially free of impurities which may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner.

19.7(2) *Pressure limits.* The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

19.7(3) *Adequacy for pressure.* Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

19.7(4) *Standards for pressure measurements.*

a. *Secondary standards.* Each utility shall own or have access to a dead weight tester. This instrument must be maintained in an accurate condition.

b. *Working standards.* Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system. Working standards must be checked periodically by comparison with a secondary standard.

19.7(5) *Handling of standards.* Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

19.7(6) *Heating value.*

a. *Awareness.* Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. *Natural and LP-gas.* The heating value of natural gas and undiluted, commercially pure LP-gas shall be considered as being not under the control of the utility. The utility shall determine the allowable range of monthly average heating values within which its customers' appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers' appliances must be readjusted in accordance with 19.4(18)*"c."*

c. *Peak shaving or other mixed gas.* The heating value of gas in a distribution system which includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, shall be considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

d. *Heating value determination and records.* Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, the utility shall provide and maintain equipment, or shall have a method of computation, by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations and shall be subject to review by the board.

19.7(7) *Interruptions of service.*

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Each utility shall maintain records for not less than two years of interruptions of service as required to be reported in 19.17(1) and shall periodically review these records to determine steps to be taken to prevent recurrence.

b. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

199—19.8(476) Safety.

19.8(1) *Acceptable standards.* As criteria of accepted good safety practice the board will use the applicable provisions of the standard listed in 19.5(2).

19.8(2) *Protective measures.* Each utility shall exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size

and type of its operations. The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents. Each utility shall maintain a summary of all reportable accidents arising from its operations.

19.8(3) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 4.2 and Appendix D, ANSI Z223.1/NFPA 54-2006).

19.8(4) *Gas leaks.* A report of a gas leak shall be considered as an emergency requiring immediate attention.

19.8(5) *Odorization.* Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Suitable tests must be made to determine whether the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

19.8(6) *Burial near electric lines.* Each pipeline shall be installed with at least 12 inches of clearance from buried electrical conductors. If this clearance cannot be maintained, protection from damage or introduction of current from an electrical fault shall be provided by other means.

199—19.9(476) Energy conservation strategies. Rescinded IAB 11/12/03, effective 12/7/03.

199—19.10(476) Purchased gas adjustment (PGA).

19.10(1) *Purchased gas adjustment clause.* Purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz)}{S} + Rb + E$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

Unless a utility receives prior board approval to use another methodology, a utility shall use the same weather normalization methodology used in prior approved PGA and rate case.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z which will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

19.10(2) *Annual purchased gas adjustment filing.* Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors. The utility shall provide an explanation of the calculations of each factor. Information already on file with the board may be incorporated by reference in the filing.

19.10(3) *Periodic changes to purchased gas adjustment clause.* Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in Rc, Rd, or Rz with concurrent board notification with adequate information to calculate and support the change. The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

19.10(4) *Factor Rb.* Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

19.10(5) *Take-or-pay adjustment.* Rescinded IAB 11/12/03, effective 12/17/03.

19.10(6) *Allocations of changes in contract pipeline transportation capacity obligations.* Any change in contractual pipeline transportation capacity obligations to transportation or storage service providers serving Iowa must be reported to the board within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

19.10(7) *Reconciliation of underbillings and overbillings.* The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:

(1) The type and volume of physical gas being hedged.

(2) The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).

(4) The date the futures contract or option was purchased or the date the swap was entered into.

(5) The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.

(6) The amount of all commissions paid and to whom those payments were made.

(7) All administrative costs associated with the hedge.

(8) The name(s) of all marketers used and the amount of money paid to each marketer.

(9) The amount of savings or costs resulting from the hedge.

(10) The amount of money tied up in margin accounts for futures trading and the cost of that money.

(11) The premium paid for each option.

(12) The strike price of each option.

(13) The contracting costs for each swap transaction.

(14) The name of the fixed-price payer in a swap transaction.

(15) A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.

(16) An explanation as to why the LDC believes the hedge was in the best interest of general system customers.

(17) All invoices, work papers, and internal reports associated with the hedge.

b. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility shall refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year. The minimum amount to be refunded by check shall be $10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be $10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

19.10(8) *Refunds related to gas costs charged through the PGA.* The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund, plus accrued interest, if the refund exceeds $10 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed $10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

(1) A statement of reason for the refund.

(2) The amount of the refund with support for the amount.

(3) The balance of the appropriate refund retention accounts.

(4) The amount due under each customer classification or grouping.

(5) The intended period of the refund distribution.

(6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8)*"d."*

(7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.

(8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)*"d."*

(9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.

(10) The calculations demonstrating that the retained balance is less than $10 per average residential customer with supporting schedules for all factors used.

c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check shall be $5.

This rule is intended to implement Iowa Code section 476.6(11).

199—19.11(476) Periodic review of gas procurement practices [476.6(15)].

19.11(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The board shall provide the utilities 90 days' notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board's review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility's procurement plan shall be organized as follows and shall include:

a. An index of all documents and information filed in the plan and identification of the board files in which documents incorporated by reference are located.

b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and 3-year periods.

c. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

d. A summary of the legal and regulatory actions taken to minimize purchased gas costs.

e. All studies or investigation reports considered in gas purchase contract or arrangement decisions during the plan periods.

f. A complete list of all contracts executed since the last procurement review.

g. A list of other unbundled services available (for example, storage services if offered).

h. A description of the supply options selected and an evaluation of the reasonableness and prudence of its decisions. This evaluation should show the relationship between forecast and procurement.

19.11(2) *Gas requirement forecast.* Rescinded IAB 4/3/91, effective 3/15/91.

19.11(3) *Annual review proceeding.* Rescinded IAB 2/9/00, effective 3/15/00.

19.11(4) *Evaluation of the plan.* The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased gas costs. The board will evaluate the reasonableness and prudence of the gas procurement plan.

19.11(5) *Disallowance of costs.* The board shall disallow any purchased gas costs in excess of costs incurred under responsible and prudent policies and practices. The PGA factor shall be adjusted prospectively to reflect the disallowance.

19.11(6) *Executive summary.* On or before August 1, 2003, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. On or before August 1 each year thereafter, each natural gas utility shall file an update of the executive summary and index showing the standard and special contracts in effect on that date for the purchase, sale or interchange of gas. The executive summary shall include the following information:

a. The contract number;

b. The start and end date;

c. The parties to the contract;

d. The total estimated dollar value of the contract;

e. A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(15).

199—19.12(476) Flexible rates.

19.12(1) *Purpose.* This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.12(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

19.12(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

19.12(4) *Reporting requirements.* Each natural gas utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The cost of alternate fuels available to the customer, if relevant;

(5) The volume of gas sold to or transported for the customer in the preceding 12 months; and

(6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month;

(5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and

(6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The volume of gas sold or transported in the last 12 months to each customer, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

d. No report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

19.12(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided at full tariffed rate for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—19.13(476) Transportation service.

19.13(1) *Purpose.* This subrule requires gas distribution utility companies to transport natural gas owned by an end-user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. System capacity is defined as the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability shall be determined using the total current firm gas flow, including both system and transportation gas.

19.13(2) *End-user rights.* The end-user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end-user shall have the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes which the end-user is entitled to receive shall be subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category which the end-user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the party is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end-user, adjusted for lost, unaccounted-for, and company-used gas. The credit shall be available at any time, within the conditions of the agreement.

d. The end-user shall be responsible for all costs associated with any additional plant required for providing transportation services to the end-user.

19.13(3) *Transportation service charges.* Transportation service shall be offered to at least the following classes:

a. Interruptible service with system supply reserve.

b. Interruptible service without system supply reserve.

c. Firm service with system supply reserve.

d. Firm service without system supply reserve.

19.13(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service shall entitle the end-user to return to the system service to the extent of the capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate system capacity. An end-user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end-user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs (including but not limited to gas costs).

c. The utility may require a reconnection charge when an end-user receiving transportation service without system supply reserve service requests to return to the system supply. The end-user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end-user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

e. Small volume transportation service. Rescinded IAB 4/28/04, effective 6/2/04.

f. Optional plan filing. Rescinded IAB 4/28/04, effective 6/2/04.

19.13(5) *Reporting requirements.* A natural gas utility shall file with the board two copies of each transportation contract entered into within 30 days of the date of execution. The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the board staff. The deleted information may be filed with a request for confidentiality, pursuant to 199 Iowa Administrative Code rule 1.9(22).

19.13(6) *Written notice of risks.* The utility must notify its large volume users as defined in 19.14(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

199—19.14(476) Certification of competitive natural gas providers and aggregators.

19.14(1) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

"Competitive natural gas provider" or *"CNGP"* means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.

2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section 437A.3(21)*"a"*(1), in which the municipally owned utility is located.

"Competitive natural gas services" means natural gas sold at retail in this state excluding the sale of natural gas by a rate-regulated public utility or a municipally owned utility as provided in the definition of CNGP in 19.14(1).

"Large volume user" means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

"Small volume user" means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

19.14(2) *General requirement to obtain certificate.* A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.

19.14(3) *Filing requirements and application process.* Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications must be filed with

the executive secretary at Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. An original and ten copies must be filed. An application fee of $125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant will be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments required by this subrule within 14 days of such change. Any new legal actions or formal complaints as identified in 199 IAC 2.2(18), numbered paragraph "4," are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

19.14(4) *Deficiencies and board determination.* The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applicants will be notified when their application is complete and the 90-day period commences.

19.14(5) *Conditions of certification.* CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

a. Unauthorized charges. A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

b. Notification of emergencies. Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. Reports to the board. Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall contain the following information for its Iowa operations:

(1) The average number of small volume end users served per month.

(2) The average number of large volume end users served per month.

(3) The total volume of sales to small volume end users, by month.

(4) The total volume of sales to large volume end users, by month.

(5) The revenue collected from small volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.

(6) The revenue collected from large volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.

(7) The date the applicant began providing service in Iowa.

d. Rescinded IAB 4/28/04, effective 6/2/04.

19.14(6) *Additional conditions applicable to CNGPs providing service to small volume end users.* All CNGPs when providing service to small volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.14(5):

a. *Customer deposits.* Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule 19.4(2)

Interest on customer deposits – subrule 19.4(3)

Customer deposit records – subrule 19.4(4)

Customer's receipt for a deposit – subrule 19.4(5)

Deposit refund – subrule 19.4(6)

Unclaimed deposits – subrule 19.4(7)

b. Bills to end users. A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

(1) The period of time for which the billing is applicable.

(2) The amount owed for current service, including an itemization of all charges.

(3) Any past-due amount owed.

(4) The last date for timely payment.

(5) The amount of penalty for any late payment.

(6) The location for or method of remitting payment.

(7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.

(8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.

(9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.

(10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. Disclosure. Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information required by this paragraph may be provided electronically, at the customer's option.

d. Notice of service termination. Notice must be provided to the end user and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. Transfer of accounts. CNGPs are prohibited from transferring the account of any end user to another supplier except with the consent of the end user. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

(1) The transferee will serve the affected end users through a certified CNGP;

(2) The transferee will honor the transferor's contracts with the affected end users;

(3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;

(4) Any affected end user is given 30 days to change supplier without penalty; and

(5) The transferor provides notice to the public utility of the effective date of the transfer.

f. Bond requirement. The board may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the board and reviewed by the board from time to time. In determining the adequacy of the bond or demonstration, the board shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served, with the objective of ensuring that the board's financial requirements do not create unreasonable barriers to market entry.

g. Replacement cost for supply failure. Each individual rate-regulated public utility shall file for the board's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system purchased gas adjustment.

199—19.15(476) Customer contribution fund.

19.15(1) *Applicability and purpose.* This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

19.15(2) *Program plan.* Each utility shall have on file with the board a detailed description of its program plan. At a minimum, the plan shall include the following information:

a. A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

b. A sample of the customer notification with a description of the method and frequency of its distribution;

c. A sample of the authorization form provided to customers; and

d. The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

19.15(3) *Notification.* Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

a. A description of the availability and the purpose of the fund;

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

19.15(4) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

19.15(5) *Annual report.* On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

19.15(6) *Binding effect.* A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—19.16(476) Reserve margin.

19.16(1) *Applicability.* All rate-regulated gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the purchased gas adjustment.

19.16(2) *Definitions.*

a. *Contract services.* The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities, but excluding the delivery capacity of propane storage facilities, shall be considered as contract services.

b. *Maximum daily system demand requirements.* The maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. *Design day.* The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

19.16(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.* A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.* A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(5) *Rebuttable presumption.* All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

19.16(6) *Allocation of cost of the reserve.* Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

199—19.17(476) Incident notification and reports.

19.17(1) *Notification.* A utility shall notify the board immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

a. A death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and to others, including the cost of gas lost.

c. Emergency shutdown of a liquefied natural gas (LNG) facility.

d. An interruption of service to 50 or more customers.

e. Any other incident considered significant by the utility.

19.17(2) *Information required.* The utility shall notify the board by telephone, as soon as practical, of any reportable incident by calling the board duty officer at 515-745-2332. The caller shall leave a call-back number for a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. An initial estimate of damages.

f. The number of services interrupted.

g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.

h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

19.17(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the board. The report shall include the information required for telephone notice in subrule 19.17(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Copies of any written reports concerning an incident or safety-related

condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board shall also be provided to the board.

These rules are intended to implement 42 U.S.C.A. 8372, 10 CFR, 516.30, and Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

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CHAPTER 20
SERVICE SUPPLIED BY ELECTRIC UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.

20.1(2) *Application of rules.* The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476,78GA,HF2206).

The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

These rules shall in no way relieve any utility from any of its duties under the laws of this state.

20.1(3) *Definitions.* The following words and terms when used in these rules, shall have the meaning indicated below:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

"Act" means the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

"Affected unit" means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR) or the Clean Air Mercury Rule (CAMR), or a unit or source that opts in under 40 CFR Part 74.

"Allowance" means an authorization, allocated by the United States Environmental Protection Agency (EPA) under the Acid Rain Program, to emit sulfur dioxide (SO_2), any SO_2 and nitrogen oxide (NO_X) emissions subject to the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), during or after a specified calendar year.

"Allowance forward contract" is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Board" means the utilities board.

"Clean Air Interstate Rule" or *"CAIR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

"Clean Air Mercury Rule" or *"CAMR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.

"Complaint" as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

"Compliance plan" means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

"Customer" means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the electric service or heat from the electric utility.

"Delinquent" or *" delinquency"* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Economy energy" is energy bought or sold in a transaction wherein the supplier's incremental cost is less than the buyer's decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.

"Electric plant" includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

"Electric service" is furnishing to the public for compensation any electricity, heat, light, power, or energy.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_X emission allowances.

"Energy" means electric energy measured in kilowatt hours.

"Firm power" is power and associated energy intended to be available at all times during the period covered by the commitment.

"Gains and losses from allowance sales" are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Meter shop" is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

"Operating reserve" is a reserve generating capacity required to ensure reliability of generation resources.

"Operational control energy" is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.

"Outage energy" is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.

"Participation power" means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to prorate or other specified reduction if the units are not operated at full capacity.

"Peaking power" is power and associated energy intended to be available at all times during the commitment and which is anticipated to have low load factor use.

"Power" means electric power measured in kilowatts.

"Price hedging" means using futures contracts or options to guard against unfavorable price changes.

"Rate-regulated utility" means any utility, as defined in 20.1(3), which is subject to board rate regulation under Iowa Code chapter 476.

"Secondary line" means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Service limitation" means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer's meter.

"Service limiter" means a circuit breaker device that limits a residential customer's power consumption to 15 amps at 120 volts (or some higher level of usage approved by the board) and that either resets itself automatically or can be reset by the customer.

"Speculation" means using futures contracts or options to profit from expectations of future price changes.

"Tariff" means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by an electric utility in fulfilling its role of furnishing service.

"Timely payment" is a payment on a customer's account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

"Transmission line" means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Utility" means any person, partnership, business association or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

"Weighted average unit cost of inventoried allowances" equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

"Wheeling service" is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

20.1(4) *Abbreviations.* The following abbreviations may be used where appropriate:

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018.

DOE—Department of Energy, Washington, D.C. 20426.

EPA—United States Environmental Protection Agency.

FCC—Federal Communications Commission, 1919 M Street, Washington, D.C. 20554.

FERC—Federal Energy Regulatory Commission, Washington, D.C. 20426.

NARUC—National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044.

NBS—National Bureau of Standards, Washington, D.C. 20234.

NFPA—National Fire Protection Association, 470 Atlantic Ave., Boston, Massachusetts 02210.

199—20.2(476) Records, reports, and tariffs.

20.2(1) *Location and retention of records.* Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

20.2(2) *Tariffs to be filed with the board.* The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules

or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

20.2(3) *Form and identification.* All tariffs shall conform to the following rules:

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets: identity of the filing utility, issuing official, date of issue, effective date; and the words "Tariff with board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)
Electric Tariff
Filed with
Iowa Utilities Board

(Date)

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. _____
SUPERSEDES TARIFF NO. _____

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed regulation
(D)—Discontinued rate or regulation
(I)—Increase in rate or new treatment resulting in increased rate
(N)—New rate, treatment or regulation
(R)—Reduction in rate or new treatment resulting in reduced rate
(T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)

	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board. The utility may propose an effective date.

20.2(4) *Content of tariffs.*

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

b. A preliminary statement containing a brief general explanation of the utility's operations.

c. All rates for service with indication for each rate of the type and voltage of service and the class of customers to which each rate applies. There shall also be shown any limitations on loads and type of equipment which may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

d. The voltage and type of service, (direct current or single or polyphase alternating current) supplied in each municipality, but without reference required to any particular part thereof.

e. Forms of standard contracts required of customers for the various types of service available.

f. If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and shall include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery and any special provisions such as rentals. Standard contracts for such sales as that of energy for resale, street lighting, municipal athletic field lighting, and for water utilities may be filed in summary form as above outlined.

g. Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

h. A list of all communities in which service is furnished.

i. The list of service areas and the rates shall be filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. If the utility has various rural rates, the areas where the same are available shall be indicated.

j. Definitions of classes of customers.

k. Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

l. Type of construction which the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

m. Specification of such portion of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in

whole or in part by the utility, and statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

n. Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

o. Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

p. Rules governing the establishment and maintenance of credit by customers for payment of service bills.

q. Rules governing the procedure followed in disconnecting and reconnecting service.

r. Notice required from a customer for having service discontinued.

s. Rules covering temporary, emergency, auxiliary and stand-by service.

t. Rules covering the type of equipment which may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

u. General statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

v. Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

w. Rules for extending service in accordance with 20.3(13).

x. If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

y. Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

z. Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

20.2(5) *Annual, periodic and other reports to be filed with the board.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with general requirement 20.3(11) and a statement as to the location of the utility's offices where such maps are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

b. Accident reports. Rescinded IAB 12/11/91, effective 1/15/92. See 199—25.5(476,478).

c. Rescinded IAB 11/13/02, effective 12/18/02.

d. Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition and disposition of electric energy, the number of customer terminal voltage investigations made, the number of customer meters tested and such other information as may be required by the board. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered and such record shall, upon and after compilation, be kept available for inspection by the board or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the board.

e. The utility shall keep the board informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

f. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be filed with the board.

g. A copy of each type of customer bill form in current use shall be filed with the board.

h. A copy of the adjustment calculation shall be provided the board prior to each billing cycle on the forms adopted by the board.

i. Rescinded IAB 1/9/91, effective 2/13/91.

j. Residential customer statistics. Each rate-regulated electric utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

(1) Number of accounts;

(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;

(3) Number of accounts past due;

(4) Number of accounts eligible for energy assistance and past due;

(5) Total revenue owed on accounts past due;

(6) Total revenue owed on accounts eligible for energy assistance and past due;

(7) Number of disconnection notices issued;

(8) Number of disconnection notices issued on accounts eligible for energy assistance;

(9) Number of disconnections for nonpayment;

(10) Number of reconnections;

(11) Number of accounts determined uncollectible; and

(12) Number of accounts eligible for energy assistance and determined uncollectible.

k. List of persons authorized to receive board inquiries. Each utility shall file with the board in the annual report required in 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) franchises for electric lines; (6) certificates for electric generating plants. Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about outages and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

199—20.3(476) General service requirements.

20.3(1) *Disposition of electricity.* The meter and associated instrument transformers shall be owned by the utility. The wiring between the instrument transformers and the meter shall be owned or controlled by the utility. The utility shall place a visible seal on all meters in customer use, such that the seal must be broken to gain entry.

a. All electricity sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of electricity may be readily computed without metering; or

(2) For temporary service installations.

b. The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)*"b"* have been met.

d. For purposes of this subrule, a "master meter" means a single meter used in determining the amount of electricity provided to a multioccupancy building or multiple buildings.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

f. All electricity consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering, or where metering is impractical.

20.3(2) *Condition of meter.* Rescinded IAB 11/12/03, effective 12/17/03.

20.3(3) *Meter reading records.* The meter reading records shall show:

a. Customer's name, address, and rate schedule or identification of rate schedule.

b. Identification of the meter or meters either by permanently marked utility number or by manufacturer's name, type number and serial number.

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant.

20.3(4) *Meter charts.* All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer's name and location and the chart multiplier.

20.3(5) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter.

Where magnetic tape or other delayed processing means is used the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

20.3(6) *Meter reading and billing interval.* Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the board. A waiver request must include sufficient information to comply with 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a high demand customer after the initial month, that customer's meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be rendered.

If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

20.3(7) *Demand meter registration.* When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

20.3(8) *Service areas.* Service areas are defined by the boundaries on service area maps, available for viewing during regular business hours at the board's offices, and available for purchase at the cost of reproduction. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

20.3(9) *Petition for modification of service area and answers.* An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

Any electric utility or municipal corporation may file a petition for modification of service area which shall contain a legal description of the service area desired, a designation of the utilities involved in each boundary section, and a justification for the proposed service area modification. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with subrule 20.3(11)*"a"* shall be attached to the petition as an exhibit. The petition shall be delivered by the United States Postal Service or personal service and shall be considered as filed with the agency on the date of the postmark or the date of personal service.

Copies of the petition shall be served on all utilities involved and the consumer advocate. Those utilities and the consumer advocate shall be parties of record to the proceeding.

All parties shall file an answer which complies with 199—subrule 7.5(1).

20.3(10) *Certificate of authority.* Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(9) which would result in service to a customer by a utility other than the utility currently serving the customer must also petition the board for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

20.3(11) *Maps.*

a. Each utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

(1) Generating stations with capacity designation.

(2) Purchased power supply points with maximum contracted capacity designation.

(3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.

(7) Distribution lines with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

20.3(12) Rescinded, IAB 6/29/88, effective 8/3/88.

20.3(13) *Plant additions, electrical line extensions and service lines.*

a. Definitions. The following definitions shall apply to the terms used in this subrule:

"Advance for construction," as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period," as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction," as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of an electrical line extension or service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Electrical line extensions" means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

"Equivalent overhead transformer cost," as used in this subrule, is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it shall be the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it shall be the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

"Estimated annual revenues," as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated base revenues," as used in this subrule, shall be calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the board and energy efficiency charges from the estimated annual revenues.

"Estimated construction costs," as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

"Plant addition," as used in this subrule, means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.

"Point of attachment" is that point of first physical attachment of the utilities' service drop (overhead) or service lateral (underground) conductors to the customer's service entrance conductors. For overhead services it shall be the point of tap or splice to the service entrance conductors. For underground services it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

"Service line," as used in this subrule, means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

"Similarly situated customer," as used in this subrule, means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

"Utility," as used in this subrule, means a rate-regulated utility.

b. Plant additions. The utility shall provide all electric plant at its cost and expense without requiring an advance for construction or a nonrefundable contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction or a nonrefundable contribution in aid of construction by the customer to make plant additions shall be available for board inspection. The utility shall allow the customer or developer, at the customer's or developer's option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.

c. Electrical line extensions. Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction or a nonrefundable contribution in aid of construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction. The utility may use a feasibility model to determine whether an advance for construction or a nonrefundable contribution in aid of construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost or a nonrefundable contribution in aid of

construction. The utility may use a feasibility model to determine the amount of the advance for construction or nonrefundable contribution in aid of construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer has chosen to make an advance for construction rather than a nonrefundable contribution in aid of construction, the utility shall refund for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated constriction cost to provide the electrical line extension, the entire amount of the advance for construction provided shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.

3. In no event shall the total amount to be refunded exceed the amount of the advance for construction. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a record of each work order under which the electrical line extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$\text{(Estimated Construction Costs)} \times \frac{\text{(Total Length in Excess of 50 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

(5) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

e. *Extensions not required.* Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule, unless the electrical line extension or service line shall be of a permanent nature.

f. *Different payment arrangement.* This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

This rule is intended to implement Iowa Code section 476.8.

199—20.4(476) Customer relations.

20.4(1) *Customer information.* Each utility shall:

a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, together with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving prospective customers in its service area.

b. Assist the customer or prospective customer in selecting the most economical rate schedule available for the customer's proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. [199—7.4(476)IAC]

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility has provided access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of electricity for each billing during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

20.4(2) *Customer contact employee qualifications.* Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)281-3839, or toll-free 1-877-565-4450, or by writing to 350 Maple Street, Des Moines, Iowa 50319, or by E-mail to iubcustomer@iub.state.ia.us."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)281-3839, or toll-free 1-877-565-4450, by writing to 350 Maple Street, Des Moines, Iowa 50319, or by E-mail to iubcustomer@iub.state.ia.us."

The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: "If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)281-3839, or toll-free 1-877-565-4450, by writing to 350 Maple Street, Des Moines, Iowa 50319, or by E-mail to iubcustomer@iub.state.ia.us."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

20.4(3) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service, or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

20.4(4) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

20.4(5) *Customer deposit records.* Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

20.4(6) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

20.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and 1 automatic forgiveness of late payment). For refund purposes the account shall be reviewed for prompt payment after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However,

deposits received from customers subject to the exemption provided by 20.4(3)*"b,"* including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

20.4(8) *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

20.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.

b. The dates on which the meter was read, at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule, or identification of the applicable rate schedule.

e. The account balance brought forward and amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

j. Customer billing information alternate. A utility serving less than 5000 electric customers may provide the information in 20.4(9) on bill form or otherwise. If the utility elects not to provide the information of 20.4(9), it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

20.4(10) Rescinded, effective 7/1/81.

20.4(11) *Payment agreements.*

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. *Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. *Terms of payment agreements.*

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with

these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. *Refusal by utility.* A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

20.4(12) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month, shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 20.4(12)*"e"*(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of $25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

20.4(13) *Customer records.* The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than three years. Records for customer shall show where applicable:

a. kWh meter reading

b. kWh consumption
c. kW meter reading
d. kW measured demand
e. kW billing demand
f. Total amount of bill.

20.4(14) *Adjustment of bills.*

a. *Meter error.* Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watthour metering; or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering; an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watthour metering installations the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. *Determination of adjustment.* Recalculation of bills shall be on the basis of actual monthly consumption except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kilowatt-hours, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months, consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in immediately following subparagraphs (1) and (2).

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as one-half the time since the meter was installed, or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the board.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

c. *Refunds.* If the recalculated bills indicate that $5 or more is due an existing customer or $10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

d. *Back billing.* A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, $5 for an existing customer or $10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be rendered no later than six months following the date of the metering installation test.

e. *Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

f. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

g. *Credits and explanations.* Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

20.4(15) *Refusal or disconnection of service.* A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15)*"b."* The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

(1) For violation of or noncompliance with the utility's rules on file with the board.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "electric" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and remedies, as set forth in subparagraph 20.4(15)*"d"*(3):

Service limitation: We have adopted a policy of service limitation before disconnection. You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office.

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(7) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)*"d"*(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)*"d."*

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15)*"f."*

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

e. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect electric service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 20.4(11)*"c"*(1)"4," provided the utility complies with the provisions of paragraph 20.4(15)*"d."*

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

h. A utility may disconnect electric service without the written 12-day notice for failure of a residential customer who has had service limited in accordance with subrule 20.4(23) to pay the full amount due for past service or to enter into a reasonable payment agreement, provided that:

(1) The minimum time period, as specified in the utility's tariff, for the service limiter to remain in place prior to initiation of the disconnection procedure has elapsed;

(2) The requirements of paragraph 20.4(15)*"f,"* relating to in-person, telephone or posted notice, have been satisfied;

(3) The requirements of subparagraphs 20.4(15)*"d"*(7) and (8), relating to time and temperature restrictions on disconnection are satisfied, to the extent applicable; and

(4) The requirements of subparagraph 20.4(15)*"d"*(9), relating to health restrictions on disconnection are satisfied, to the extent applicable.

20.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill rendered in accordance with paragraph 20.4(14)*"d"* (slow meters).

f. Failure to pay a bill rendered in accordance with paragraph 20.4(14)*"f."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.

h. Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

20.4(17) *When disconnection prohibited.* No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

20.4(18) *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

20.4(19) *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's rate schedules.

20.4(20) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

20.4(21) *Temporary service.* When the utility renders temporary service to a customer it may require that the customer bear all of the cost of installing and removing the service facilities in excess of any salvage realized.

20.4(22) *Change in type of service.* If a change in the type of service, such as from 25- to 60-cycle or from direct or alternating current, or a change in voltage to a customer's substation, is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment.

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

20.4(23) *Limitation of service.* The utility shall have the option of adopting a policy for limiting the service of a residential customer for nonpayment of a bill or deposit, or for noncompliance with the terms of a payment agreement, as a measure to be taken prior to disconnection of the customer. Electric-heating residential customers shall not have limited service between November 1 and April 1. For purposes of this rule, "electric-heating" shall mean heating by means of a fixed-installation electric appliance which serves as the primary heat source.

A service limitation policy, if adopted by the utility, shall be set forth in the utility's tariff and shall specify some minimum time period for the service limiter to remain in place prior to the initiation of the disconnection procedure set forth in 20.4(15)*"h."* A service limitation policy, if adopted by the utility, shall be applied uniformly to all of the utility's residential customers, as specified above, to the extent that adaptation of service limiters to customer meters is feasible, and to the extent that customer meters are readily accessible to those installing the service limiters and to the customers. Any other exceptions to uniform application of this policy must be on the basis of rational, specific criteria set forth in the utility's tariff receiving prior approval by the board.

Notice of a pending service limitation shall be rendered, and electric service limited, as set forth in the tariff.

Upon installing a service limiter, the utility shall post the premises with a notice informing the occupant of the installation of the service limiter, its purpose, how it operates, and how it can be reset by the occupant.

The notice of pending service limitation required by these rules shall satisfy the requirements of subrule 20.4(15), substituting "service limitation" for "disconnection" or "refusal or disconnection of service" throughout the rule.

Service may be limited for nonpayment of bill or deposit, except as restricted by subrule 20.4(16), relating to insufficient reasons for denying service, provided that the utility has satisfied the requirements of 20.4(15)*"d,"* excluding the portion of subparagraph (4) "special circumstances" relating to same-day reconnection, and substituting "service limitation" for "disconnection" (and all other forms of that term) throughout that subrule. An installed service limiter shall be removed no later than the next working day after the residential customer has paid the delinquent bill or deposit in full or has entered into a reasonable payment agreement with the utility.

Service may be limited without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, provided that the requirements of 20.4(15)*"f"* have been satisfied, excluding the portion of subparagraph (2) relating to same-day reconnection, and substituting "service limitation" for "disconnection" (and all other forms of that term) throughout that subrule.

These rules are intended to implement Iowa Code sections 476.6, 476.8, 476.20 and 476.54.

199—20.5(476) Engineering practice.

20.5(1) *Requirement for good engineering practice.* The electric plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

20.5(2) *Standards incorporated by reference.* The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

a. Iowa Electrical Safety Code, as defined in IAC [199], Chapter 25.

b. National Electrical Code, ANSI/NFPA 70-2005.

c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-1981 (R1999); and C57.13.3-1983 (R1991).

d. American National Standard For Electric Power Systems and Equipment Voltage Ratings (60Hertz), ANSI C84.1-2006.

e. Grounding of Industrial and Commercial Power Systems, IEEE 142-1991.

f. IEEE Standard 1159-1995, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.

g. IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.

h. At railroad crossings, 199 IAC 42.6(476), "Engineering standards for electric and communications lines."

20.5(3) *Adequacy of supply and reliability of service.* The generating capacity of the utility's plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the board will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those which lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility's own generating facilities.

a. In the case of utilities having interconnecting ties with other utilities, the board will, upon appraising adequacy of supply, take appropriate notice of the utility's recent past record, as of the date of appraisal, of any widespread service interruptions and any capacity shortages along with

the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

b. In the case of noninterconnected utilities the board will give attention to the maximum total coincident customer demand which could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

20.5(4) *Electric transmission and distribution facilities.* Rescinded IAB 11/13/02, effective 12/18/02.

20.5(5) *Inspection of electric plant.* Each utility shall adopt a written program for inspection of its electric plant in order to determine the necessity for replacement and repair in compliance with board rule 199—25.3(476,478).

This rule is intended to implement Iowa Code section 476.8 and 478.18.

199—20.6(476) Metering.

20.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The publications listed in 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

20.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before being placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. The limits of meter accuracy considered acceptable by the utility.

f. The nature of meter and meter test records which will be maintained by the utility.

20.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard Code for Electricity Metering, ANSI C12.1-2001.

b. and *c.* Rescinded IAB 5/23/07, effective 6/27/07.

20.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

20.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

20.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit in the form of a check or money order made payable to the utility.

Within five days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and

facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 20.4(14). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

20.6(7) *Condition of meter.* No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

199—20.7(476) Standards of quality of service.

20.7(1) Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer's clocks connected to the system.

20.7(2) Voltage limits retail. Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at 20.5(2)*"d."*

20.7(3) Voltage balance. Where three-phase service is provided the utility shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

20.7(4) Voltage limits, service for resale. The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the board.

20.7(5) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:

a. Arise from the action of the elements.

b. Are infrequent fluctuations not exceeding five minutes, duration.

c. Arise from service interruptions.

d. Arise from temporary separation of parts of the system from the main system.

e. Are from causes beyond the control of the utility.

f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

20.7(6) Voltage surveys and records. Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

20.7(7) Each utility shall make a sufficient number of voltage measurements, using recording voltmeters, in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), 20.7(4). All voltmeter records obtained under 20.7(7) shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

a. The location where the voltage was taken.

b. The time and date of the test.

c. The results of the comparison with a working standard indicating voltmeter.

20.7(8) Equipment for voltage measurements.

a. *Secondary standard indicating voltmeter.* Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. *Recording voltmeters.* Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

20.7(9) Rescinded IAB 12/11/91, effective 1/15/92.

20.7(10) Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or

calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

20.7(11) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

20.7(12) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at 20.5(2)*"f."*

20.7(13) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 20.5(2)*"g."*

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

199—20.8(476) Safety.

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

20.8(2) *Accident investigation and prevention.* The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

20.8(3) *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in 199—25.5(476,478), arising from its operations.

20.8(4) *Grounding of secondary distribution system.* Unless otherwise specified by the board, each utility shall comply with, and shall encourage its customers to comply with, the applicable provisions of the acceptable standards listed in 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

199—20.9(476) Electric energy sliding scale or automatic adjustment. A rate-regulated utility's sliding scale or automatic adjustment of the unit charge for electric energy shall be an energy clause.

20.9(1) *Applicability.* A rate-regulated utility's sliding scale or automatic adjustment of electric utility energy rates shall recover from consumers only those costs which:

Are incurred in supplying energy;

Are beyond direct control of management;

Are subject to sudden important change in level;

Are an important factor in determining the total cost to serve; and

Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy clause for rate-regulated utility.* Prior to each billing cycle, a rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment shall provide for change of the price per kilowatt hour consumed under rates set by the board based upon the formulas provided below. The calculation shall be:

$$E_0 = \frac{EC_0 + EC_1}{EQ_0 + EQ_1} + \frac{A_1}{EJ_0 + EJ_1} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

EC_0 is the estimated expense for energy in the month during which E_0 will be used.

EC_1 is the estimated expense for energy in the month prior to the month of EC_0.

EQ_0 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which E_0 will be used.

EQ_1 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to EQ_0.

EJ_0 is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge (E_0) will be used in bill calculations.

EJ_1 is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of EJ_0.

A_1 is the beginning of the month energy cost adjustment account balance for the month of estimated consumption EJ_1. This would be the most recent month's balance available from actual accounting data.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. The estimated energy cost ($EC_0 + EC_1$) shall be the estimated cost associated with EQ_0 and EQ_1 determined as the cost of:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph 20.9(2)*"b."*

(5) The energy costs paid for energy purchased under arrangements or contracts for firm power, operational control energy, outage energy, participation power, peaking power, and economy energy, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from AEP facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4)*"b."*

c. The energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the actual expense for energy, calculated as set forth in 20.9(2)*"b,"* in the month prior to EJ_1 of 20.9(2)*"a."*

J_2 is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.

Q_2 is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace that normally received from nuclear sources. A surcharge would be added to each kilowatt hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

e. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

f. A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules.

20.9(3) *Optional energy clause for a rate-regulated utility which does not own generation.* A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle it shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.

For a utility electing to use an energy cost adjustment account the calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.

A_2 is the end of the month energy cost adjustment account balance for the month of consumption J_2. This would be the most recent month's balance available from actual accounting data.

J_2, J_3 and J_4 are electric energy consumed under rates set by the board in the months corresponding to C_2, C_3 and C_4.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

c. The end of the month energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.

Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.

J_2 is the electric energy consumed under jurisdictional rates in the prior month.

Q_2 is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.

e. A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.

20.9(4) *Annual review of energy clause.* On or before each May 1, the board will notify each utility as to the two months of the previous calendar year for which fuel, freight, and transportation invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

This rule is intended to implement Iowa Code section 476.6(11).

199—20.10(476) Ratemaking standards.

20.10(1) *Coverage.* Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The board may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

20.10(2) *Cost of service.* Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes

of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the board.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include, but are not limited to, the following:

a. All usage of customer, demand, and energy components of service shall be considered new usage.

b. Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.

c. Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand, and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in 199—subrule 35.9(2).

d. Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns, and the load imposed by a class on the transmission or distribution capacity in question.

e. Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters and associated customer service expenses.

f. Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics, and line losses among customer classes.

g. Methods of class cost of service determination which are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission or distribution, shall be considered unacceptable methods.

h. Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.

i. The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

20.10(3) *Declining block rates.* The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kilowatt-hour consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

20.10(4) *Time-of-day rates.* The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

20.10(5) *Seasonal rates.* The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis which reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the board determines that seasonal rates are appropriate in an individual case.

20.10(6) *Interruptible rates.* Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which the consumer is a member.

20.10(7) *Load management techniques.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(8) *Other energy conservation strategies.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(9) *Pilot projects.* Rescinded IAB 11/12/03, effective 12/17/03.

199—20.11(476) Customer notification of peaks in electric energy demand. Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

20.11(1) *Annual notice.* Each electric utility shall provide its customers, on an annual basis, with a written notice explaining how growth in demand affects a utility's investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases. The notice shall be delivered to its customers between May 1 and June 15 of each year if peak demand is likely to occur during the months of June through September. If peak demand usually occurs during the months of October through February, the notice shall be delivered to its customers between August 1 and September 15.

20.11(2) *Notification plan.* Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

a. The plan shall include the following:

(1) A provision for a general notice to be given customers prior to the time when peak demand is likely to occur as prescribed in 20.11(2)*"b"* and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

(2) A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in 20.11(2)*"b,"* and shall explain the criteria used to identify customers to whom notice will be given and when and how notice will be given.

(3) A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The board may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.

(4) The text of the general and direct message to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility or utilities providing the notice, an explanation that conditions exist which indicate a peak in demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases.

(5) A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in 20.11(2)*"b."*

(6) A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in 20.11(2)*"b"* will exist on the same day.

b. For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:

(1) The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or

(2) The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but

(3) If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in

20.11(2)*"b"*(1) or 20.11(2)*"b"*(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.

20.11(3) *Implementation of notification plan.* The utility shall implement the approved plan on each day of the year when peak demand is likely to occur, as prescribed by 20.11(2)*"b."*

20.11(4) *Permissive notices.* The standard for implementing peak alert notification in subrule 20.11(2) is a minimum standard and does not prohibit a utility or association of utilities from issuing a notice requesting customers to reduce usage at any other time.

20.11(5) *Annual report.* Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report stating the number of notices given its customers, the dates when notices were issued, the annual cost of providing both general and direct notice to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued. The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and a proposal to modify the plan, if necessary, to make customer notification more effective. Modifications must be approved by the board before they are implemented.

199—20.12(476) New structure energy conservation standards. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.13(476) Periodic electric energy supply and cost review [476.6(16)].

20.13(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's electric fuel procurement and contracting practices. By January 31 each year the board will notify a rate-regulated utility if the utility will be required to file an electric fuel procurement plan. In the years in which it does not conduct a contested case proceeding, the board may require a utility to file certain information for the board's review. In years in which a full proceeding is conducted, a rate-regulated utility providing electric service in Iowa shall prepare and file with the board on or before May 15 of each required filing year a complete electric fuel procurement plan for an annual period commencing June 1 or, in the alternative, for the annual period used by the utility in preparing its own fuel procurement plan. A utility's procurement plan shall be organized to include information as follows:

a. *Index.* The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the board files in which the documents incorporated by reference are located.

b. *Purchase contracts and arrangements.* A utility's procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

(1) All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;

(2) All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;

(3) All contracts and arrangements for purchasing or selling allowances;

(4) Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;

(5) Pool interchange agreements;

(6) Multiutility transmission line interchange agreements; and

(7) Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements which will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in subparagraphs (1) and (2) of this paragraph which will be entered into or exercised by the utility

during the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

c. Other contract offers. The procurement plan shall include a list and description of those types of contracts and arrangements listed in paragraph 20.13(1)*"b"* offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in paragraph 20.13(1)*"b"* which were offered to the utility for the prospective 12-month period and into which the utility did not enter.

d. Studies or investigation reports. The procurement plans shall include all studies or investigation reports which have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in paragraphs 20.13(1)*"b"* and *"c"* which will be exercised or entered into during the prospective 12-month period.

e. Price hedge justification. The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

f. Actual and projected costs. The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1)*"b"* for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1)*"b"* in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

g. Costs directly related to the purchase of fuel. The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by paragraph *"f."*

h. Compliance plans. Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

i. Evidence submitted. Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The board may require the submission of machine-readable data for selected computer codes or models.

j. Additional information. Each utility shall file additional information as ordered by the board.

20.13(2) *Periodic review proceeding.* The board shall periodically conduct a proceeding to evaluate the reasonableness and prudence of a rate-regulated utility's procurement practices. The prudence review of allowance transactions and accompanying compliance plans shall be determined on information available at the time the options or plans were developed.

a. On or before May 15 of a required filing year, each utility shall file prepared direct testimony and exhibits in support of its fuel procurement decisions and its fuel requirement forecast. This filing shall be in conjunction with the filing of the plans. The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased fuel costs.

b. The board shall disallow any purchased fuel costs in excess of costs incurred under responsible and prudent policies and practices.

199—20.14(476) Flexible rates.

20.14(1) *Purpose.* This subrule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

20.14(2) *General criteria.*

a. Electric utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly

competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

20.14(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount rate shall be equal the energy costs and customer costs of serving the specific customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

20.14(4) *Reporting requirements.* Each rate-regulated electric utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The end-use cost of alternate fuels or energy supplies available to the customer, if relevant;

(5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

b. Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month; and

(5) The dollar value of sales to each customer for each of the previous 12 months.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of sales to each customer for each of the past 12 months.

d. No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

20.14(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—20.15(476) Customer contribution fund.

20.15(1) *Applicability and purpose.* This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

20.15(2) *Program plan.* Each utility shall have on file with the board a detailed description of its current program plan. At a minimum, the plan shall include the following information:

a. A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

b. A sample of the customer notification with a description of the method and frequency of its distribution;

c. A sample of the authorization form provided to customers;

d. The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

20.15(3) *Notification.* Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

a. A description of the availability and the purpose of the fund;

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

20.15(4) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

20.15(5) *Annual report.* On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

20.15(6) *Binding effect.* A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—20.16(476) Exterior flood lighting. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.17(476) Ratemaking treatment of emission allowances.

20.17(1) *Applicability and purpose.* This rule applies to all rate-regulated utilities providing electric service in Iowa. Under Title IV of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

20.17(2) *Definitions.* The following words and terms, when used in this rule, shall have the meaning indicated below:

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Auction allowances" are allowances acquired or sold through EPA's annual allowance auction.

"Boot" means something acquired or forfeited to equalize a trade.

"Direct sale allowances" are allowances purchased from the EPA in its annual direct sale.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_x emission allowances.

"Fair market value" is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

"Historical cost" is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

"Original cost" is the historical cost of an asset to the person first devoting the asset to public service.

"Statutory allowances" are allowances allocated by the EPA at no cost to affected units under the Acid Rain Program either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

20.17(3) *Valuing allowances for ratemaking purposes.*

a. Statutory allowances. Valued at zero cost to electric utility.

b. Direct sale allowances. Valued at historical cost.

c. Auction allowances. Valued at historical cost.

d. Purchased allowances. Valued at historical cost.

20.17(4) *Valuing allowance inventory accounts.* Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

20.17(5) *Valuing allowances acquired as part of a package.* Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

20.17(6) *Valuing allowances acquired through exchanges.*

a. *Exchanges without boot.* Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. *Exchanges with boot.* Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

20.17(7) *Valuing allowances transferred among affiliates.*

a. Allowances transferred from a utility to a parent or unregulated subsidiary. Allowances shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility. Allowances shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility. Allowances shall be transferred at fair market value.

20.17(8) *Expense recognition and recovery of allowance costs.*

a. *Expense recognition.* Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. *Expense recovery.* The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. *Allowance inventory shortage.* If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 20.9(476).

20.17(9) *Gains/losses from allowance transactions.* The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

20.17(10) *Allowance futures or option contracts.*

a. *Price hedging.* Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. *Speculation.* Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

20.17(11) *Working capital reserve of allowances.* A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the board deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

20.17(12) *Allowances banked for future use.* Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the board.

20.17(13) *Prudence of allowance transactions.* The prudence of allowance transactions shall be determined by the board in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the board shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 20.9(476).

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) *Applicability.* Rule 20.18(476,478) is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of rule 20.18(476,478) is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric

service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.18(3) *General obligations.*

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility's transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

g. Any electric utility unable to comply with applicable provisions of rule 20.18(476,478) may file a waiver request pursuant to rule 199—1.3(17A,474,476,78GA,HF2206).

20.18(4) *Definitions.* Terms and formulas when used in rule 20.18(476,478) are defined as follows:

"Customer" means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

"Customer average interruption duration index (CAIDI)" means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

"Distribution system" means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

"Electric utility" means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the board's jurisdiction.

"GIS" means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

"Interrupting device" means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

"Interruption" means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer's private property;
5. Interruptions due to hazardous conditions located on the affected customer's private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer's equipment; the operation of a customer's equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

"Interruption duration" as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

"Interruption, momentary" means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

"Interruption, momentary event" means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

"Interruption, scheduled" means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

"Interruption, sustained" means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

"Loss of service" means the loss of electrical power, a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of "interruption."

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Metropolitan area" means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

"Momentary average interruption frequency index (MAIFI)" means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

"OMS" is a computerized outage management system.

"Operating area" means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

"Outage" means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

"Power quality" means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

"Rural circuit" means a circuit not defined as an urban circuit.

"System average interruption duration index (SAIDI)" means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

"System average interruption frequency index (SAIFI)" means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

"Total number of customers served" means the total number of customers served on the last day of the reporting period.

"Urban circuit" means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.18(5) *Record-keeping requirements.*

[1]*a. Required records for electric utilities with over 50,000 Iowa retail customers.*

(1) Each electric utility shall maintain a geospatial information system (GIS) and an outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction;

2. Operating area (if any);
3. Substation;
4. Circuit;
5. Number of interruptions in reporting period; and
6. Number of hours of interruptions in reporting period.

(2) Records on interruptions shall be sufficient to determine the following:

1. Starting date and time the utility became aware of the interruption;
2. Duration of the interruption;
3. Date and time service was restored;
4. Number of customers affected;
5. Description of the cause of the interruption;
6. Operating areas affected;
7. Circuit number(s) of the distribution circuit(s) affected;
8. Service account number or other unique identifier of each customer affected;
9. Address of each affected customer location;
10. Weather conditions at time of interruption;
11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
12. Whether the interruption was planned or unplanned.

(3) Each electric utility shall maintain as much information as feasible on momentary interruptions.

(4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.
2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.
3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.
4. The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.
5. Utilities may augment the code sets listed above to enhance tracking.

(5) An electric utility shall retain for seven years the records required by 20.18(5)*"a"*(1) through (4).

(6) Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.

b. Required records for all other electric utilities.

(1) Each electric utility, other than those providing only wholesale electric service, shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per customer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other. Those electric utilities that provide only wholesale electric service shall provide their wholesale customers with the information necessary to allow those customers to ascertain the cause of power supply-related outages.

The category "scheduled" refers to interruptions resulting when a distribution transformer, line, or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.

The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the "power supplier" category.

The category "major storm" represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.

The "all other" category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.

(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United

States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 161-1, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

(3) Each electric utility, other than those providing only wholesale electric service, shall also maintain and record data sufficient to enable it to compute systemwide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with "major storms" and once without.

c. Each electric utility shall make its records of customer interruptions available to the board as needed.

20.18(6) *Notification of major events.* Notification and reporting of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 20.19(476,478).

20.18(7) *Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.* Each electric utility with over 50,000 Iowa retail customers shall submit to the board and consumer advocate on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. Description of service area. Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.

b. System reliability performance.

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and update as needed in subsequent reports.

c. Reporting on customer outages.

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration,

and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.

2. All Iowa customers, including major events.

d. *Major event summary.* For each major event that occurred in the reporting period, the following information shall be provided:

(1) A description of the area(s) impacted by each major event;

(2) The total number of customers interrupted by each major event;

(3) The total number of customer-minutes interrupted by each major event; and

(4) Updated damage cost estimates to the electric utility's facilities.

e. *Information on transmission and distribution facilities.*

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. *Plans and status report.*

(1) A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

1. The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)*"g"*(1) and 20.18(7)*"h"*(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate. The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.

2. The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.

3. The plan shall provide an estimate of the timing for achievement of the plan's goals.

(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.

g. *Capital expenditure information.* Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in 20.18(7)*"g"*(1).

h. *Maintenance.* Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If

any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in 20.18(7)*"h"*(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the board in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in 20.18(7)*"h"*(2)"1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. The annual reliability report, starting with the reliability report for calendar year 2008, shall include the number of poles inspected, the number rejected, and the number replaced.

20.18(8) *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

a. By July 1, 2003, each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan and shall file an informational copy of the plan with the board. The plan shall be updated not less than annually and shall describe the following:

(1) The utility's current reliability programs, including:

1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3)*"c"*;

2. Animal contact reduction programs, if applicable;

3. Lightning outage mitigation programs, if applicable; and

4. Other programs the electric utility may identify as reliability-related.

(2) Current ability to track and monitor interruptions.

(3) How the electric utility plans to communicate its plan with customers/consumer owners.

b. By April 1, 2004, and each April 1 thereafter, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on at least the following:

(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5)*"b"*(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.

(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8)*"a"*(1).

20.18(9) *Inquiries about electric service reliability.*

a. For electric utilities with over 50,000 Iowa retail customers. A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

b. Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.

[1] Error corrected IAC Supplement 1/22/03

199—20.19(476,478) Notification and reporting of outages.

20.19(1) *Notification.* Each electric utility shall notify the board of any outage that results, or is expected to result, in the following:

a. Loss of service for more than two hours to substantially all of a municipality, including the surrounding area served by the same utility;

b. Loss of service for more than two hours to 20 percent of the customers in a utility's established zone or area;

c. Loss of service for more than two hours to more than 3,600 customers in a metropolitan area;

d. A major event as defined in subrule 20.18(4); or

e. Any other outage considered significant by the electric utility.

20.19(2) *Information required.*

a. Notice shall be provided as soon as the utility learns of the outage, or as soon as practical thereafter, by calling the board duty officer at 515-745-2332. The caller shall leave a call-back number for a person who can provide the following information:

(1) The nature or cause of the outage;

(2) The area affected;

(3) The number of customers that have experienced a loss of electric service as a result of the outage;

(4) The estimated time until service will be restored; and

(5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage.

b. The electric utility shall provide updates to the board as new or additional information becomes available until all service is restored.

20.19(3) *Outage report.* Each electric utility shall submit a report to the board within 30 days after the customers affected by the outage reported under subrule 20.19(1) have regained service. The report shall include the following:

a. A description of the circumstances that caused the outage;

b. The total number of customers out of service during the outage;

c. The longest customer interruption;

d. The damage cost estimates to the electric utility's facilities; and

e. The number of people used to restore service.

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7.

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[1] Effective date of 20.3(13) *"a," "b,"* (1), (2), (3), (4), and *"c"* delayed 70 days by Administrative Rules Review Committee.

[2] Effective date of 20.4(12), third unnumbered paragraph, delayed seventy days by the Administrative Rules Review Committee.

[3] See IAB, Utilities Division.

[4] Published in Notice portion of IAB 9/10/86; see IAB 10/22/86

[5] Effective date of 20.4(4) delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 21
SERVICE SUPPLIED BY WATER UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—21.1(476) Application of rules.

21.1(1) *Application of rules.* The rules apply to any water utility operating within the state of Iowa under the jurisdiction of the Iowa utilities board and are established under Iowa Code chapter 476.

These rules are intended to promote service to the public, provide standards for uniform practices by utilities, and establish a basis for determining the reasonableness of the demands made by the public upon the utilities.

A utility or customer may file for a waiver of these rules in accordance with the provisions of 199—1.3(17A,474,476,78GA,HF2206).

These rules shall not relieve a utility from its duties under the laws of this state.

21.1(2) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just, and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of this law.

199—21.2(476) Records and reports.

21.2(1) *Location and retention of records.* Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

21.2(2) *Tariffs.* The utility shall maintain its tariff filing in a current status.

The schedules of rates and rules of all rate-regulated utilities shall be filed with the board.

The form, identification and content of tariffs shall be in accordance with these rules.

a. Form and identification.

(1) The tariff shall be printed, typewritten or otherwise reproduced on 8½ × 11 inch sheets so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding.

(2) The title page of every tariff and supplement shall specify the following:

1. The first page shall be the title page, which will show:

Name of Public Utility

Water Tariff

Filed With

The Iowa Utilities Board

2. When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced; for example:

Tariff No. _____
Supersedes Tariff No. _____

3. When a new part of a tariff revises, amends, or eliminates an existing part of a tariff, it shall so state and identify the part revised, amended or eliminated.

4. Any tariff modifications, as defined in "3" above, replacing tariff sheets shall be marked in the right margin with symbols as described below to indicate the place, nature and extent of the change in text:

Symbol	Meaning
(C)	A change in regulation.
(D)	A discontinued or deleted rate, treatment or regulation.
(I)	An increased rate or new treatment resulting in increased rate.
(N)	A new rate, treatment or regulation.
(R)	A reduced rate or new treatment resulting in a reduced rate.
(T)	A change in text but no change in rate, treatment or regulation.

(3) All sheets except the title page shall have, in addition to the above requirements, the issue date.

(4) All sheets except the title page shall have the following form:

(Company Name)		(Part Identification)
Water Tariff		(This sheet identification)
Filed with board		(Canceled sheet identification, if any)
	(Content of tariff)	
Issued: (Date)		Effective Date:
		(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date is to be left blank by the utility and shall be determined by the board. The utility may propose an effective date.

b. *Content of tariffs.* A tariff filed with the board shall contain:

(1) Table of contents.

(2) Rates, including all rates of utilities subject to rate regulation for service with indication for each rate of the type of water service and the class of customers to which each rate applies. There shall also be shown the prices per unit of service, and the number of units per billing period to which the prices apply, the period of billing, the minimum bill, method of measuring demands and consumptions, including method of calculating or estimating loads or minimums, and any special terms and conditions applicable. There shall be specified any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid, and both shall be in accordance with subrule 21.4(4).

199—21.3(476) General service requirements.

21.3(1) *Disposition of water.*

a. *Metered measurement of water.* All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

(1) Temporary service where the water use can be readily estimated.

(2) Public and private fire protection service.

(3) Water used for street sprinkling and sewer flushing.

b. *Separate metering for premises.* Separate premises shall be separately metered and billed. Submetering shall not be permitted.

21.3(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) *Meter requirements.*

a. Meter installation. Each water utility shall adopt a written standard method of meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. Records of meters and associated metering devices. Each utility shall maintain for each meter and associated metering device the following applicable data.

(1) *Meter identification.*

1. Manufacturer.
2. Meter type, catalog number and serial number.
3. Meter capacity, multiplier and constants.
4. Unit registration measures (gallons or cubic feet).
5. Number of moving digits or dials in register.
6. Number of stationary or pointed zeros on register.
7. Pressure rating of the meter.

(2) *Meter location history.*

1. Dates of installation and removal from service.
2. Location of installations.
3. All customer names with readings and read out dates (Remote register readings shall be maintained identical to readings of the meter register).

c. Registration devices for meters. Where a constant or multiplier is necessary to determine the meter reading, it shall be indicated on the face of the meter. Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. Meter readings.

(1) *Meter reading interval.* Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

The utility may permit the customer to supply the meter readings on a form supplied by the utility, or in the alternative, may permit the customer to supply the meter reading information by telephone, provided a utility representative reads the meter at least once every 24 months and when there is a change of customer.

(2) *Readings and estimates in unusual situations.* When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills shall be prorated on a daily basis.

An estimated bill may be rendered in the event that access to meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.3(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.3(5) *Extensions to customers.*

a. Definitions. The following definitions shall apply to the terms used in this rule:

"Advances for construction costs," as used in these subrules, are cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period," as used in this subrule, means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction," as used in these subrules, means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash

payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advances for construction records," as used in this subrule, means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project or work order the extension was installed on.

"Estimated annual revenues," as used in this subrule, shall be calculated based upon the following factors, including, but not limited to: The size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated construction costs," as used in this subrule, shall be calculated using average costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the extension, size, location and characteristics of the extension, including all appurtenances; and whether or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a distribution main extension.

"Similarly situated customer" is a customer whose annual consumption or service requirements, as defined by estimated annual revenue, is similar to other customers with approximately the same annual consumption or service requirements.

"Utility," as used in these subrules, means a rate-regulated utility.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) Plant additions. The utility will provide all water plants at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) Advances for construction costs for distribution main extensions for customers who will attach within 30 days. Where the customer will attach within 30 days after completion of the distribution main extension, the following shall apply:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the main extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer no more than 30 days prior to commencement of construction.

(3) Advances for construction costs for distribution main extensions for customers who will not attach within the agreed-upon attachment period. Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the

extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

Advance payments for plant additions or extensions which are subject to refund for a ten-year period may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the distribution main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of three times estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of three times estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal three times estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. Extensions not required. Utilities shall not be required to make extensions as described in this rule, unless the extension shall be of a permanent nature.

e. Extensions permitted. This rule shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

This rule shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in 21.5(1) and 21.5(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with 21.3(5)*"c."* The utility shall be responsible for the operation and maintenance of the extension after attachment.

If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) *Service connections.* In urban areas with well-defined streets, the utility shall control (supervise the installation and maintenance of) that portion of the service pipe from its main to and

including the customer's meter. A curb stop shall be installed at a convenient place between the property line and the curb. All services shall include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve, and are installed between property line and curb, no separate curb stop and curb box is required.

21.3(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. *Outside.* Meters installed out-of-doors shall be readily accessible for maintenance and reading and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. *Inside.* Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

199—21.4(476) Customer relations.

21.4(1) *Customer information.* Each utility shall:

a. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility are available for public inspection.

b. Maintain up-to-date maps, plans, or records of its entire water system.

c. Upon request, assist the customer or proposed customers in selecting the most economic rate schedule available for the proposed type of service.

d. Upon request, inform its customers as to the method of reading meters and the method of computing the customer's bill.

e. Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

f. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Utilities Division, Department of Commerce, 350 Maple Street, Des Moines, Iowa 50319, 1-877-565-4450."

The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.4(2) *Customer deposits.*

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit shall not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days

from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. *Deposit refund.* The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

21.4(3) *Customer bill forms.* The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered when applicable.

c. Identification of the applicable rate schedule.

d. The gross and net amount of the bill.

e. The delayed payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill.

21.4(4) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

A rate-regulated utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period.

The company rules shall state how the customer is notified the eligibility has been used.

21.4(5) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 21.4(6), but not less than three years.

21.4(6) *Adjustment of bills.* Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

a. *Fast meters.* Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half

the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than $5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

b. *Nonregistering meters.* Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. *Slow meters.* Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in 21.4(6)*"a"* unless otherwise ordered by the board.

d. *Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.4(7) *Refusal or disconnection of service.* Service may be refused or discontinued only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill provided that the utility has: (1) Made a reasonable attempt to effect collection; (2) Given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

f. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.

21.4(8) *Reconnection and charges.* In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(9) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Nonpayment for service by someone who is no longer an occupant of the premises to be served, except in cases of immediate family occupation or cohabitation of adults at the premises.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of public utility service.

21.4(10) *Customer complaints.* A "complaint" shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

199—21.5(476) Engineering practice.

21.5(1) *Requirement of good engineering practice.* The design and construction of the utility's water plant shall conform to good standard engineering practice.

21.5(2) *Inspection of water plant.* Each utility shall adopt and follow a program of inspection of its water plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice.

199—21.6(476) Meter testing.

21.6(1) *Periodic and routine tests.* Each utility shall adopt schedules approved by the board for periodic and routine tests and repair of its meters.

21.6(2) *Meter test facilities and equipment.* Each utility furnishing metered water service shall provide the necessary standard facilities, instruments and other equipment for testing its meters, or mail for test of its meters by another utility or agency equipped to test meters subject to approval by the board.

21.6(3) *Accuracy requirements.* All meters used for measuring quantity of water delivered to a customer shall be in good mechanical condition. All meters shall be accurate to the following standards:

a. *Test flow limits.* For determination of minimum test flow and normal test flow limits, the company will use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. *Accuracy limits.* A meter shall not be placed in service if it registers less than 95 percent of the water passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) *Initial test and storage of meters.* Every water meter shall be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter shall be tested immediately before installation.

21.6(5) *As found tests.* To determine the average meter error in accordance with these rules for periodic or complaint tests, meters shall be tested in the condition as found in the customer's service. Tests shall be made at intermediate and maximum rates of flow and the meter error shall be the algebraic average of the errors of the two tests.

21.6(6) *Request tests.* A utility shall test any water meter upon written request of a customer. The utility will not be required to perform request tests more than once each 18 months. The customer shall be given the opportunity to be present at the request tests.

21.6(7) *Board-ordered tests.* The board shall order tests of meters as follows:

a. *Application.* Upon written application to the board by a customer or a utility, a test shall be made of the customer's meter as soon as practicable.

b. *Guarantee.* The application shall be sent by certified or registered mail and accompanied by a certified check or money order made payable to the utility in the amount indicated below:

(1) Capacity of 80 gallons per minute or less	$24
(2) Capacity over 80 gallons, up to 120 gallons per minute	$26
(3) Capacity of over 120 gallons per minute	$30

c. *Conduct of test.* On receipt of a request from a customer, the board shall forward the deposit to the utility and notify the utility of the requirement for the test. The utility shall not knowingly remove

or adjust the meter until tested. The utility shall furnish all instruments, load devices and other facilities necessary for the test and shall perform the test and shall furnish verification of the accuracy of test instruments used.

d. *Test results.* If the tested meter is found to overregister to an extent requiring a refund under the provisions of 21.4(6)*"a,"* the amount paid to the utility shall be returned to the customer by the utility.

e. *Notification.* The utility shall notify the customer in advance of the date and time of the board-ordered test.

f. *Utility report.* The utility shall make a written report of the results of test which shall be sent to the customer and to the board.

21.6(8) *Sealing of meters.* Upon completion of adjustment and test of any water meter the utility shall place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) *Record of meter tests.* Meter test records shall include:

a. The date and reason for the test.

b. The meter reading prior to any test.

c. The accuracy as found at each of the flow rates required by 21.6(3)*"a."*

d. The accuracy as left at each of the flow rates required by 21.6(3)*"a."*

e. Statement of any repairs.

f. If the meter test is made using a standard meter, the utility shall retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards' volumetric standardization.

The test records of each meter shall be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter's retirement, if any, shall be retained for a minimum of three years.

199—21.7(476) Standards of quality of service.

21.7(1) *Pressures.* Under normal condition of water usage the pressure (pound per square inch gauge) at a customer's service line shall be not less than 25 PSIG and not more than 125 PSIG.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey shall be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. Survey should be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys shall show the date and time of beginning and end of the test, and the test location. Records of these pressure surveys shall be maintained at the utility's principal office in the state and made available to the board upon request.

21.7(2) *Interruption of supply.*

a. A utility shall make a reasonable effort to prevent interruptions of service. When an emergency interruption occurs the utility shall reestablish service with the shortest possible delay consistent with the safety to its customers and the general public. If an emergency interruption affects fire protection service, the utility shall immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions should be scheduled at hours which create the least inconvenience to the customer.

c. A utility shall retain records of interruptions for a period of at least five years.

21.7(3) *Supply shortage.* The utility shall attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water, it shall notify its customers, and give the board notice, before the restriction becomes effective. The notification shall specify:

(1) The reason for the restriction.

(2) The nature and extent of the restriction.

(3) The effective date of the restriction.

(4) The probable date of termination of the restriction.

b. During the times of threatened or actual water shortage, the utility shall equitably apportion its available water supply among its customers.

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) *Definition.* For purposes of these rules, "water costs for fire protection service" shall be defined as all or a part of the utility's costs of fire hydrants and other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility's current tariff for public fire protection water service.

21.8(2) *Utility requirements.* A rate-regulated utility which provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) shall provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) *Application contents.* Any city filing an application with the board requesting inclusion of all or a part of the water costs for fire protection service in a rate-regulated utility's rates or charges to customers covered by the city's fire protection service shall submit, at the time the application is filed, the following information with supporting testimony:

a. A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility's current tariff, if the costs for fire protection water service are included in rates charged to affected customers;

b. Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;

c. The current number of utility customers served within the city's corporate limits, by customer class, with an affidavit from the utility verifying the information;

d. A map illustrating both (1) the city's corporate limits, and (2) the portion of the utility's customer service area within the city's corporate limits, with an affidavit from the utility verifying the customer service area;

e. An affidavit from the utility showing that the notice required by Iowa Code section 476.6(18)*"c"* and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) *Customer notification.*

a. *Prior approval.* The city shall submit to the board for its approval, not less than 30 days before providing notification to affected customers, ten copies of the proposed notice.

b. *Required content of notification.* The notice shall advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, and the percentage increase by customer class. It shall advise customers that the city is requesting the increase and that they have a right to file with the board a written objection to the proposed increase and to request a public hearing. It shall also include a written explanation of the reason for the increase.

c. *Notice of deficiencies.* Within 30 days of the filing of the proposed notice, the city shall be notified of either the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. *Distribution.* The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice. The city shall direct the utility either to (1) include the notice with the utility's next regularly scheduled mailing to the affected customers; or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city shall pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. *Delivery.* The written notice to affected customers shall be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) *Procedure.*

a. *Service of application.* The applicant shall file an original plus ten copies of the application with the executive secretary's office, serve two copies of the application on the public utility and serve two copies on the consumer advocate division of the Iowa department of justice.

b. Docketing. Within 30 days of the filing of the application, the board shall either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

c. Rules. If the case is docketed as a formal proceeding, the rules in 199—Chapter 7, if not inconsistent, shall apply.

d. Decision. The board shall render its decision within six months of the date of the application. If the application is approved, the board shall order the rate-regulated utility providing the water service to the city to file tariffs implementing the board's decision. The utility shall include annually a bill insert explaining to customers that they are being charged for water-related fire protection costs. The city shall pay all costs incurred by the utility to file and implement the required tariff.

199—21.9(476) Incident reports. A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by calling the board duty officer at 515-745-2332. The caller shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1, 476.2, 476.6(18), 476.8, and 546.7.

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[1] Effective date of 21.3(12)*"a," "b"*(1) and (3), and *"e"* delayed 70 days by the Administrative Rules Review Committee.

[2] Effective date of 21.4(2)"e" delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 22
RATES CHARGED AND SERVICE SUPPLIED BY TELEPHONE UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—22.1(476) General information.

22.1(1) *Application and purpose of rules.* The rules shall apply to any telephone utility operating within the state of Iowa subject to Iowa Code chapter 476, and shall supersede all conflicting rules of any telephone utility which were in force and effect prior to the adoption of their superseding rules. Unless otherwise indicated, "telephone utility" or "utility" shall mean both local exchange utility and alternative operator services company. These rules shall be construed in a manner consistent with their intent:

a. To allow fair competition in the public interest while ensuring the availability of safe and adequate communications service to the public.

b. To provide uniform, reasonable standards for communications service provided by telephone utilities.

c. To ensure that the regulated rates of local exchange utilities and the charges of alternative operator services companies for communications service, and regulated services rendered in connection therewith, will be reasonable and just.

d. To ensure that no telephone utility shall unreasonably discriminate among different customers or service categories.

22.1(2) *Waiver and modification.* If unreasonable hardship to a utility or to a customer or user results from the application of any rule herein prescribed, application may be made to the board for the modification of the rule or for temporary or permanent exemption from its requirements.

The adoption of these rules shall in no way preclude the board from altering or amending them, pursuant to statute, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

22.1(3) *Definitions.* For the administration and interpretation of these rules, the following words and terms shall have the meaning indicated below:

"Active account" refers to a customer who is currently receiving telephone service, or one whose service has been temporarily disconnected (vacation, nonpayment, storm damage, etc.).

"Adjacent exchange service" is local telephone service, including extended area service, provided to a customer via direct facility connection to an exchange contiguous to the exchange in which the customer is located.

"Average busy-season, busy-hour traffic" means the average traffic volume for the busy-season, busy-hours.

"Base rate area" means the developed portion or portions within each exchange service area as set forth in the telephone utility's tariffs, maps or descriptions.

"Board" means the Iowa utilities board.

"Business service" means the service furnished to customers where the use is substantially of a business, professional, institutional, or occupational nature, rather than a social and domestic nature.

"Busy-hour" means the two consecutive half hours during which the greatest volume of traffic is handled in the office.

"Busy-season" means that period of the year during which the greatest volume of traffic is handled in the office.

"Calls" means telephone messages attempted by customers or users.

"Central office" means a unit in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only. There may be more than one central office in a building.

"Central office access line" means a circuit extending from the central office equipment to the demarcation point.

"Channel" means an electrical path suitable for the transmission of communications.

"Check of service" or *"service check"* means an examination, test or other method utilized to determine the condition of customer-provided terminal equipment and existing or new inside station wiring.

"Class of service" means the various categories of service generally available to customers, such as business or residence.

"Customer" means any person, firm, association, corporation, agency of the federal, state or local government, or legal entity responsible by law for payment for communication service from the telephone utility.

"Customer provision" means customer purchase or lease of terminal equipment or new inside station wiring from the telephone company or from any other supplier.

"Delinquent or delinquency" means an account for which a bill or payment agreement for regulated services or equipment has not been paid in full on or before the last day for timely payment.

"Demarcation point" means the point of connection provided and maintained by the telephone utility to which inside station wiring becomes dedicated to an individual building or facility. For an individual dwelling, this point of connection will generally be immediately adjacent to, or within 12 inches of, the protector or the dwelling side of the protector. The drop and block, including the protector, will continue to be provided by and remain the property of the telephone utility. In the instance where a physical protector does not exist at the point of cable entrance into the building or facility, the demarcation point is defined as the entrance point of the cable into the building or facility.

"Disconnect" means the disabling of circuitry preventing both outgoing and incoming communications.

"Due date" means the last day for payment without unpaid amounts being subject to a late payment charge or additional collection efforts.

"Exchange" means a unit established by a telephone utility for the administration of communication services.

"Exchange service" means communication service furnished by means of exchange plant and facilities.

"Exchange service area" or *"exchange area"* means the general area in which the telephone utility holds itself out to furnish exchange telephone service.

"Extended area service" means telephone service, furnished at flat rates, between end user customers located within an exchange area and all of the end user customers of an additional exchange area. Extended area service is only for calls both originating and terminating within the defined extended area.

"Foreign exchange service" means exchange service furnished a customer from an exchange other than the exchange regularly serving the area in which the customer is located.

"Former account" refers to a customer whose service has been permanently disconnected, and the final bill either has been paid or has been written off to the reserve for uncollectible accounts.

"Fully allocated cost study" means a study performed in accordance with 22.13(3).

"Fully distributed cost study" means a study performed in accordance with 22.13(2).

"Held order for primary service" means an application for establishment of primary service to a local exchange utility using its existing facilities to provide service not filled within five business days of the customer-requested date, or within 15 business days of the customer-requested date, where no facilities are available. During the period a local exchange utility provides equivalent alternative service, the customer's order for primary service shall not be considered a held order.

"Held order for secondary service" means an application for establishment of secondary service to a local exchange utility using its facilities to provide service not filled within 30 business days or the customer-requested date, whichever is later.

"Inactive account" refers to a customer whose service has been permanently disconnected and whose account has not been settled either by payment or refund.

"Interexchange service" is the provision of intrastate telecommunications services and facilities between local exchanges, and does not include EAS.

"Interexchange utility" means a utility, a resale carrier or other entity that provides intrastate telecommunications services and facilities between exchanges within Iowa, without regard to how such traffic is carried. A local exchange utility that provides exchange service may also be considered an interexchange utility.

"InterLATA toll service" means toll service that originates and terminates between local access transport areas.

"IntraLATA toll service" means toll service that originates and terminates within the same local access transport area.

"Intrastate access services" are services of telephone utilities which provide the capability to deliver intrastate telecommunications services which originate from end-users to interexchange utilities and the capability to deliver intrastate telecommunications services from interexchange utilities to end-users.

"Local exchange service" means telephone service furnished between customers or users located within an exchange area.

"Local exchange utility" means a telephone utility that provides local exchange service under tariff filed with the board. The utility may also provide other services and facilities such as access services.

"Message" means a completed telephone call by a customer or user.

"Message rate service" means service for which the customer charges are based on message units depending in part upon the number of originated local or extended area service messages.

"Outside plant" means the telephone equipment and facilities installed on, along, or under streets, alleys, highways, and private rights-of-way between customer locations, central offices or the central office and customer location.

"Percentage of fill" means the ratio of circuits and equipment in use to the total available multiplied by 100.

"Premises" means the space occupied by an individual customer in a building, in adjoining buildings occupied entirely by that customer, or on contiguous property occupied by the customer separated only by a public thoroughfare, a railroad right-of-way, or a natural barrier.

"Primary service" means the initial access to the public switched network.

"Protector" means a utility-owned electrical device located in the central office, at a customer's premises or anywhere along any telephone facilities which protects both the telephone utility's and the customer's property and facilities from over-voltage and over-current by shunting such excessive voltage and currents to ground.

"Rate zone" means an area other than base rate area within an exchange service area where service generally is furnished at uniform rates without mileage charges.

"Rates" shall mean amounts billed to customers for local exchange service and alternative operator services.

"Regulated rates" means single line flat-rated residential and business service rates billed to customers pursuant to Iowa Code section 476.1D(1) as amended by 2005 Iowa Acts, chapter 9, section 1.

"Rural service" means service in an exchange area outside of a base rate area or generally outside a special rate area.

"Secondary service" means services or facilities not classified as primary service.

"Special rate area" means an area within an exchange where service generally is furnished at uniform rates. Usually this comprises a developed area outside of the base rate area which is also known as a "locality rate area" and separated by some distance from the base rate area.

"Suspend" means temporary disconnection or impairment of service which shall disable either outgoing or incoming communications, or both.

"Switching service" means switching performed for service lines.

"Tariff" means the entire body of regulated rates, alternative operator services rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a telephone utility in fulfilling its role of furnishing communications services.

"Telephone station" means the telephone instrument connected to the network.

"Telephone utility" or *"utility"* means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing communications service to the public for compensation.

"Terminal equipment" means all telephone instruments, including pay telephone equipment, the common equipment of large and small key and PBX systems and other devices and apparatus, and associated wirings, which are intended to be connected electrically, acoustically or inductively to the telecommunication system of the telephone utility.

"Timely payment" is a payment on a customer's account made on or before the due date shown: (1) On a current bill for rates and charges, or (2) by an agreement between the customer and a utility for a series of partial payments to settle a delinquent account.

"Toll connecting trunks" means a general classification of trunks carrying toll traffic and ordinarily extending between a local office and a toll office.

"Toll message" means a message made between different exchange areas for which a charge is made, excluding message rate service charges.

"Toll rate" means the charge prescribed for toll messages, usually based upon the duration of the message, the distance between the exchanges, the day and time of the message and the degree of operator assistance.

"Traffic" means telephone call volume, based on number and duration of calls.

"Traffic grade of service" means the decimal fraction representing the probability of a call being blocked by an all-trunks-busy condition during the average busy-season, busy-hour.

"Trouble report" means any call or written statement from a customer or user of telephone service relating to a physical defect or to difficulty or dissatisfaction with the operation of telephone facilities.

"Wide area service" means service beyond the local or extended area provided at a flat monthly rate or on a basis differing from customary message toll rates.

22.1(4) *Abbreviations.*

AOS—Alternative Operator Services
EAS—Extended Area Service
ESS—Electronic Switching System
FAC—Fully Allocated Cost
FDC—Fully Distributed Cost
PBX—Private Branch Exchange

22.1(5) *Basic utility obligations.* Each telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with the board. Such service shall normally meet or exceed the standards set forth in these rules governing "Rates Charged and Service Supplied By Telephone Utilities."

22.1(6) *Interutility services.* Rescinded IAB 12/21/05, effective 1/25/06.

199—22.2(476) Records and reports.

22.2(1) *Evaluation of records.* Each telephone utility has the obligation to continually study and evaluate its records and reports to ensure that any irregularities in service that may cause customer or user dissatisfaction or complaint are corrected expeditiously and that all phases of construction, equipment maintenance or operation are satisfactory.

22.2(2) *Location and retention of records.* Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of Chapter 18 of the board's rules, Utility Records.

Where a telephone utility is operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the board.

22.2(3) *Tariffs to be filed with the board.* The utility shall file its tariff with the board, and shall maintain such tariff filing in a current status. A copy of the same tariff shall also be on file in all business offices of the telephone utility and shall be available for inspection by the public.

The schedules of regulated rates and alternative operator services rates shall be filed with the board and shall be classified, designated, arranged, and submitted so as to conform to the requirements of current tariff or rate schedule circulars and special instructions which have been or may from time to time be issued by the board. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules unless otherwise provided in rule 22.14(476).

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not file schedules of rates. Nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board. Every telephone utility shall make the schedule of its rates readily available to customers on the utility's Web site, if the utility has one, or by mail, upon request.

22.2(4) *Form and identification.* All tariffs shall conform to the following rules.

a. The tariff shall be printed, typewritten or otherwise reproduced on 8½ x 11-inch sheets of white paper equal in durability to 20-pound bond paper with 25 percent cotton or rag content so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency, provided that the rules of the board as to title page; identity of superseding, replacing or revising sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue and effective date; and the words "Filed with the board" shall be applied to modify the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show in the order named:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)
Telephone Tariff
Filed with
Iowa Utilities Board
_____(date)

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on its title page that it is a revision of a tariff on file.

(3) When a revision or amendment is made to a filed tariff, the revision or amendment shall show on each sheet the designation of the original tariff or the number of the immediate preceding revision or amendment which it replaces. (See exhibit A)

(4) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly identify the part eliminated. (See exhibit A)

c. Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed regulation
(D)—Discontinued rate or regulation
(I)—Increase in rate
(N)—New rate or regulation
(R)—Reduction in rate
(T)—Change in text only

d. All sheets except the title page shall have, in addition to the above-stated requirements, the following further information:

(1) (Name of public utility) Telephone Tariff under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

EXHIBIT A

. . . . . Telephone Tariff

(Name of Company)

Filed with board.

Part No. . . . . .

. . . . . Sheet No. . . . . .

Canceling (or revising). . . . . Sheet No. . . . . .

Amending . . . . . Sheet No. . . . . .

EXAMPLE

Issued . . . . . Effective. . . . . .

(Date) (Date)

By . . . . . .

22.2(5) *Content of tariffs.*

a. A table of contents containing a list of regulated rates or alternative operator services rates and other sections in the order in which they appear showing the sheet number of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing regulated rates, alternative operator services rates, or other sections, it may at its option prepare a separate table of contents or index for each such segregated section.

b. All regulated rates and alternative operator services rates shall be included in tariffs. Local exchange utilities shall file a map which shall clearly define the base rate boundary and any rural or special zones that are set forth in the tariff. The boundary line location on such maps shall be delineated from fixed reference points.

c. The period during which the billed amount may be paid before the account becomes delinquent shall be specified. Where net and gross amounts are billed, the difference between net and gross is a late payment charge and the amount shall be specified.

d. Forms of standard contracts required of customers for the various types of service available other than those which are defined elsewhere in the tariff.

e. A designation, by exchange, of the EAS to other exchanges.

f. The list of exchange areas served.

g. Definitions of classes of customers.

h. Extension rules, under which extensions of service will be made, indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included as required in 22.3(6).

i. The type of construction which the utility requires the customer to provide if in excess of the Iowa electrical safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

j. Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and the terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

k. Rules with which prospective customers must comply as a condition of receiving service.

l. Notice by customer required for having service discontinued.

m. Rules covering temporary service.

n. Rules covering the type of equipment which may or may not be connected.

o. Rules on billing periods, bill issuance, notice of delinquency, refusal of service, service disconnection and reconnection and customer account termination for nonpayment of bill.

p. Rescinded IAB 12/21/05, effective 1/25/06.

q. Customer deposit rules which cover when deposits are required, how the amounts of required deposits are calculated, requests for additional deposits, interest on deposits, records maintained, issuance of receipts to customers, replacement of lost receipts, refunds and unclaimed deposit disposition.

r. A separate glossary of all acronyms and trade names used.

s. A general explanation of each regulated service offering available from the utility.

t. to *v.* Rescinded IAB 12/21/05, effective 1/25/06.

22.2(6) *Information to be filed with the board.*

a. Each utility shall file with the board the name, title, address, and telephone number of the person who is authorized to receive, act upon, and respond to communications from the board in connection with the following:

(1) General management duties.

(2) Customer relations (complaints).

(3) Engineering operations.

(4) Outages, including those occurring during nonoffice hours, pursuant to paragraph 22.2(8)*"d."*

b. A copy of a new directory being distributed to customers.

22.2(7) *Universal service certification application.* Rescinded IAB 10/25/06, effective 11/29/06.

22.2(8) *Outage reporting requirements.* All communications providers included in 47 CFR § 4.3 (a), (c), (f), and (g) shall provide notification, outage reports, and current contact information as provided in this subrule.

a. Notification of reportable outage. All communications providers covered by this subrule shall notify the board of a reportable outage as defined in 47 CFR Part 4 by calling the board duty officer at 515-745-2332 or by sending an electronic message to the board duty officer at IUBDutyOfficer@iub.state.ia.us as soon as reasonably possible after discovering the outage, but no later than immediately after submitting the required electronic notification to the Federal Communications Commission (FCC). Notification to the board shall include a contact name and contact telephone number by which the board may immediately contact the reporting communications provider. A copy of the FCC notification shall be sent either by electronic mail to IUBDutyOfficer@iub.state.ia.us or by one paper copy, which shall be filed with the board.

b. Initial communications outage report. Immediately after submitting any initial communications outage report to the FCC (which is required to be submitted no later than 72 hours after an outage is discovered), all communications providers subject to this subrule shall send an electronic copy of the outage report to IUBDutyOfficer@iub.state.ia.us or file one paper copy of the report with the board.

c. Final communications outage report. Immediately after submitting any final communications outage report to the FCC (which is required to be submitted no later than 30 days after an outage is discovered), all communications providers covered by this subrule shall send an electronic copy of the final FCC report to IUBDutyOfficer@iub.state.ia.us or file one paper copy of any final communications outage report with the board.

d. Contact information required. In its annual report, every communications provider subject to this subrule shall submit to the board a current list of contact names and telephone numbers to be used when a service outage occurs or any other time the board or its staff requires immediate information, both during normal office hours and after normal office hours. The named individual(s) shall be knowledgeable about the technical aspects of a service outage(s), its estimated duration, the impact to customers, and the probable cause. Each communications provider shall update the board immediately whenever a change in the contact information occurs.

e. The information contained in the FCC notification and reports required to be filed pursuant to paragraphs 22.2(8)*"a"* to *"c"* shall be held as confidential pursuant to FCC order. The board may

provide general information or aggregate information from these reports when necessary for the public safety and welfare.

This rule is intended to implement Iowa Code section 476.2.

199—22.3(476) General service requirements. The requirements of this rule do not apply to intrastate access service.

22.3(1) *Directories.* All directories published after the effective date of these rules shall conform to the following:

a. Telephone directories shall be published not less than annually, except for good cause shown, listing the name, address and telephone number of all customers unless otherwise requested by the customer. A local exchange carrier serving an exchange may choose not to publish a telephone directory if the local exchange carrier makes arrangements for publication in a directory that is commonly available in the local exchange in question.

b. Upon issuance, a copy of each directory shall be distributed without charge to all of the utility's customers locally served by that directory.

c. The year of issue or effective dates shall appear on the front cover and, if space permits, on the binding. Information pertaining to emergency calls, such as for the police and fire departments, for each exchange listed in the directory shall appear conspicuously on the front side of the first page of the directory. The directory shall also show a summary of the names of listed exchanges.

d. The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone company business offices as may be appropriate to the area served by the directory. A statement shall be included that the company will verify the condition of a line if requested by a customer and whether any charge will apply. Rates for basic transmission service for residential and business customers available from the utility shall also be included.

e. Directory assistance or intercept operators shall maintain records of all telephone numbers (except telephone numbers not listed or published at customer request) in the area for which they are responsible for furnishing information service.

f. In the event of an error or omission, in the name or number listing of a customer, that customer's correct name and telephone number shall be furnished to the calling party either upon request to or interception by the telephone company.

g. When additions or changes in plant, records, or operations which will necessitate a large group of number changes are scheduled, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.

h. For any exchange in which an extended area call can terminate, the terminating exchange telephone utility shall provide all recently compiled directory listings, except listings for nonpublished or nonlisted customers, to the utility from which the extended area call originates. The telephone utility shall provide the directory listing without charge, within 30 days of receipt of a written request for those listings.

i. In addition to the serving exchange directory listing required under 22.3(1)*"a,"* upon the customer's request, an Iowa customer served by an out-of-state exchange shall be included in the directory list of one contiguous Iowa exchange of the customer's choice. Any charge for such Iowa listing shall be paid by the serving exchange.

22.3(2) *Service check.* Upon the individual customer's request, each telephone utility shall perform a service checkup to the demarcation point, without charge to the customer.

22.3(3) *Class of service.* Rescinded IAB 12/21/05, effective 1/25/06.

22.3(4) *Compliance.* Rescinded IAB 12/21/05, effective 1/25/06.

22.3(5) *Pay telephone services and facilities.* All telephone utilities shall make available to customers provisions for the interconnection of pay telephone equipment on the same basis as business service. A separate access line shall not be required for pay telephone equipment. Nonrate-regulated telephone utilities shall provide service consistent with this subrule, but the subrule shall not apply to the pricing by nonrate-regulated telephone utilities of access lines to pay telephones.

22.3(6) *Extension plan.* Each utility shall develop a plan, acceptable to the board, for the extensions of facilities, where they are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost. The cost required to be paid by the customer shall be the revenue received by the telephone utility for the extension of plant and shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability. This plan must be related to the investment that prudently can be made for the probable revenue. No utility shall make or refuse to make any extensions except as permitted by the approved extension plan.

22.3(7) Reserved.

22.3(8) *Traffic rules.* Rescinded IAB 12/21/05, effective 1/25/06.

22.3(9) *"Directory assistance."* Rescinded IAB 12/21/05, effective 1/25/06.

22.3(10) *Nonworking numbers.* All nonworking numbers shall be placed upon an adequate intercept where existing equipment allows.

22.3(11) *Assignment of numbers.*

a. No telephone number shall be reassigned to a different customer within 60 days from the date of permanent disconnect.

b. For customers assigned a new number within the exchange, the former working number intercept shall provide the new number to a calling party for not less than 60 days or until the issuance of a new directory. No new number information shall be provided if the customer so requests.

EXCEPTION: When a change in number is required by a telephone utility due to nonpayment of yellow page advertising, the intercept is not required to volunteer the new number to callers. The new number shall be provided to callers of the directory assistance operator.

c. If the number assigned a customer results in wrong number calls sufficient in volume to be a nuisance, the number shall be changed at no charge.

22.3(12) *Ordering and transferring of service.* Telephone utilities shall permit the ordering and transferring of transmission service to be accomplished by telephone. A utility shall not volunteer prices or otherwise attempt to promote terminal equipment which is offered by an affiliated company when transmission service is ordered. A utility may not require customers to order transmission service through a company affiliated with that utility.

22.3(13) *Basic local service.* Rescinded IAB 12/21/05, effective 1/25/06.

22.3(14) *Adjacent exchange service.* All local exchange utilities shall file tariffs which include provisions which allow customers to establish adjacent exchange service.

a. The tariffs shall require the customer to pay the full cost of establishing and maintaining the adjacent exchange service.

b. In addition, the tariffs may include all or part of the following service provisions:

(1) The subscriber shall subscribe to local exchange service in the primary exchange in addition to the adjacent exchange service.

(2) All toll messages shall be placed through the primary exchange, unless there is a service outage in that exchange.

(3) The primary exchange company shall bill for the adjacent exchange service and make appropriate settlement to the secondary exchange company, unless the primary exchange and the adjacent exchange agree to a different billing arrangement.

(4) Adjacent exchange service shall be restricted to only the residential class of service, unless a waiver is permitted by the board for a particular customer for good cause shown.

(5) Failure of the subscriber to comply with the tariff provisions related to adjacent exchange service shall make the subscriber subject to discontinuance of service after appropriate notice.

c. These adjacent exchange service rules shall not affect the terms under which a customer receives adjacent exchange service, if that customer was receiving adjacent exchange service prior to the effective date of these rules.

199—22.4(476) Customer relations.

22.4(1) *Customer information.*

a. Each utility shall:

(1) Maintain up-to-date maps, plans, or records of its entire exchange systems. These maps shall be available for board examination at a location within Iowa during regular office hours and will be provided to the board upon request. These are not the same maps as the boundary maps described in subrule 22.20(3).

(2) Whenever a residential customer or prospective residential customer requests local exchange service from a utility, and the customer indicates a desire to be informed of the lowest priced service alternatives available for local exchange service, the utility shall inform that customer of the lowest priced alternative available from that utility, based only on monthly recurring rates for flat-rated services, at the relevant location.

(3) Notify customers affected by a change in regulated rates or schedule classification.

(4) Furnish such additional information as the customer may reasonably request.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

All local exchange utilities shall notify their customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, the service may be subject to state regulation. You may request assistance from the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, (515)281-3839 or toll-free (877)565-4450 or E-mail iubcustomer@iub.state.ia.us."

The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A telephone utility which provides local exchange service and issues an annual directory shall publish the information set forth above in its directory in addition to a mailing.

22.4(2) *Customer deposits.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service. The deposit required shall be confirmed in writing to the customer not later than the time of the next billing. The confirmation shall, in separate columns, itemize deposits for local exchange service and unregulated services. The confirmation shall state that no deposit other than for local exchange service is required to obtain local exchange service. The confirmation must also reflect the limits as to low-income customers in 199—subparagraph 39.3(2)*"b"*(4).

a. Deposits for local exchange service shall not be more in amount than the maximum charge for two months of local exchange service, or as may reasonably be required by the utility in cases involving service for short periods of time or special occasions. The deposit amounts must also reflect the limits as to low-income customers in 199—subparagraph 39.3(2)*"b"*(4).

b. Interest on customer deposits. Interest shall be paid on deposits associated with regulated rates. Interest on such deposits shall be computed at 7.5 percent per annum, compounded annually. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

c. Each utility shall keep records to show:

(1) The name and address of each depositor.

(2) The amount and date of the deposit.

(3) Each transaction concerning the deposit.

d. Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

e. The deposit shall be refunded after not more than 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment). The account shall be reviewed after 12 months of service and if the deposit is retained it shall again be reviewed at the end of the utility's accounting year or on the anniversary date of the account.

f. Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

g. Unclaimed deposits, together with accrued interest, shall be credited to an appropriate account.

h. A new or additional deposit for local exchange service may be required to cover the amount provided in *"a"* above when a deposit has been refunded or the customer's payment history demonstrates a deposit is or continues to be appropriate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

i. A customer who fails to pay a new or additional deposit for local exchange service may be disconnected under the provisions of the written notice and 22.4(5).

22.4(3) *Customer billing, timely payment, late payment charges, payment and collection efforts.* Each utility's tariff rules shall comply with these minimum standards.

a. Billing to customers shall be scheduled monthly. A utility with unusual circumstances may obtain authority from the board for billing at other than monthly intervals.

b. Rescinded IAB 2/6/91, effective 3/13/91.

c. The bill form or a bill insert shall provide the following information:

(1) The dates at the beginning and end of the billing period for transmission services, service charges, and other services and equipment.

(2) The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If the delivery is by other than U.S. mail the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment.

(3) The amount of the net charge, stated by category, for local transmission service, ancillary services and equipment, toll service, information service, sales tax and excise tax, and of any late payment charge together with the gross amount of the bill, with separate entries for total amounts current or in arrears. The utility shall comply with reasonable requests for bill detail.

(4) Each disconnection notice shall state that access to local exchange service shall not be denied for failure to pay for deregulated services.

(5) The requirements of subparagraph (1) above shall not apply to calls billed by interexchange utilities, including AOS companies.

(6) The requirements of subparagraphs (2), (3) and (4) above shall not apply to calls billed to a commercial credit card.

d. Late payment charges for services associated with regulated rates. Where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when it is part of a delinquent bill payment. A late payment charge shall not exceed 1.5 percent per month of the past-due amount. No collection fee may be levied in addition to this late payment charge. This does not prohibit cost-justified charges for disconnection and reconnection of service.

e. If the customer makes a partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall first be applied to the undisputed balance for basic local service, with the remainder applied on a pro-rata basis to regulated utility services. If an

amount remains, it may then be applied to deregulated and nonregulated services. The late payment charge provision should be applied to only the outstanding balance for utility services, except interstate toll and related taxes.

f. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

g. All residential customers shall be permitted to have a last date for timely payment changeable for cause in writing; such as, but not limited to, 15 days following the approximate date each month upon which income is received by the person responsible for payment.

h. Maximum payment required for initial network access shall comply with the total derived in accord with these rules and specified in the filed tariff.

(1) An applicant for network access, who under the tariff credit rules is required to make a deposit to guarantee payment of bills, may be required to pay the service charges and deposit prior to access. An applicant not required to make a deposit shall not be billed a service charge earlier than the first regular monthly bill.

(2) The amounts required must comply with 22.4(2), 22.4(5) and 22.4(7).

i. Maximum payments required by an active account or inactive account, for restoration of service of the same class and location as existed prior to disconnection, shall be the total of charges derived for reconnection and must comply with 22.4(2), 22.4(5) and 22.4(7). Only charges specified in the filed tariff shall be applied.

j. The utility may initiate collection efforts with the issuance of a final bill when the termination of service is at the customer's request. For all other bills no collection effort other than rendering of the bill shall be undertaken until the delinquency date.

k. Undercharges. The time period for which a utility may back bill a customer for undercharges shall not exceed five years unless otherwise ordered by the board.

l. Overcharges. The time period for which the utility is required to refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board. Refunds of $25 or more shall be in the form of checks to current customers. Checks are to be issued to former customers where the refund exceeds $10. Refunds to current customers of less than $25 may be in the form of a bill credit. Refunds for local exchange service may not be applied to unpaid amounts for unregulated services.

22.4(4) *Customer complaints.*

a. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep a record of such complaint showing the name and address of the complainant, the date and nature of the complaint, its disposition, and all other pertinent facts dealing with the complaint, which will enable the utility to review and analyze its procedure and actions. The records maintained by the utility under this rule shall be available for inspection by the board or its staff upon request.

b. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of all customer complaints.

c. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

d. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

22.4(5) *Refusal or disconnection of service.* Notice of a pending disconnection shall be rendered and transmission service refused or disconnected as set forth in the tariff.

The notice of pending disconnection required by these rules shall be a written notice setting forth the reason for the notice, and the final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered

to the last-known address of the person responsible for payment for the service. The final date shall be not less than five days after the notice is rendered.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for refusal or disconnection of service. This notice shall include a toll-free or collect number where a utility representative qualified to provide additional information about the disconnection can be reached. The notice shall also state the final date by which the account is to be settled or other specific action taken. In determining the final date, the days of notice for the causes shall be concurrent.

Service may be refused or disconnected for any of the reasons listed below. Unless otherwise stated, the customer shall be provided notice of the pending disconnection and the rule violation which necessitates disconnection. Furthermore, unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is disconnected. Except as provided in 22.4(5)*"a," "b," "c," "d,"* and *"e,"* no service shall be disconnected on the day preceding or day on which the utility's local business office or local authorized agent is closed. Service may be refused or disconnected:

a. Without notice in the event of a condition on the customer's premises determined by the utility to be hazardous.

b. Without notice in the event of customer's use in such a manner as to adversely affect the utility's equipment or the utility's service to others.

c. Without notice in the event of tampering with equipment furnished and owned by the utility.

d. Without notice in the event of unauthorized use.

e. For violation of or noncompliance with the utility's rules on file with the board, the requirements of municipal ordinances or law pertaining to the service.

f. For failure of the customer or prospective customer to furnish service equipment, permits, certificates or rights-of-way specified to be furnished in the utility's rules filed with the board as conditions for obtaining service, or for the withdrawal of that same equipment or the termination of those permissions or rights, or for the failure of the customer or prospective customer to fulfill the contractual obligations imposed upon the customer as conditions of obtaining service by a contract filed with and subject to the regulatory authority of the board.

g. For failure of the customer to permit the utility reasonable access to its equipment.

h. For nonpayment of bill or deposit, except as restricted by 22.4(7), provided that the utility has made a reasonable attempt to effect collection and:

(1) Has provided the customer with 5 days' prior written notice with respect to an unpaid bill and 12 days' prior written notice with respect to an unpaid deposit, as required by this rule; disconnection may take place prior to the expiration of the 5-day unpaid bill notice period if the utility determines, from verifiable data, that usage during the 5-day notice period is so abnormally high that a risk of irreparable revenue loss is created.

(2) Is prepared to reconnect the same day if disconnection is scheduled for a weekend, holiday or after 2 p.m.

(3) In the event of a dispute concerning the bill, the telephone company may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill. Following payment of the undisputed amount, efforts to resolve the complaint, using complaint procedures in the company's tariff, shall continue and for not less than 45 days after the rendering of the disputed bill, the service shall not be disconnected for nonpayment of the disputed amount. The 45 days may be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

22.4(6) *Medical emergency.* Disconnection of a residential customer shall be postponed 30 days if an existing medical emergency of the customer, a member of the customer's family, or any permanent resident of the premises where service is rendered would present an especial danger to the health of any permanent resident of the premises. Indicators of an especial danger to health include, but are not limited to: age; infirmity; mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstance which may indicate a severe or hazardous health situation. The telephone utility may require written verification of the especial danger to health by a

physician or a public health official, including the name of the person endangered, and a statement that the person is a resident of the premises in question. Initial verification may be by telephone, but the telephone utility may require a written verification within 5 days of the verification of the especial health danger by the physician or a public health official, including the name of the person endangered and a statement that the person is a resident of the premises in question. If the service has been disconnected within 14 days prior to verification of illness for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not make payment during the 30-day period, the service is then subject to disconnection pursuant to subrule 22.4(5).

22.4(7) *Insufficient reasons for refusal, suspension or discontinuance of service.* The following shall not constitute sufficient cause for refusal, suspension or discontinuance of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for terminal equipment, inside station wiring or other merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Permitting another occupant of the premises access to the telephone utility service when that other occupant owed an uncollectible bill for service rendered at a different location.

f. Failure to pay for yellow page advertising.

g. Use of an auxiliary directory cover.

h. Failure to pay for information service not regulated by the board.

i. Failure to pay for deregulated services.

22.4(8) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the cost of installing and removing the service facilities in excess of any salvage realized.

199—22.5(476) Telephone utility service standards.

22.5(1) *Requirement for good engineering practice.* The telephone plant of the utility shall be designed, constructed, installed, maintained and operated subject to the provisions of the Iowa electrical safety code as defined in 199 IAC Chapter 25 and in accordance with accepted good engineering practice in the communication industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

22.5(2) *Adequacy of service.*

a. Each local exchange utility, interexchange utility, and alternative operator services company shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including average busy-hour of the busy-season.

b. Each local exchange utility, interexchange utility, and alternative operator services company shall conduct traffic studies, employ reasonable procedures for forecasting future service demand, and maintain records necessary to demonstrate to the board that sufficient equipment is in use and that an adequate operating force is provided.

c. Each utility shall employ adequate procedures for assignment of facilities. The assignment record shall be kept up-to-date and checked periodically to determine if adjustments are necessary to maintain proper balance in all trunk and equipment groups. The records shall be available for review by the board upon request.

d. The criteria established in these rules define a minimal acceptable standard for the most basic elements of telecommunications service. The rules do not include all criteria and they do not establish the most desirable service level for any basic element. If a specific element is not covered, the provider must meet generally accepted industry standards for that element. Total service must also meet generally accepted industry standards.

e. The standards within these rules establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during

the periods of emergency, catastrophe affecting large numbers of customers, nor do they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events.

22.5(3) *Central office requirements.*

a. Each local exchange utility shall employ appropriate procedures to determine the adequacy of central office equipment. Sufficient central office capacity and equipment shall be provided to meet the following minimum requirements during average busy-season, busy-hour:

(1) Dial tone within three seconds for 98 percent of call attempts on the switched network.

(2) Complete dialing of called numbers on at least 97 percent of telephone calls without encountering an all-trunks-busy condition within the central office.

(3) At least 98 percent of all correctly dialed interoffice local calls shall not encounter an all-trunks-busy condition.

(4) At least 98 percent of all correctly dialed calls offered to any trunk group within an EAS calling area will not encounter an all-trunks-busy condition.

b. Each local exchange utility shall engineer all central office equipment using sound engineering practice, consistent with the practices of the telephone industry. All new central offices shall be engineered on a terminal-per-station basis.

c. Lines shall be engineered for a line fill of no more than two residential customers per line.

d. Each central office shall be provided with alarms on a 24-hour basis to indicate improper functioning of equipment. All alarms shall be transmitted to an alarm center or to a location that will receive and respond to the alarm condition as set forth in the Utilities Emergency/Disaster Plan on a 24-hour, seven-day-a-week basis. All alarms and alarm sensors must be tested and reported internally on a regular basis, not to exceed six months.

22.5(4) *Telecommunication circuits.* All local exchange utilities shall provide full metallic, electronic, or lightwave circuits for telecommunication purposes. All circuits shall be properly constructed and maintained to ensure trouble-free service.

22.5(5) *Interexchange trunks.*

a. When trunk lines or toll circuits for communication are furnished by one or more telephone utilities between exchanges, the circuits connecting such exchanges shall be nongrounded. No customer's instruments other than toll stations shall be regularly connected to those circuits.

b. Interexchange trunks shall be provided so that at least 98 percent of telephone calls offered to the group will not encounter an all-trunks-busy condition. For toll connecting trunks, this figure shall be at least 98 percent. Unless otherwise authorized by the board, a provider of regulated toll services shall maintain sufficient switching and network channel capacity plus other necessary facilities so that 98 percent of properly dialed toll calls are correctly terminated.

c. All interexchange utilities which use both line and trunk side connections for access shall order sufficient quantities of switched access service from the local exchange utility to maintain acceptable blocking probability for each type of access. Normally, the board shall consider a .01 blocking probability to be acceptable.

22.5(6) *Loop transmission requirements.* Local exchange utilities shall furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between users in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross talk shall be such as not to impair communications.

22.5(7) *Minimum transmission objectives.*

a. The transmission objectives set forth are based upon the use of standard telephone stations connected to a 48-volt dial central office, and measured at a frequency of 1,000 hertz.

b. Lines shall have a loop resistance not exceeding the operating design of the associated central office equipment, unless long line adapters and amplifiers or special equipment are used.

c. All loop measurements shall be taken across tip and ring and to ground at the demarcation point excluding all inside wiring and terminal equipment.

(1) Loop current shall be acceptable above 20 mA.

(2) Circuit loss shall be measured at 1004 KHz at 0 dBm from the central office. The acceptable level shall be 0 to—8 dBm with a maintenance margin not to exceed 8.5 dB.

(3) Circuit noise shall be measured on a quiet (balanced) termination from the central office. The acceptable level shall be less than 20 dBrnC, the marginal level between 20 and 30 dBrnC, and unacceptable above 30 dBrnC.

(4) Power influence level shall be acceptable from 0 to 80 dBrnC, marginal from 80 to 90 dBrnC, and unacceptable above 90 dBrnC. Although the communication utility has the requirement to meet this objective, the communication and electric utilities shall cooperate in mitigating the effects of AC power induction.

d. Whenever feasible, the overall transmission loss, including terminating equipment, on intertandem trunks should be 6 dB for an all digital connection. Overall transmission loss, including terminating equipment on intertandem trunks should not exceed 9 dB for a composite digital and analog connection. This measurement shall be taken at 1004 Hz.

(1) The transmission objectives set forth are based upon measurements at the customer's network interface device with the customer premise disconnected.

(2) The transmission loss as set forth means the loss that occurs in a telecommunication connection measured in decibels (dB) at 1004 Hz exclusive of rest pads, impedance matching coils used for measuring and similar devices.

(3) A customer line shall, in general, have loop resistance not exceeding the operating design of the associated central office equipment. Amplifiers and long line adapters may be used to extend the central office design limits.

(4) A minimum line current of 20 mA DC is acceptable.

(5) The customer line (loop) shall be designed for a maximum loss of 8.0 dB at 1004 Hz to be measured from the customer demarcation to the central office one milliwatt test tone supply.

(6) The actual measured loss of the customer loop shall not exceed 9.0 dB from the customer demarcation to the central office one milliwatt test tone supply. A loss greater than 9.0 dB is unacceptable, requiring immediate action.

(7) Circuit noise is to be measured on a quiet termination from the central office. The acceptable level is not to exceed 20 dBrnC. The marginal level is between 20 dBrnC and 30 dBrnC. Any measurement exceeding 30 dBrnC is unacceptable, requiring immediate action.

22.5(8) *Joint use.* Where joint construction is mutually agreed upon, it shall be subject to the provisions of the Iowa electrical safety code and the requirement for good engineering practice found in subrule 22.5(1).

22.5(9) *Provisions for testing.* Each telephone utility shall provide or have access to test facilities which will enable it to determine the operating and transmission capabilities of circuit and switching equipment, either for routine maintenance or for fault location.

22.5(10) *Operator-assisted calls.* These operator services rules shall apply to all local exchange utilities, interexchange utilities, and alternative operator services companies which provide operator services.

a. All communications between customers must be considered as confidential in nature. The provider shall take reasonable action to minimize the potential access of other entities to those communications. Operators or employees of the provider must not listen to any conversation between customers except when an operating necessity. Operators shall not repeat or divulge the nature of any local or long distance conversation, nor divulge any information inadvertently overheard. Providers will be held responsible for strict compliance with this rule by their employees or other entities which perform this service for the provider.

b. Suitable rules and instructions shall be adopted by each provider and followed by employees or other entities employed by the provider governing the language and operating methods to be used by operators during assistance to customers. Any required call timing for regulated operator-assisted calls shall accurately record when the customer-requested connection is established and when it is terminated.

c. Each provider offering operator assistance to the public shall provide a service that can answer 90 percent of directory, intercept, toll, and local assistance calls within ten seconds. On the average, calls shall be answered within five seconds.

d. Other calls directed to the published telephone numbers for service repair or the business offices of the local exchange company or long distance providers shall be acknowledged within 20 seconds and shall be answered by an operator or other employee within an additional 40 seconds for 90 percent of all such calls.

e. An answer shall mean that the operator is ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an answer.

f. All operators receiving 0 - and 911 calls shall be capable of connecting calls to appropriate emergency services at all hours. All operator services providers shall have a board-approved methodology to ensure the routing of all emergency zero-minus (0 -) calls in the fastest possible way to the proper local emergency service agency.

g. Third-party billing from identified public pay telephones and reverse charges from all telephones will be allowed:

(1) If the person or device answering responds positively that the charges will be accepted, with the provision that remaining on the line does not constitute a positive response;

(2) On reverse charges, when it is apparent the voice on the answering machine is the caller's voice; and

(3) On a third-party billing, when it is apparent the voice on the answering machine at the billing number is the caller's voice.

22.5(11) *Maintenance of plant and equipment.*

a. Each telephone utility shall adopt and pursue a program of periodic inspection, testing, and preventive maintenance aimed at achieving efficient operation of its system to permit the rendering of safe, adequate and continuous service at all times.

b. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safe and adequate service performance. Broken, damaged or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted promptly when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise induction, cross talk, or poor transmission characteristics shall be promptly corrected to the extent practicable within the design capability of the plant affected when located or identified.

c. In all exchanges, periodic leakage tests shall be made on all circuits by use of proper instruments to determine that sufficient insulation is being maintained and further to discover any substantial change in insulation values which might cause future service difficulties. Loop resistance and transmission tests should be made on local circuits when transmission is poor, in an endeavor to locate the source of trouble.

d. Central office batteries shall be replaced when required to maintain good telephone service.

e. Central office equipment shall be inspected and routinely tested at regular intervals, and any necessary repairs, adjustments or replacements made to ensure the proper functioning of switching equipment.

f. All regulated outside plant facilities shall be properly maintained including replacement of equipment when broken, damaged, or when necessary for good transmission.

g. Records of various tests and inspections shall be kept on file in the office of the telephone utility for a minimum of one year. These records shall show the line or regulated equipment tested or inspected, the reason for the test, the general conditions under which the test was made, the general result of the test, and any corrections made.

22.5(12) Reserved.

22.5(13) *Terminating access blocking.* Rescinded IAB 12/21/05, effective 1/25/06.

22.5(14) *Information service access blocking.* Each local exchange utility shall include in its tariff on file with the board a provision giving its subscribers the option of blocking access, where facilities are available, to all 900 and 976 prefix numbers, without charge for the first block.

a. On or before April 1, 1992, each local exchange utility, by form letter and response card, postage prepaid, separate from any other mailing, shall notify all residential customers in exchanges where blocking is available of the availability of the first blocking without charge and that access to 900 and 976 prefix numbers will not be blocked unless the residential customer returns the card or otherwise informs the local exchange utility of the customer's desire to block.

b. Each local exchange utility with exchanges where facilities to provide blocking are unavailable must file a semiannual report to the board, on or before each April 1 and October 1, identifying the exchanges.

c. On or before April 1, 1992, each local exchange utility shall notify all residential customers in exchanges where blocking is not available that blocking is not available. Within 30 days after blocking becomes available in an exchange where blocking was not available as of April 1, 1992, the local exchange company will notify the customers of that exchange, pursuant to the provisions of paragraph *"a,"* that blocking has become available.

d. All local exchange utilities must state in their telephone directories which exchanges listed in the directory offer 900 and 976 prefix access service blocking. For those exchanges where blocking is available, the directory must state the method to order access blocking and that the first blocking is without charge.

e. At the time of application or within one month of the date service is initiated, local exchange companies must provide or mail the appropriate notice under paragraph *"a"* or *"c"* to new residential customers.

199—22.6(476) Standards of quality of service. The local exchange utility using its facilities to provide primary service will measure its service connection, held order, and service interruption performance monthly according to subrules 22.6(1), 22.6(2), and 22.6(3). Records of the measurements and any summaries thereof, by individual wire centers, will be provided upon request of the board. Records of these measurements will be retained by the utility for two years.

22.6(1) *Service connection.* Each local exchange utility using its facilities to provide service shall make all reasonable efforts to maintain a five-business-day standard for primary connection service or within the customer-requested service connection date. All reasonable efforts to maintain the above standard shall be measured by the following:

a. Eighty-five percent of all customers provided service within five business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.

b. Ninety-five percent of all customers provided service within ten business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.

c. Ninety-nine percent of all customers provided service within 30 business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.

22.6(2) *Held orders.*

a. During such period of time as a local exchange utility using its facilities to provide service may not be able to supply primary telephone service to prospective customers within five business days after the date applicant desires service, the telephone utility shall keep a record, by exchanges, showing the name and address of each applicant for service, the date of application, the date that service was requested, and the class of service applied for, together with the reason for the inability to provide new service to the applicant.

b. When, because of a shortage of facilities, a utility is unable to supply primary telephone service on the date requested by applicants, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the board may require establishment of a priority plan, subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

c. When the local exchange utility using its facilities to provide service fails to provide primary local exchange service to any customer requesting service within 15 business days, the local exchange utility shall provide the customer with an alternative form of service until primary local exchange service can be provided. The alternative form of service provided shall be wireless telephone service unless the customer agrees otherwise.

d. If an alternative form of primary service is provided, the local exchange utility is authorized to charge the customer the regular rates (if applicable) for the alternative primary service ordered, if such rates are less than the regulated rate for primary local exchange service. Otherwise, the customer will be charged the regulated rate for primary local exchange service. Where an alternative form of service is impossible to provide, the facilities-based local exchange utility shall waive all usual installation charges and, once primary local exchange service is provided, shall credit the customer's account in an amount equal to the pro-rata monthly primary local exchange charge for each day service was not provided.

e. The expense related to the provision of alternative primary services above shall not be included in rates.

f. If such expenses are incurred, a report of such expenses shall be provided to the board upon request on a quarterly basis within 60 days after the end of each quarter.

22.6(3) *Service interruption.*

a. Each telephone utility using its facilities to provide primary service shall make all reasonable efforts to prevent interruptions of service. When interruptions are reported or found by the utility to occur, the utility shall reestablish service with the shortest possible delay. Priority shall be given to a residential customer who states that telephone service is essential due to an existing medical emergency of the customer, a member of the customer's family, or any permanent resident of the premises where service is rendered. All reasonable efforts shall be measured by the following:

(1) Eighty-five percent of all out-of-service trouble reports cleared within 24 hours. Compliance will be measured based on a three-month rolling average.

(2) Ninety-five percent of all out-of-service trouble reports cleared within 48 hours. Compliance will be measured based on a three-month rolling average.

(3) One hundred percent of all out-of-service trouble reports cleared within 72 hours.

(4) The response time for all utilities responsible to test and attempt to correct any interexchange trunk problem, except a total outage, shall be within 24 hours after the problem is reported. If the problem is not corrected within that time, the utility responsible for doing so shall keep all other affected telephone utilities advised as to the current status on a daily basis. For a total outage, the response time shall be immediate.

b. Arrangements shall be made to have adequate personnel and equipment available to receive and record trouble reports and also to clear trouble of an emergency nature at all times.

c. Calls directed to the published telephone numbers for service repair or the business offices of the telephone utility shall be acknowledge within 20 seconds for 85 percent of all such calls and within 40 seconds for 100 percent of all such calls.

d. If a customer's service must be interrupted due to maintenance, the utility shall notify the affected customer, in advance, if possible. The company shall perform the work to minimize inconvenience to the customer and strive to avoid interruptions when there is conversation on the line.

e. Each telephone utility shall keep a written record showing all interruptions affecting service in a major portion of an exchange area for a minimum of six years. This record shall show the date, time, duration, time cleared and extent and cause of the interruption. This record shall be available to the board upon request.

f. Whenever a trouble report is received, a record shall be made by the company and if repeated within a 30-day period by the same customer, the case shall be referred to an individual for permanent correction.

g. When a customer's service is reported or is found to be out of order, it shall be restored as promptly as possible.

h. Each local exchange utility using its facilities to provide service shall maintain its network to reasonably minimize customer trouble reports. The rate of customer trouble reports on the company side of the demarcation point will not exceed four per 100 access lines per month per wire center.

i. When a subscriber's service is interrupted and remains out of service for more than 24 consecutive hours after being reported to the local exchange company or being found by the company to be out of order, whichever occurs first, the company shall make appropriate adjustments to the subscriber's account. This rule does not apply if the outage occurs as a result of:

(1) A negligent or willful act on the part of the subscriber;

(2) A malfunction of subscriber-owned telephone equipment;

(3) Disasters or acts of God; or

(4) The inability of the company to gain access to the subscriber's premises.

The adjustment, either a direct payment or a bill credit, shall be the proportionate part of the monthly charges for all services and facilities rendered inoperative during the interruption. The adjustment shall begin with the hour of the report or discovery of the interruption. Adjustments not in dispute shall be rendered within two billing periods after the billing period in which the interruption occurred.

22.6(4) *Repair—missed appointments.* When a utility makes an appointment for installation or repair within a given range of time, and misses that appointment by over an hour, the customer will receive one month's primary local service free of charge. This is applicable to each missed appointment. The expense incurred as a result of a missed appointment in providing free primary local service shall not be included in rates.

22.6(5) *Emergency operation.*

a. Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of power service, climate control, sudden and prolonged increases in traffic, illness of operators, or from fire, explosion, water, storm, or acts of God, and each telephone utility shall inform affected employees, at regular intervals not to exceed one year, of procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telephone service.

b. All central offices shall have adequate provision for emergency power. Each central office shall contain a minimum of two hours of battery reserve. For offices without permanently installed emergency power facilities, there shall be access to a mobile power unit with enough capacity to carry the load which can be delivered on reasonably short notice and which can be readily connected.

c. An auxiliary power unit shall be permanently installed in all toll centers and at all exchanges exceeding 4,000 access lines.

d. Each local exchange utility shall maintain and make available for board inspection, its current plans for emergency operations, including the names and telephone numbers of the local exchange utility's disaster services coordinator and alternates.

22.6(6) *Business offices.*

a. Each local exchange utility shall have one or more business offices or customer service centers staffed to provide customer access in person or by telephone to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and, generally, to act as representatives of the local exchange utility. If one business office serves several exchanges, toll-free calling from those exchanges to that office shall be provided.

b. Upon the closing of any local exchange utility's public business office, the company must provide to the board, in writing, at least 30 days prior to the closing of the office the following information:

(1) The exchange(s) and communities affected by the closing;

(2) The date of the closing;

(3) A listing of other methods and facility locations available for payment of subscribers' bills in the affected exchanges; and

(4) A listing of other methods and locations available for obtaining public business office services.

199—22.7(476) Safety.

22.7(1) *Protective measures.*

a. Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers or users and the general public may be subjected.

b. The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

c. Each utility shall maintain a summary of all reportable accidents arising from its operations.

22.7(2) *Safety program.* Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program should:

a. Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

b. Instruct employees in safe methods of performing their work.

c. Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

199—22.8(476) Nontoll interexchange trunking service (EAS) survey procedure.

22.8(1) *General information.*

a. The nontoll interexchange trunking service (EAS) survey procedures shall be followed by all telephone companies subject to the service jurisdiction of this board. The procedures in 22.8(2) and 22.8(3) shall be followed to establish EAS. The procedures in 22.8(4) and 22.8(5) shall be followed in order to discontinue EAS. There is no need to follow these procedures if there will be no rate increase associated with new EAS.

b. At all stages of this procedure the information required to be supplied to customers shall be sufficient to explain the required items to the customers, yet the information shall be in a form which is sufficiently brief not to confuse the customers or discourage the customers from completing the survey.

c. Whenever an EAS survey is conducted, the company shall mail to each customer account (primary service listing) a survey letter explaining the purpose of the survey, and a postage-paid, company-addressed return postcard on which the customer can indicate the customer's preference.

d. The company shall provide the board, for its approval, a copy of the proposed text and format of the customer letter and ballot survey card. The board may require alterations or corrections before permission is granted to proceed with the actual survey of the customers.

22.8(2) *Procedures and requirements for establishing EAS studies.*

a. The initiative for EAS shall be in the form of a request presented to the company with evidence of support indicated by a petition signed by no less than 15 percent of the exchange customers. Only the person to whom the monthly bill is addressed may sign the petition. In the case of a business customer, only a duly authorized agent or representative may sign. Each signer shall include address and telephone number. Initiative for EAS may also come from the company or the board.

b. If the requirements of 22.8(2), paragraph *"a,"* are fulfilled, a point-to-point usage study should be used to determine if sufficient community interest exists. There should be an average of five or more calls per customer per month and more than 50 percent of the customers making at least two toll calls per month. If these basic criteria are not met, the request will be dismissed without further proceedings.

c. If the provisions of 22.8(2), paragraph *"b,"* have been met, additional customer calling studies, cost and revenue studies including loss of toll revenues may be conducted, and submitted to the board. The board shall determine the merits of proceeding with a customer survey.

d. Records shall be kept of this procedure to substantiate the steps taken by the company. These studies need not be undertaken more than once in any 18-month period.

22.8(3) *Procedures and requirements for customer survey to establish EAS.*

a. The customer survey for two-way EAS need not be taken more than once in any 18-month period and the survey letter should contain the following items:

(1) An explanation of the purpose of the survey.

(2) A statement which identifies by class and grade of service the existing rate, the amount of rate increase and the new rate associated with the addition of the proposed EAS.

(3) A statement that more than 65 percent of the customers returning ballots must vote in favor of the proposal before further action will be taken.

(4) A statement indicating the proposed date when service would be established which shall not be more than two years from the survey ballot return date, unless the delay is granted by the board due to the facility considerations.

(5) The date by which the ballot must be returned to be considered shall be a minimum of 10 days and a maximum of 20 days from the date on which the survey letter is mailed to the customer. The ballots shall not be counted for 3 days following the survey ballot return date to allow all return cards to clear the post office. Results of the survey shall be provided to the board within 15 days of the return date.

b. Ballot by return postcard. The postage-paid, company-addressed return postcard included with the customer survey letter should contain the following information:

(1) A statement explaining the EAS proposal being voted on as set out in the customer survey letter.

(2) A place for the customer to indicate whether customer favors or is opposed to the establishment of EAS.

(3) Lines designated for the customer's signature, telephone number and date.

c. The return ballot shall be retained by the company for at least two years and shall be available for review by the board staff during that time. After two years the ballots may be destroyed; however, the results of the survey as recorded from the return ballots shall be maintained for a period of five years.

d. If the customers in an exchange vote in favor of EAS to another exchange but concurrence in two-way EAS is not received from that second exchange then consideration may be given to one-way EAS. The same basic survey procedure shall be followed as provided herein, but the customer survey letter shall also include information concerning lack of concurrence on two-way service by the neighboring exchange and that another survey is being taken to determine interest in one-way calling.

22.8(4) *Procedures and requirements for discontinuing EAS.*

a. The initiative to discontinue EAS shall be in the form of a request presented to the company with evidence of support indicated by a petition signed by no less than 15 percent of the exchange customers. Only the person to whom the monthly bill is addressed may sign the petition. In the case of a business customer, only a duly authorized agent or representative may sign. Each signer must include address and telephone number. Initiative to discontinue EAS may also come from the company or the board.

b. Customer calling studies, cost and revenue studies may be conducted and submitted to the board. The board shall determine the merits of proceeding with a customer survey.

c. Records shall be kept of this procedure to substantiate the steps taken by the company. These studies need not be undertaken more than once in any 18-month period.

22.8(5) *Procedures and requirements for customer survey to discontinue EAS.*

a. The customer survey for two-way EAS need not be taken more than once in any 18-month period and the survey letter should contain the following items:

(1) An explanation of the purpose of the survey.

(2) A statement which identifies by class and grade of service the amount of rate decrease, if any, and the new rates associated with the proposed discontinuance of EAS.

(3) A statement that more than 65 percent of the customers returning ballots must vote in favor of the discontinuance proposal before further action will be taken.

(4) A statement indicating the proposed date when service would be discontinued (which shall not be more than six months from the survey ballot return date).

(5) The date by which the ballots must be returned to be considered. This return date shall be a minimum of 10 days and a maximum of 20 days from the date on which the survey letter is mailed to the customer. The ballots shall not be counted for 3 days following the survey ballot return date to allow all return cards to clear the post office. Results of the survey shall be provided to the board within 15 days of the return date.

b. Ballot by return postcard. The postage-paid, company-addressed return postcard included with the customer survey letter should contain the following information:

(1) A statement explaining the EAS proposal being voted on as set out in the customer survey letter.

(2) A place for the customer to indicate whether customer favors or is opposed to the discontinuance of EAS.

(3) Lines designated for the customer's signature, telephone number and date.

c. The return ballot shall be retained by the company for at least two years and shall be available for review by the board staff during that time. After two years, the ballot may be destroyed; provided, however, a record showing the results of the survey as recorded from the return ballots shall be maintained for a period of five years.

d. If the customers approve discontinuance of two-way EAS to another exchange and concurrence in that discontinuance cannot be obtained from the customers of the second exchange, consideration may be given to continuance of one-way EAS by that second exchange. The same basic survey procedure shall be followed as provided herein, but the customer survey letter shall also include a statement indicating that the neighboring exchange or its customers have voted to discontinue two-way EAS and that this survey is being taken to determine interest in one-way calling.

199—22.9(476) Terminal equipment. Terminal equipment is deregulated. Customers may secure terminal equipment through any provider.

199—22.10(476) Unfair practices. All unfair or deceptive practices related to customer provision of equipment are prohibited. Any failure to provide information to customers or to deal with customers who provide their own terminal equipment or inside station wiring or an alteration of the charges for or availability of equipment or services on that ground, unless specifically authorized by board order or rule and by the utility's tariff, shall constitute unfair or deceptive practices. In cases of equipment in compliance with Federal Communications Commission registration requirements, telephone utility personnel are prohibited from making any statement, express or implied, to, or which will reach, a customer or prospective customer that terminal equipment in compliance with Federal Communications Commission registration requirements cannot properly be attached to the telephone network. This does not apply to good-faith efforts to amend the Federal Communications Commission requirements.

The listing of unfair practices in this rule shall not limit the types of acts which may be found to be unfair nor shall those listed be used to establish decisional criteria operating to exempt any act otherwise unfair from the intent of this rule.

199—22.11(476) Inside station wiring standards.

22.11(1) *Construction by user limitation.* A user shall not be allowed to construct inside station wiring from a demarcation point or between two or more buildings on the same premises to obtain service from an exchange other than that by which the user would normally be served, excluding users being provided adjacent exchange service or foreign exchange service as provided in a company's tariff. Existing inside wiring obtaining local exchange service within another exchange boundary shall be disconnected by the user within ten days after receipt of written notification from the local exchange company.

22.11(2) *Standards applicable to inside station wiring.* The following technical standards must be complied with:

a. Applicable registration standards promulgated by the Federal Communications Commission.

b. 47 CFR Part 68.

c. Applicable national, state or local building and electrical codes, including National Electrical Code, as defined in 199—subrule 25.2(5); and accepted good engineering practice in the communication industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and safety of persons and property.

199—22.12(476) Contents of tariff filings proposing rates.

22.12(1) *Construction of rule.* This rule shall be construed in a manner consistent with its purpose to expedite informed consideration of tariff filings proposing rates by ensuring the availability of relevant information on a standardized basis. Unless a waiver is granted prior to filing, this rule shall apply to all

tariff filings by rate-regulated telephone utilities proposing rates, except the tariff filings of AOS utilities that propose rates at or below the corresponding rates for similar services of utilities whose rates have been approved by the board in a rate case or set in a market determined by the board to be competitive.

22.12(2) *Cost studies to be filed.* Tariff filings proposing rates shall be accompanied by applicable cost studies performed in accordance with 22.13(476). These shall be accompanied by all work papers used.

22.12(3) *Specification of cost methodologies.* By September 1, 1982, all telephone utilities shall file cost study methods, consistent with 22.13(476).

a. This filing will include definitions which permit the assignment of tariffs to a cost study method, formulae or documentation for computer programs and applicable parameters, definitions, unit costs, and specific and common costs allocation factors.

b. Subsequent filings must be consistent with a filed method and contain an explanation as to how the cost study method used conforms with the filed definitions, unless an application is made to amend or revise the method on file.

22.12(4) Rescinded, effective June 10, 1987.

199—22.13(476) Methodology for determining costs to serve.

22.13(1) *Construction of rule.* This rule shall be construed in a manner consistent with its purpose to provide information on costs of supplying specific telephone services and on the relative contributions of general telephone service offerings to the rates of return to the telephone utilities. Unless a waiver is granted prior to filing, this rule shall require periodic fully distributed cost (FDC) studies to be prepared and submitted to the board and shall require individual tariff filings to be supported by cost studies.

22.13(2) *Fully distributed cost studies.* As used in this chapter, an FDC study operates to estimate the costs to serve customer classes.

a. In an FDC analysis, the totality of all investment and operating costs for all services offered during a specified test period are first determined. In addition, the total volume of each service provided during the test period is determined from the utility's records. Direct costs which can be identified for a particular category of service are segmented and attributed to the relevant services. The remaining common and joint costs are allocated among the services according to quantitative determinations as to test period direct investment in each service or test period relative use which each service made of the facilities, personnel, and operations supported by such costs. Revenues are identified, segmented and attributed to the relevant services. At the conclusion of the process, it should be possible not only to compute a rate of return for each service, but also to estimate unit costs for each of the services offered during the test period, which can be used as a basis for assessing relative revenue requirement contributions for each service which would have satisfied the utility's total revenue requirement—including cost of capital. The rates for each service shall be computed so as to have contributed an equal rate of return on investment.

b. Service category cost studies shall be made a part of any cost study. The test period direct costs, common and joint costs, investments and revenues shall be identified and attributed to each of the categories.

Categories and subcategories of service to be studied include, but are not limited to, the following:

(1) Private line—group channel service; cable carrying charges; continuous property loop; signal grade subscriber loop; voice grade subscriber loop; signal grade and voice grade block loops; local wiring charge; airport lines; intercept lines; signal multiloop; channels for program transmission; intrastate video transmission channel; multipoint loudspeaker network transmission channel; industrial television; and interoffice mileage.

(2) Intrastate tolls—toll DDD service; operator-assisted; and WATS.

(3) Local exchange service—existing inside station wiring; transmission service; and EAS.

c. Reconciliations of the subcategory cost studies to the category cost studies and of the category cost studies to the test period investment and costs shall be provided.

22.13(3) *Service class cost studies.* As used in this rule, a cost study operates to determine the cost for a specific service or equipment offering within the service class.

a. Fully allocated cost studies or other board-approved cost studies shall be provided for discrete service and equipment offerings when rates are proposed therefor or when requested by the board.

For fully allocated cost studies, these studies shall identify directly attributable costs and investments to which must be added an appropriate allocation of general administrative costs and other overhead costs, as well as an allocation of common and joint costs. Where possible, allocations should be made in the same manner as in the utility's FDC study.

b. Fully allocated cost studies or other board-approved cost studies shall include:

(1) An explanation, on a separate page, of the sources, derivation and calculation of all values used.

(2) Definitions, statements of all assumptions, formulae or documentation or other company procedures utilized, unit costs, and allocation factors for specific and common costs.

(3) All work papers used.

199—22.14(476) Intrastate access charge application, tariff procedures, and rates.

22.14(1) *Application of intrastate access charges.*

a. Intrastate access charges shall apply to all intrastate access services rendered to interexchange utilities. Intrastate access charges shall not apply to EAS traffic. In the case of resale of services of interexchange utilities, access charges shall apply as follows:

(1) The interexchange utilities shall be billed as if no resale were involved.

(2) The resale carrier shall be billed only for access services not already billed to the underlying interexchange utility.

(3) Specific billing treatment and administration shall be provided pursuant to tariff.

b. Except as provided in 22.14(1)*"b"*(3), no person shall make any communication of the type and nature transmitted by telephone utilities, between exchanges located within Iowa, over any system or facilities, which are or can be connected by any means to the intrastate telephone network, and uses exchange utility facilities, unless the person shall pay to the exchange utility or utilities which provide service to the exchange where the communication is originated and the exchange where it is terminated, in lieu of the carrier common line charge, a charge in the amount of $25 per month per circuit that is capable of interconnection. However, if the person provides actual access minutes to the exchange utility, the charge shall be the charge per access minute or fraction thereof provided in 22.14(2)*"d"*(1), not to exceed $25 per line per month. The charge shall apply in all exchanges. However, if the person attests in writing that its facility cannot interconnect and is not interconnected with the exchange in question, the person will not be subject to the charge in that exchange.

(1) In the event that a communication is made without compliance with this rule, the telephone utility or utilities serving the person shall terminate telephone service after notice pursuant to subrule 22.4(5). The utility shall not reinstate service until the board orders the utility to restore service. The board shall order service to be restored when it has reasonable assurance that the person will comply with this rule.

(2) In any action concerning this rule, the burden of proof shall be upon the person making intrastate communications.

(3) This rule shall be inapplicable to:

1. Communications made by a person using facilities or services of telephone utilities to which an intrastate carrier common line charge applies pursuant to 22.14(3)*"a."*

2. Administrative communications made by or to a telephone utility.

22.14(2) *Filing of intrastate access service tariffs.*

a. Tariffs providing for intrastate access services shall be filed with the board by a telephone utility which provides such services. Iowa intrastate access service tariffs of rate-regulated utilities shall be based only on Iowa intrastate costs. Unless otherwise provided, the filings are subject to the applicable rules of the board.

b. A non-rate-regulated local exchange utility in its general tariff may concur in the intrastate access tariff filed by another non-rate-regulated local exchange utility.

(1) Alternatively, a non-rate-regulated local exchange utility may voluntarily elect to join another nonrate regulated local exchange utility or utilities in forming an association of local exchange utilities.

The association may file intrastate access service tariffs. A utility in its general tariff can concur in the association tariffs.

(2) All elements of the filings, under rule 22.14(476) including access service rate elements, shall be subject to review and approval by the board.

c. Rescinded IAB 2/7/90, effective 3/14/90.

d. All intrastate access service tariffs shall incorporate the following:

(1) Carrier common line charge. The rate for the intrastate carrier common line charge shall be three cents per access minute or fraction thereof for both originating and terminating segments of the communication, unless a different rate is required by numbered paragraphs "1" and "2." The carrier common line charge shall be assessed to exchange access made by any interexchange telephone utility, including resale carriers. In lieu of this charge, interconnected private systems shall pay for access as provided in 22.14(1)*"b."*

1. Rate-regulated local exchange utility intrastate access service tariffs shall include the carrier common line charges approved in the rate-regulated local exchange utility's price regulation plan or as otherwise approved by the board.

2. A competitive local exchange carrier that concurs with the Iowa Telephone Association (ITA) Access Service Tariff No.1 and that offers service in exchanges where the incumbent local exchange carrier's intrastate access rate is lower than the ITA access rate shall deduct the carrier common line charge from its intrastate access service tariff.

(2) End-user charge. No intrastate end-user charge shall be assessed.

(3) Universal service fund. No universal service fund shall be established.

(4) Transitional and premium rates. There shall be no discounted transitional rate elements applied in Iowa except as otherwise specifically set forth in these rules.

(5) Recording function of billing and collections. The intrastate access service tariffs shall include the rate to be charged for performing the recording function associated with billing and collections.

(6) A telephone utility may, pursuant to tariff, bill for access on the basis of assumed minutes of use where measurement is not practical. However, if the interexchange utility provides actual minutes of use to the billing utility, the actual minutes shall be used.

(7) In the absence of a waiver granted by the board, local exchange utilities shall allow any interexchange utility the option to use its own facilities that were in service on March 19, 1992, to provide local access transport service to terminate its own traffic to the local exchange utility. The interexchange utility may use its facilities in the manner and to a meet point agreed upon by the local exchange utility and the interexchange utility as of March 19, 1992. Changes mutually agreeable to the local exchange utility and the interexchange utility after that date also shall be recognized in allowing the interexchange utility to use its own local access transport facilities to terminate its own traffic. Recognition under this rule will also be extended to improvements by an interexchange utility that provided all the transport facilities to an exchange on March 19, 1992, whether the improvements were mutually agreeable or not, unless the improvements are inconsistent with an agreement between the interexchange utility and the local exchange utility.

22.14(3) Rescinded, IAB 9/21/88, effective 10/26/88.

22.14(4) *Notice of intrastate access service tariffs.*

a. All telephone utilities that file new or changed tariffs relating to access charges, access service, or the recording function associated with billing and collection for access services shall give written notice of the new or changed tariffs to the consumer advocate and to all interexchange utilities registered with the board under paragraph *"b"* of this subrule. Notice shall be given on or before the date of filing of the tariff. The notice shall consist of a copy of the tariff transmittal letter, a listing of affected tariff pages, and a description of the proposed changes. If two or more local exchange utilities concur in a single tariff filing, the local exchange utilities may send a joint written notice to the consumer advocate and the interexchange utilities.

b. To receive notice of new or changed access service tariffs, an interexchange utility shall register with the board. An interexchange utility registers by filing a specific written request for registration, stating its name and the address where notice is to be sent.

c. Local exchange utilities shall file an affidavit listing all interexchange utilities notified of the proposed filing when the tariff is filed with the board.

d. The board shall not approve any new or changed tariff described in paragraph *"a"* until after the period for resistance provided in subrule 22.14(5), paragraph *"a."*

22.14(5) *Resistance to intrastate access service tariffs.*

a. If an interexchange utility affected by an access service filing or the consumer advocate desires to file a resistance to a proposed new or changed access service tariff, it shall file its resistance within 14 days after the filing of the proposed tariff. The interexchange utility shall send a copy of the resistance to all telephone utilities filing or concurring in the proposed tariff.

b. After receipt of a timely resistance, the board may:

(1) Deny the resistance if it does not on its face present a material issue of adjudicative fact or the board determines the resistance to be frivolous or otherwise without merit and allows the tariff to go into effect by order or by operation of law; or

(2) Either suspend the tariff or allow the tariff to become effective subject to refund; and initiate informal complaint proceedings; or

(3) Either suspend the tariff or allow the tariff to become effective subject to refund; and initiate contested case proceedings; or

(4) Reject the tariff, stating the grounds for rejection.

c. The interexchange utility or the consumer advocate shall have the burden to support its resistance.

d. If contested case proceedings are initiated upon resistance filed by an interexchange utility, the interexchange utility shall pay the expenses reasonably attributable to the proceeding unless the interexchange utility is the successful party as determined by the board.

22.14(6) *Access charge rules to prevail.* The provisions of rule 22.14(476) shall be determinative of the procedures relating to intrastate access service tariffs and shall prevail over all inconsistent rules.

199—22.15(476) Interexchange utility service and access.

22.15(1) *Interexchange utility service.* An interexchange utility may provide interexchange service by complying with the laws of this state and the rules of this board. Any company or other entity accessing local exchange facilities or services in order to provide interexchange communication services to the public shall be considered to be an interexchange utility and subject to the rules herein, unless otherwise exempted. Such utilities are required to file tariffs, reports and other items and are subject to service standards as specified in utilities division rules, chapters 7, 16, and 22, unless otherwise exempted.

22.15(2) *Interexchange utility intrastate access.* Intrastate access to local exchange services or facilities may be obtained by an interexchange utility by ordering and paying for such intrastate access pursuant to the applicable tariff filed by the exchange utility in question, or as otherwise provided by agreement between the parties.

22.15(3) *Willful violation.* Any interexchange utility which the board finds has willfully failed to pay the intrastate carrier common line charge as specified in 22.14(3)*"a"* shall be in willful violation of board rules.

199—22.16(476) Discontinuance of service. No local exchange utility or interexchange utility may discontinue providing intrastate service to any local exchange or part of a local exchange except in the case of emergency, nonpayment of account, or violation of rules and regulations; except as provided below.

22.16(1) Prior to discontinuing service, the utility shall file with the board and consumer advocate a notice of intent to discontinue service at least 90 days prior to the proposed date of discontinuance. However, if the utility shows it has no customers for the service it proposes to discontinue, the utility need only file such notice 30 days prior to discontinuance.

22.16(2) The notice of discontinuance of service shall include the following:

1. The name and address of the utility involved;

2. The name, title, and address of the person to whom correspondence concerning the notice should be directed;

3. A description of the nature of and reasons for the proposed discontinuance;

4. Identification of the exchange or part of exchange involved and the date on which the utility desires to discontinue service;

5. A description of the area affected and an assessment of the impact on present and future public convenience and necessity of such discontinuance, including the name and address of any other utility currently or potentially providing the same or substitute service to the area;

6. A description of the service proposed to be discontinued, of the existing service available to the exchange or part of exchange involved, and of the service of the applying utility or others which would remain in the event approval is granted.

22.16(3) If after 30 days of the filing of such notice, no action is taken by the board, the discontinuance may take place as proposed.

22.16(4) The board, on its own motion or at the request of the consumer advocate or affected customer, may hold a hearing on such discontinuance.

199—22.17(476) Resale of service.

22.17(1) Any landlord, owner, tenant association, or otherwise affiliated group shall be permitted to provide communications services within or between one or more buildings with a community of interest. The provision of this service will be treated as a deregulated service, if the following requirements are met:

a. No person within a building or facility providing resale services shall be denied access to the local exchange carrier. The local exchange carrier shall provide service at normal tariffed rates to the point of demarcation. The end-user shall be responsible for service beyond that point. However, no person shall unreasonably inhibit the end-user's access to the local exchange carrier.

b. Telephone rates charged to resale providers of communications services under this rule shall be made on the same basis as business service.

c. "Community of interest" will normally be indicated by joint or common ownership, but any other relevant factors may be considered.

22.17(2) Any interested person may request formal complaint proceedings with respect to any existing or proposed resale arrangement under this rule. Complaints may concern, but are not limited to:

a. Whether the reseller is, in fact, a local exchange carrier in its own right, as demonstrated by limitations on access to the original local exchange carrier, the geographical area of the offering, or other relevant factors; and

b. Whether the reseller is allowing access to the local exchange carrier on reasonable terms.

199—22.18(476) Low-income connection assistance program. Rescinded IAB 12/31/97, effective 1/1/98.

199—22.19(476) Alternative operator services.

22.19(1) *Definitions.* The definitions found in Iowa Code section 476.91 apply to this rule.

22.19(2) *Tariffs.* Alternative operator service companies must provide service pursuant to board-approved tariffs covering both rates and service.

22.19(3) *Blocking.* AOS companies shall not block the completion of calls which would allow the caller to reach a long distance telephone company different from the AOS company. All AOS company contracts with contracting entities must prohibit call blocking by the contracting entity. The contracting entity shall not violate that contract provision.

22.19(4) *Posting.* Contracting entities must post on or in close proximity to all telephones served by an AOS company the following information:

a. The name and address of the AOS company;

b. A customer service number for receipt of further service and billing information; and

c. Dialing directions to the AOS operator for specific rate information.

Contracts between AOS companies and contracting entities shall contain provisions for posting the information. The AOS companies also are responsible for the form of the posting and shall make reasonable efforts to ensure implementation, both initially and on an updated basis.

22.19(5) *Oral identification.* All AOS companies shall announce to the end-user customer the name of the provider carrying the call and shall include a sufficient delay period to permit the caller to terminate the call or advise the operator to transfer the call to the end-user customer's preferred carrier before billing begins.

22.19(6) *Billing.* All AOS company bills to end-user customers shall comply with the following requirements, in addition to the requirements of subrule 22.4(3):

a. All calls, except those billed to commercial credit cards, shall be itemized and identified separately on the bill. All calls will be rated solely from the end-user customer's point of origin to point of termination.

b. All bills, except those for calls billed to commercial credit cards, shall be rendered within 60 days of the provision of the service.

c. All charges for the use of a telephone instrument shall be shown separately for each call, except for calls billed to a commercial credit card.

22.19(7) *Emergency calls.* All AOS companies shall have a board-approved methodology to ensure the routing of all emergency zero-minus (0 -) calls in the fastest possible way to the proper local emergency service agency.

199—22.20(476) Service territories. Service territories are defined by the telephone exchange area boundary maps on file with the Iowa utilities board. The maps will be available for viewing at the board's office during regular business hours and copies are available at the cost of reproduction. This rule does not apply to resale of local telephone service pursuant to rule 22.17(476).

22.20(1) *Issuance of certificates of authority to utilities on or prior to September 30, 1992.* The initial nonexclusive certificate of authority will be issued by the board on or before September 30, 1992, to each land-line telephone utility providing local telecommunications service in Iowa. The certificate will authorize service within the territory as shown by boundary maps in effect on January 1, 1992, but will reference and include modifications approved by the board prior to the issuance of the certificate. The certificate will be in the form of an order issued by the board and may be modified only by subsequent board orders.

If a utility disputes the boundary identified in the January 1, 1992, maps or in a certificate, it may file an objection with the board. After notice to interested persons and an opportunity for hearing, the board will determine the boundary.

22.20(2) *Procedures to revise maps and modify certificates.* All territory in the state shall be served by a local exchange utility and inappropriate overlaps of service territories are to be avoided.

a. When the board, after informal investigation, determines a significant gap or overlap exists on the maps on file defining service territories, affected utilities and interested persons, including affected customers, will be notified. The board will direct the affected utilities to file a proposed boundary within 30 days, if the utilities can agree.

b. The boundary filing must include the name of each affected customer and justification for the proposed boundary, including a detailed statement of why the proposal is in the public interest. Prior to filing with the board, the serving utilities must notify interested persons of a convenient location where they can view the current and proposed maps, or copies of the maps covering their location must be mailed to them. The notice shall state the nature of the boundary filing and that any objections must be mailed to the board postmarked within 14 days of the mailing of the notice by the utility. The utility's filing shall also include a copy of the notice and the date on which the notice was mailed to customers.

c. Upon board approval of the proposed boundary, the affected utilities shall file revised maps which comply with subrule 22.20(3) and, upon approval of the maps, the board will modify the certificates.

d. If the utilities cannot agree on the boundary, or if an interested person timely mails material objections to the proposed boundary, the board will resolve the issues in contested case proceedings to

revise the maps and modify the certificates after notice of the proceedings to all affected utilities and interested persons.

e. A voluntary modification petition filed jointly by all affected utilities pursuant to 1992 Iowa Acts, Senate File 511, shall contain the information required in 22.20(2)*"b."* The notice and hearing requirements in 22.20(2)*"b"* through *"d"* shall be observed in voluntary modification proceedings.

f. A post-January 1, 1992, map will not be effective in defining a utility's service territory until approved by the board.

22.20(3) *Map specifications.* All utilities shall have on file with the board maps which identify their exchanges and both internal exchange boundaries where the utility's own exchanges abut and ultimate boundaries where the utility's exchanges abut other utilities.

a. Each utility's maps shall be on a scale of one inch to the mile. They shall include information equivalent to the county maps which are available from the Iowa department of transportation, showing all roads, railroads, waterways, plus township and range lines outside the municipalities. A larger scale shall be used where necessary to clarify areas. All map details shall be clean-cut and readable.

(1) Each filed map shall clearly show the ultimate utility boundary line; this line shall be periodically marked with the letter "U." Exchange boundaries where the utility's own exchanges abut shall be periodically marked with the letter "E." Ultimate and exchange boundary lines shall be drawn on a section, half-section, or quarter-section line. If not, the distance from a section line or other fixed reference point shall be clearly noted. When using a fixed reference point, measurement shall always be from the center of the fixed point.

(2) The map shall also identify the utility serving each contiguous exchange. The utility names shall be placed about the exterior of the ultimate boundary. The points at which the adjacent exchange meets the ultimate boundary will be marked with arrows.

(3) Plant facilities shall not be shown on the boundary map. Approximate service locations may be shown but are not required.

(4) The name of the utility filing the map shall be placed in the upper right corner of the map. This will be followed by the names of each exchange shown on the map and served by that utility. The last item will be the date the map is filed and the proposed effective date, which will be 30 days after the filing date unless the board sets a different date.

b. If requested by the board, a legal description shall be filed to clarify an ambiguous boundary between utilities. The legal description shall conform with the standards set in Iowa Code section 114A.9.

22.20(4) *Subsequent certificates.* Any legal entity which desires to serve all or a portion of a territory which is currently assigned to another land-line utility may petition for a new certificate or a certificate modification depending upon whether the utility already has a certificate to serve. After notice to affected utilities and opportunity for hearing, the board will determine whether the new certificate or certificate modification will promote the public convenience and necessity. If the new or modified certificate is granted, the result may be two or more utilities serving all or a portion of an assigned territory.

22.20(5) *Certificate revocation.* Any five subscribers or potential subscribers, or consumer advocate upon filing a sworn statement showing a generalized pattern of inadequate telephone service or facilities may petition the board to begin formal certificate revocation proceedings against a local exchange utility. While similar in nature to a complaint filed under rule 199—6.2(476), a petition under this rule shall be addressed by the board under the following procedure and not the procedure found in 199—Chapter 6.

a. Upon receiving a petition, the board will make an informal preliminary investigation into the adequacy of the service and facilities provided by a local exchange utility. The board also may begin an informal preliminary investigation on its own motion at any time.

b. Prior to beginning formal revocation proceedings under 1992 Iowa Acts, Senate File 511, the board will provide notice to the utility of any alleged inadequacies in its service. The utility may admit or deny the allegations. If admitted, the utility will have a reasonable time to eliminate the inadequacies. If denied, the utility will have the opportunity to refute the allegations in contested case proceedings after mailed notice and an opportunity to intervene for the utility's affected customers.

c. If the board does not issue the notice of alleged inadequacies to the utility as provided in 22.20(2)*"b"* within 60 days after the filing of the petition, the petition will be deemed denied.

d. If the board finds significant inadequacies in service or facilities in any certificate revocation contested case, the utility will be allowed a reasonable time to eliminate the inadequacies.

e. If the utility fails to eliminate significant inadequacies in service or facilities within a reasonable time, the board, after mailed notice to all parties in the contested case, or to affected customers if the utility admitted the inadequacies, and after an opportunity for hearing, may revoke or condition the certificate as provided in 1992 Iowa Acts, Senate File 511.

f. Proceedings under this subrule may be combined with proceedings under subrule 22.20(4), or similar certification proceedings initiated on the board's own motion, to consider an appropriate replacement utility simultaneously with the revocation case.

199—22.21(476) Toll dialing patterns. All local exchange utilities shall use the dialing pattern, 0 or 1 plus ten digits, for all toll calls either within a single numbering plan area or from one numbering plan area to another.

199—22.22(476) Requests for interconnection negotiations. Rescinded IAB 8/28/96, effective 8/2/96.

199—22.23(476) Unauthorized changes in telephone service.

22.23(1) *Definitions.* As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a customer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunication customer's account without the verified consent of the affected customer. Cramming does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made. Cramming does not include telecommunications services that are initiated or requested by the customer, including dial-around services such as "10-10-XXX," directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer.

"Customer" means the person other than a service provider whose name appears on the account and others authorized by that named person to make changes to the account.

"Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

"Jamming" means the addition of a preferred carrier freeze to a customer's account without the verified consent of the customer.

"Letter of agency" means a written document complying with the requirements of 199 IAC 22.23(2)*"b."*

"Preferred carrier freeze" means the limitation of a customer's preferred carrier choices so as to prevent any change in preferred service provider for one or more services unless the customer gives the service provider from which the freeze was requested the customer's express consent.

"Service provider" means a person providing a telecommunications service, not including commercial mobile radio service.

"Slamming" means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, without the verified consent of the customer. "Slamming" does not include the designation of a new provider of a telecommunications service to a customer made pursuant to the sale or transfer of another carrier's customer base, provided that the designation meets the requirements of 199 IAC 22.23(2)*"e."*

"Soft slam" means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

"Submitting service provider" means a service provider who requests another service provider to execute a change in service.

"Telecommunications service" means a local exchange or long distance telephone service other than commercial mobile radio service.

"Verified consent" means verification of a customer's authorization for a change in service.

22.23(2) *Prohibition of unauthorized changes in telecommunications service.* Unauthorized changes in telecommunications service, including but not limited to cramming and slamming, are prohibited.

a. Verification required. No service provider shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures:

(1) The service provider has obtained the customer's written authorization in a form that meets the requirements of 199 IAC 22.23(2)*"b"*; or

(2) The service provider has obtained the customer's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in subparagraph (1) above. Service providers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification; or

(3) An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data. The independent third party must not be owned, managed, controlled, or directed by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred carrier change orders for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier change; or

(4) The local service provider may change the preferred service provider, for customer-originated changes to existing accounts only, through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

(5) For other changes in service resulting in additional charges to existing accounts only, a service provider shall establish a valid customer request for the change in service through maintenance of sufficient internal records. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification under the circumstances of the identification of the person requesting the change in service. Any of the three verification methods in 22.23(2)*"a"*(1) to (3) will also be acceptable. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service. Where the additional charge is for one or more specific telephone calls, examples of internal records a carrier may submit include call records showing the origin, date, time, destination, and duration of the calls, and any other data the carrier relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data.

b. Letter of agency form and content.

(1) A service provider may use a letter of agency to obtain written authorization or verification of a customer's request to change the customer's preferred service provider selection. A letter of agency that does not conform with this subrule is invalid for purposes of this rule.

(2) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in subparagraph (5) below having the sole purpose of authorizing a service provider to initiate a preferred service provider change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred service provider change.

(3) The letter of agency shall not be combined on the same document with inducements of any kind.

(4) Notwithstanding subparagraphs (2) and (3) above, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in subparagraph (5) below and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, boldface type on the front of the check, a notice that the customer is authorizing a preferred service provider change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

1. The customer's billing name and address and each telephone number to be covered by the preferred service provider change order;

2. The decision to change the preferred service provider from the current service provider to the soliciting service provider;

3. That the customer designates [insert the name of the submitting service provider] to act as the customer's agent for the preferred service provider change;

4. That the customer understands that only one service provider may be designated as the customer's interstate or interLATA preferred interexchange service provider for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred service providers (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

5. That the customer understands that any preferred service provider selection the customer chooses may involve a charge to the customer for changing the customer's preferred service provider.

(6) Any service provider designated in a letter of agency as a preferred service provider must be the service provider directly setting the rates for the customer.

(7) Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current service provider.

(8) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

c. *Customer notification.* Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

d. *Preferred carrier freezes.*

(1) A preferred service provider freeze (or freeze) prevents a change in a customer's preferred service provider selection unless the customer gives the service provider from whom the freeze was requested express consent. All local exchange service providers who offer preferred service provider freezes must comply with the provisions of this subrule.

(2) All local exchange service providers who offer preferred service provider freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customer's service provider selections.

(3) Preferred service provider freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred service provider freeze. The service provider offering the freeze must obtain separate authorization for each service for which a preferred service provider freeze is requested.

(4) Solicitation and imposition of preferred service provider freezes.

1. All solicitation and other materials provided by a service provider regarding preferred service provider freezes must include:

- An explanation, in clear and neutral language, of what a preferred service provider freeze is and what services may be subject to a freeze;
- A description of the specific procedures necessary to lift a preferred service provider freeze; an explanation that these steps are in addition to the verification requirements in 22.23(2)*"a"* and 22.23(2)*"b"* for changing a customer's preferred service provider selections; and an explanation that the customer will be unable to make a change in service provider selection unless the freeze is lifted; and
- An explanation of any charges associated with the preferred carrier freeze.

2. No local exchange carrier shall implement a preferred service provider freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

- The local exchange carrier has obtained the customer's written and signed authorization in a form that meets the requirements of 22.23(2)*"d"*(4)"3"; or
- The local exchange carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred service provider freeze is to be imposed, to impose a preferred service provider freeze. The electronic authorization shall confirm appropriate verification data and the information required in 22.23(2)*"d"*(4)"3." Service providers electing to confirm preferred service provider freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred service provider freeze request, including automatically recording the originating automatic numbering identification; or
- An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred service provider freeze and confirmed the appropriate verification data and the information required in 22.23(2)*"d"*(4)"3." The independent third party must not be owned, managed, or directly controlled by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred service provider freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred service provider freeze.

3. A local exchange service provider may accept a written and signed authorization to impose a freeze on the customer's preferred service provider selection. Written authorization that does not conform with this subrule is invalid and may not be used to impose a preferred service provider freeze.

- The written authorization shall comply with 22.23(2)*"b"*(5)"2" and "3" and 22.23(2)*"b"*(8) concerning the form and content for letters of agency.
- At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms: (1) the customer's billing name and address and the telephone number(s) to be covered by the preferred service provider freeze; (2) the decision to place a preferred service provider freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred service provider freezes on additional preferred service provider selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate

statements regarding the particular selections to be frozen; (3) that the customer understands that the customer will be unable to make a change in service provider selection unless the preferred service provider freeze is lifted; and (4) that the customer understands that any preferred carrier freeze may involve a charge to the customer.

(5) All local exchange service providers who offer preferred service provider freezes must, at a minimum, offer customers the following procedures for lifting a preferred service provider freeze:

1. A local exchange service provider administering a preferred service provider freeze must accept a customer's written and signed authorization stating the intention to lift a preferred service provider freeze; and

2. A local exchange service provider administering a preferred service provider freeze must accept a customer's oral authorization stating the intention to lift a preferred carrier freeze and must offer a mechanism that allows a submitting service provider to conduct a three-way conference call with the service provider administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a preferred service provider freeze, the service provider administering the freeze shall confirm appropriate verification data and the customer's intent to lift the particular freeze.

e. Procedures in the event of sale or transfer of customer base. A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's customer base without obtaining each customer's authorization in accordance with 199 IAC 22.23(2)*"a,"* provided that the acquiring carrier complies with the following procedures. A telecommunications carrier may not use these procedures for any fraudulent purpose, including any attempt to avoid liability for violations under 199 IAC 22.23(2)*"a."*

(1) No later than 30 days before the planned transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the board a letter notifying the board of the transfer and providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected customers, and the date of the transfer of the customer base to the acquiring carrier. In the letter, the acquiring carrier also shall certify compliance with the requirement to provide advance customer notice in accordance with 199 IAC 22.23(2)*"e"*(3) and with the obligations specified in that notice. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected customers.

(2) If, subsequent to the filing of the letter of notification with the board required by 199 IAC 22.23(2)*"e"*(1), any material changes to the required information develop, the acquiring carrier shall file written notification of these changes with the board no more than 10 days after the transfer date announced in the prior notification. The board may require the acquiring carrier to send an additional notice to the affected customers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected customers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected customer. The acquiring carrier must fulfill the obligations set forth in the written notice. The written notice must inform the customer of the following:

1. The date on which the acquiring carrier will become the customer's new provider of telecommunications service;

2. The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the customer's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the customer of any change(s) to these rates, terms, and conditions;

3. The acquiring carrier will be responsible for any carrier change charges associated with the transfer;

4. The customer's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available;

5. All customers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the customers must contact their local service providers to arrange a new freeze;

6. Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and

7. The toll-free customer service telephone number of the acquiring carrier.

22.23(3) *Carrier registration.*

a. Registration required. Each carrier that provides or bills for telecommunications services to customers located in Iowa shall register with the board and shall provide, at a minimum, the information specified in the form that appears in this subrule.

DEPARTMENT OF COMMERCE

UTILITIES BOARD

TELECOMMUNICATIONS SERVICE PROVIDER REGISTRATION

1. FULL NAME OF CARRIER PROVIDING SERVICE IN IOWA:

_____

2. CARRIER MAILING ADDRESS (including 9-digit ZIP code):

_____

_____

_____

3. NAME, TITLE, TELEPHONE NUMBER, E-MAIL ADDRESS, AND FAX NUMBER OF CONTACT PERSON:

_____

_____

_____

_____

4. ALL TRADE NAMES OR D/B/A'S USED BY CARRIER IN IOWA OR IN ADVERTISING OR BILLING THAT MAY REACH IOWA CUSTOMERS:

_____

_____

5. NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF AGENT IN IOWA AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF CARRIER:

_____

_____

_____

6. TYPES OF TELECOMMUNICATIONS SERVICE PROVIDED (CHECK ALL THAT APPLY):

____ LOCAL EXCHANGE SERVICE

____ INTEREXCHANGE SERVICE

____ DATA TRANSMISSION

____ ALTERNATIVE OPERATOR SERVICES ONLY

____ OTHER—PLEASE SPECIFY:_____

7. ATTESTATION. I, _____, certify that I am the company officer responsible for this registration, that I have examined the foregoing registration, and that to the best of my knowledge, information, and belief the information is accurate and will be updated as required.

Dated ____/____/____

SIGNATURE_____

b. Failure to register. Failure to file and reasonably update a registration, or provision of false, misleading, or incomplete information, may result in civil penalties under 22.23(5) and may be considered as evidence of a pattern or practice of violation of these rules.

22.23(4) *Subscriber complaints regarding changes in service—procedures.* When a telecommunications service provider is contacted by an Iowa customer alleging an unauthorized change in service, the service provider shall inform the customer of the customer's right to contact the board regarding the complaint. The service provider shall provide the customer with the board's toll-free number for complaints, (877)565-4450.

When a subscriber submits to the board a written complaint alleging an unauthorized change in service, the complaint will be processed by the board pursuant to 199—Chapter 6, "Complaint Procedures."

22.23(5) *Civil penalties and assessment of damages.*

a. *Civil penalties.* In addition to any applicable civil penalty set out in Iowa Code section 476.51, a service provider who violates a provision of the anti-slamming statute, a rule adopted pursuant to the anti-slamming statute, or an order lawfully issued by the board pursuant to the anti-slamming statute is subject to a civil penalty, which, after notice and opportunity for hearing, may be levied by the board, of not more than $10,000 per violation. Each violation is a separate offense.

b. *Amount.* A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the size of the service provider, the gravity of the violation, any history of prior violations by the service provider, remedial actions taken by the service provider, the nature of the conduct of the service provider, and any other relevant factors.

c. *Collection.* A civil penalty collected pursuant to this subrule shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for consumer education programs administered by the board.

d. *Exclusion from regulated rates.* A penalty paid by a rate-of-return regulated utility pursuant to this subrule shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included either directly or indirectly in the utility's rates or charges to its customers.

e. *Civil actions.* The board shall not commence an administrative proceeding to impose a civil penalty under this rule for acts subject to a civil enforcement action pending in court under Iowa Code section 714D.7.

f. *Assessment of damages among interested persons.* As a part of formal complaint proceedings, the board may determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, the submitting service provider, and any other interested persons. In the event of a soft slam, the board may impose joint and several liability on the reseller and the facilities-based service provider. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

22.23(6) *Penalties for patterns of violations.* If the board determines, after notice and opportunity for hearing, that a service provider has shown a pattern of violations of these rules, the board may by order do any of the following:

a. Prohibit any other service provider from billing charges to residents of Iowa on behalf of the service provider determined to have engaged in such a pattern of violations.

b. Prohibit certificated local exchange service providers from providing exchange access services to the service provider.

c. Limit the billing or access services prohibition under paragraph *"a"* or *"b"* above to a period of time. Such prohibition may be withdrawn upon a showing of good cause.

d. Revoke the certificate of public convenience and necessity of a local exchange service provider.

22.23(7) *Service provider complaints regarding changes in service.* When a service provider files a written complaint charging another service provider with causing unauthorized changes in end user services to the detriment of the complaining service provider, the complaint will be processed pursuant to 199—Chapter 6, "Complaint Procedures," except that any party to the proceeding may petition the board for an order initiating formal complaint proceedings at any time, regardless of the status of the informal complaint proceedings. The board will grant such petitions or enter such an order on its own motion if the board finds that informal complaint proceedings are unlikely to aid in the resolution of the complaint.

199—22.24(476) Applications for numbering resources.

22.24(1) *Application to be filed with the board.* Any communications service provider, including but not limited to local exchange carriers, wireless service providers, and paging companies, applying for numbering resources with the North American Numbering Plan Administrator (NANPA) or the Pooling Administrator (PA) shall send a draft application or executed application to the board by facsimile transfer or electronic mail at least two days prior to the date on which the original application is to be received by the NANPA or PA. A draft application shall contain substantially the same information that is to be contained in an executed application. The application may be faxed to (515)281-5329 or electronically mailed to iubrecordscenter@iub.state.ia.us. Electronic submissions shall include "NANPA Application" or "PA Application" in the subject line.

22.24(2) *Confidential treatment.* The information contained in the draft applications or executed applications for numbering resources shall be held as confidential for a period of 90 days or until the new codes are entered into the local exchange routing guide (LERG), whichever is later.

22.24(3) *Content.* Each application filed with the board under this rule shall include a reference to this rule and sufficient information to identify the service provider and a contact person.

These rules are intended to implement Iowa Code sections 476.1 to 476.3, 476.5, 476.6, 476.8, 476.9, 476.29, 476.91, and 546.7 and Iowa Code Supplement section 476.103.

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◊ Two or more ARCs

1 Effective date of 12/1/83 of subrules 22.1(3), 22.2(5)*"v,"* and 22.3(13) delayed 70 days by the Administrative Rules Review Committee on 11/8/83.

2 Effective date of 22.10(1)*"c"* delayed 70 days by the Administrative Rules Review Committee on 11/14/90; delay lifted 12/11/90, effective 12/12/90.

3 Effective date of 22.4(2)*"b"* delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 23
ANNUAL REPORT
[Prior to 10/8/86, Commerce Commission[250]]

199—23.1(476) General information.

23.1(1) Every public utility is required to keep and render its books, accounts, papers, and records accurately and faithfully in the manner and form prescribed by the board and to comply with all directions of the board relating to such books, accounts, papers, and records.

23.1(2) Each public utility subject to Iowa Code chapter 476 shall file with this board, on or before April 1 of each year, an annual report as described in this chapter and covering operations during the immediately preceding calendar year. Pursuant to Iowa Code chapter 476, this information will be used to apportion the costs of the utilities division. If a utility ceases operations through merger or sale of its plant during the calendar year, each utility involved in the transaction shall separately file, within 90 days after the merger or sale, an annual report covering the portion of the calendar year operations to the date of sale or merger.

23.1(3) All pages of the report must be completed and submitted to the board. The words "none" or "not applicable" may be used to complete a schedule when they accurately and fully state the facts. The board shall be notified of the nature, amount, and purpose of any accounts used in addition to those prescribed in utilities division 199—Chapter 16. A copy shall be retained in the respondent's file. All reports are to be prepared for and certified to the Iowa utilities board.

23.1(4) Annual report requirements specified in "Regulations Governing Service Supplied by Gas, Electric, Telephone, or Water Utilities," utilities division, 199—Chapters 19, 20, 21, and 22, shall be included with the annual reports set forth in the following paragraphs. The reporting utility should use its own format in preparing such reports.

199—23.2(476) Annual report requirements—rate-regulated utilities. Two copies each of the following report forms must be completed and filed with the board.

23.2(1) Electric utilities.

a. Major electric utilities—Form IE-1, Annual Report—Rate-Regulated electric utilities (including FERC Annual Report Form No. 1). A "major" electric utility is defined as a utility that had, in each of the last three consecutive years, sales or transmission service that exceeded any one or more of the following: (1) 1 million megawatt hours of total sales; (2) 100 megawatt hours of sales for resale; (3) 500 megawatt hours of power exchanges delivered; or (4) 500 megawatt hours of wheeling for others (deliveries plus losses). Title 18 CFR Part 101, General Instructions 1.A.(1).

b. Nonmajor electric utilities—Form IE-1, Annual Report—Rate-Regulated electric utilities (including FERC Annual Report Form No. 1F). A "nonmajor" electric utility is defined as a utility that is not classified as major and had total sales in each of the last three consecutive years of 10,000 megawatt hours or more. Title 18 CFR Part 101, General Instructions 1.A.(2).

23.2(2) Gas utilities.

a. Major gas utilities—Form IG-1, Annual Report—Rate-Regulated gas utilities (including FERC Annual Report Form No. 2). A "major" gas utility is defined as a gas utility whose combined gas sold for resale and gas transported or stored for a fee exceeds 50 million Mcf at 14.73 psi (60° F) in each of the three previous calendar years. Title 18 CFR Part 201, General Instructions 1.

b. Nonmajor gas utilities—Form IG-1, Annual Report—Rate-Regulated gas utilities (including FERC Annual Report Form No. 2A). A "nonmajor" gas utility is defined as a utility (1) that is not classified as a major gas utility and (2) that had total gas sales volume transactions exceeding 200,000 Mcf at 14.73 psi (60° F) in each of the three previous calendar years. Title 18 CFR Part 201, General Instructions 1.

23.2(3) Telegraph utilities. Form RTG-1, Annual Report—Rate-Regulated Telegraph Utilities (including FCC Annual Report Form—R & O).

23.2(4) Telephone utilities. Form TR-1, Telephone Annual Report to the Utilities Board and Department of Revenue, State of Iowa (including FCC Annual Report Form M).

23.2(5) Water utilities.

a. Class A & B—Form WA-1, Annual Report—Rate-Regulated Water Utilities.

b. Class C & D—Form WD-1, Annual Report—Rate-Regulated Water Utilities.

23.2(6) Reports by rate-regulated utilities which have multistate operations shall provide information concerning their Iowa operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled "Iowa Operations" at the top of each schedule. It shall include:

a. Summary of utility plant and accumulated depreciation and amortization reserves.

b. Plant in service by primary account.

c. Materials and supplies.

d. Contributions in aid of construction.

e. Accumulated deferred income taxes.

f. Accumulated investment credit.

g. Statement of income for the year.

h. Operating revenues.

i. Operating and maintenance expenses.

j. Taxes charged during year.

Statements shall be included setting forth the method or basis used in making allocations between states.

23.2(7) Cooperative Electric Utilities Corporations or Associations—Form EC-1, Annual Report—Cooperative Electric Plant and Operations.

23.2(8) The respondent shall file as part of its annual report filed with the board (a) a list (by title, author, and date) of any financial, statistical, technical or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, utility organizations or associations or other interested parties and (b) a list (by form number and title) of all financial, statistical, technical and operational review-related documents filed with an agency of the federal government.

23.2(9) In addition to the above-mentioned reports, the respondent shall file with the board, immediately upon publication, two copies of any financial or statistical reports that a company may prepare for distribution to stockholders, bondholders or any other interested parties.

This rule is intended to implement Iowa Code section 476.31.

199—23.3(476) Annual report requirements—non-rate-regulated utilities. One copy of each of the following report forms must be completed and filed with the board.

23.3(1) *Municipally owned electric.* Form ME-1, Annual Report—Municipal Electric Plant and Operations.

23.3(2) *Municipally owned gas utilities.* Form MG-1, Annual Report—Municipal Gas, Plant and Operations.

23.3(3) *Non-rate-regulated telephone utilities.* Form TR-1, Telephone Annual Report to the Utilities Board and Department of Revenue, State of Iowa.

199—23.4(476,476A) Renumbered as subrule 20.13(3), effective 10/31/84.

These rules are intended to implement Iowa Code sections 476.2, 476.9, 476.10, 476.22, 476.31, and 546.7.

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CHAPTER 24
LOCATION AND CONSTRUCTION OF ELECTRIC POWER GENERATING FACILITIES

[Prior to 10/8/86, Commerce Commission[250]]

199—24.1(476A) Authority, purpose, and policy.

24.1(1) *Authority.* The regulations contained herein are prescribed by the Iowa utilities board pursuant to authority granted the board in Iowa Code chapter 476A, relating to the location and construction of electric power generating facilities.

24.1(2) *Purpose.* The purpose of these regulations is to provide guidelines for proceedings for the determination whether the proposed construction of a major electric generation facility or significant alteration thereto should be issued a certificate before such construction may commence and to state the procedures for determining compliance by the applicant with permit and licensing requirements of state regulatory agencies.

24.1(3) *Cooperative agreements.* The board may enter into cooperative agreements pursuant to Iowa Code chapter 28E with the appropriate state agencies that will facilitate thorough review of all state issues arising in the certification process and will reduce the time and expense in determining, to the extent necessary, the environmental, economic, and social effects of the facility's construction and use. Under the auspices of these 28E agreements, the board shall delegate to the various state agencies responsibility for the issuance of permits and licenses appropriate to the authority of the agency to ensure compliance with the steps in the certification process. The board, where appropriate, may use a consolidated hearing process.

199—24.2(476A) Definitions. As used in this chapter:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

"Act" means Iowa Code chapter 476A entitled Electric Power Generators.

"Agency" means an agency as defined in Iowa Code section 17A.2(1).

"Allowance" means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide, during or after a specified calendar year.

"Applicant" means the person or persons who make an application for a certificate for a facility or an amendment to a certificate for a facility under the Act. For projects with more than one participant, the applicant may be that person designated by and acting on behalf of the participants.

"Application" means an application for a certificate or an amendment to a certificate submitted to the board pursuant to the Act.

"Board" means the utilities board.

"Certificate" means a certificate as defined in Iowa Code section 476A.1.

"Contested case proceeding" means the contested case proceeding before the board prescribed by Iowa Code section 476A.4.

"Facility" means any electric power generating plant or combination of plants at a single site, owned by any person, with a maximum generator nameplate capacity of 25 megawatts of electricity or more and those associated transmission lines connecting the generating plant to either a power transmission system or an interconnected primary transmission system or both. This term includes any generation addition that increases the total maximum generator nameplate capacity at one site to 25 megawatts or more, but does not include those transmission lines beyond the generation station's substation.

"Interested agency" means an agency, other than a regulatory agency, which the board in its discretion determines to have a legitimate interest in the disposition of the application.

"Intervenor" means a person who received notice under 24.6(2)*"b," "c," "d," "e,"* or *"f"* and has filed with the board a written notice of intervention, or, in all other cases, who, upon written petition of intervention is permitted in the proceeding pursuant to 199—subrule 7.2(8).

"Participant" means any person who either jointly or severally owns or operates a proposed facility or significant alteration thereto or who has contracted or intends to contract for a purchase of electricity produced by the subject facility.

"Party" means each person or agency named or admitted as a party, including the applicant, intervenors, and consumer advocate.

"Person" means individual, corporation, cooperative, government or governmental subdivision or agency, partnership, association or other legal entity.

"Public utility" means a public utility as defined in Iowa Code section 476.1.

"Regulatory agency" means a state agency which issues licenses or permits required for the construction, operation or maintenance of a facility pursuant to statutes or rules in effect on the date on which an application for a certificate is accepted by the board.

"Significant alteration" means:

a. A change in the generic type of fuel used by the major electric generating facility; or

b. Any change in the location, construction, maintenance, or operation of equipment at an existing facility that results in a 10 percent increase or more in the maximum generator nameplate capacity of an existing facility if the increase is more than or equal to 25 megawatts.

"Site" means the land on which the generating unit of the facility, and any cooling facilities, cooling water reservoirs, security exclusion areas, and other necessary components of the facility, are proposed to be located.

"Site impact area" means the area within the state of Iowa within a ten-mile radius of the intersection of the transverse centerline axis and longitudinal centerline axis of the generator or all such generators where the proposed facility includes multiple generators.

"Zoning authority" means any city or county zoning authority in whose jurisdictional area a proposed facility site or portion thereof is located.

199—24.3(476A) Form of application, place of filing.

24.3(1) *Form of application.*

a. The application, associated documents, or other papers filed with the board in a certification proceeding shall be printed or typewritten and reproduced on sheets of 8½ inches by 11 inches (except for foldouts and special exhibits) in loose leaf or equivalent replaceable sheet form with hard cover.

b. The information required by these rules shall be indexed and arranged in a sequential manner substantially similar to the outline form of the rules, with all material submitted categorized into the specific areas and sections set forth in the rules.

24.3(2) *Manner and place of filing.*

a. An applicant shall file the original and 20 copies of its application with the board by presentation or mailing to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319.

b. Within ten days of receipt of the application the Executive Secretary shall acknowledge in writing receipt of the application, but said acknowledgment shall not constitute acceptance of the application.

c. Within ten days of the receipt of application, the board shall forward copies thereof to each regulatory agency listed in the application. In addition, that part of the application responding to 24.4(1)*"a"* through *"c"* will be forwarded to such other agencies as the board deems appropriate, including the office of state archaeologist, the division of community action agencies of the department of human rights, and the office of historical preservation of the state historical society of Iowa as interested agencies, and also to the Iowa department of transportation, and the Iowa department of natural resources, if such have not been designated as regulatory agencies.

d. Any amendments to the application shall be filed in a manner similar to that required of the application.

199—24.4(476A) Application for a certificate—contents. Each person or group of persons proposing to construct a facility after January 1, 1977, or a significant alteration to a facility shall file an application for certificate with the board, unless otherwise provided by these rules. The applicant may file a portion

of an application and, in conjunction therewith, a request that the board accept such portion of the application pursuant to subrule 24.5(3) and conduct a separate phase of the proceeding with respect to issues presented by such portion of the application to the extent permitted pursuant to 24.5(3) and 24.9(476A). An application shall substantially comply with the following informational requirements:

24.4(1) In section 1, entitled "General Information," applicant shall include the following information:

a. The legal name, address, telephone number, facsimile transmission number, and E-mail address of the applicant and all other participants of the proposed facility at the time of filing, as well as the name of the person authorized to receive communications relating to the application on behalf of those persons, Iowa business address, if applicable, and principal place of business of the applicant.

b. The name and type of business of the applicant's and all other participants' parent companies and affiliates. The information must include percentages of ownership.

c. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchase power contracts with respect to the proposed facility.

d. A general site description including a legal description of the site location, a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions, and prominent features such as cities, lakes, rivers and parks within the site impact area. Applicant shall also provide a more detailed map showing the location of the facility perimeter, utility property, railroads and other transportation facilities, abutting and adjacent properties, cities, lakes, rivers, parks, other public facilities, cemeteries and places of historical significance within one mile of the site boundary. The general site description should include a discussion of whether the proposed site is located in a flood plain.

e. A general description of the proposed facility including a description of the principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contracted maximum generator nameplate MW rating, the net facility addition in MW, by net to the busbar rating, and the portion (in MW) of the design capacity of the proposed facility which is proposed to be available for use by each participant, the number and type of generating units, primary fuel source for each such unit, total hours of operation anticipated seasonally and annually, and output in MWH during these hours, expected capacity factors, a description of the general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility, and a schedule for the facility's construction and utilization including the projected date significant site alteration is proposed to begin and the projected date the facility is to be placed into service. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available shall be considered as a single unit.

f. A general description of all raw materials, including fuel, used by the proposed facility in producing electricity and of all wastes created in the production process. In addition to describing the wastes created in the production process, the applicant shall determine annual expected sulfur dioxide emissions from the facility and provide a plan for acquiring allowances sufficient to offset these emissions. The applicant shall describe all transportation facilities currently operating that will be available to serve the proposed facility and shall describe any additional transportation facilities needed to deliver raw materials and to remove wastes.

g. Identification, general description and chronology of all financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

h. A general map and description of the primary transmission corridors and the approximate routing of the rights-of-way. An analysis of the existing transmission network's capability to reliably support the proposed additional generation interconnection to the network. The analysis must also show that the interconnection to the transmission system is consistent with standard utility practices and the proposed interconnection does not degrade the adequacy, reliability, or operating flexibility of the existing transmission system in the area. A system impact analysis performed by the operator of the transmission system with which the facility will be interconnected, as well as any analysis, in applicant's possession, submitted to an area reliability council, concerning the impact of the facility on

the area grid, shall satisfy the foregoing requirements. The impact analysis must include both local area and regional impacts.

i. The applicant, if a public utility, must include a statement of total cost to construct the proposed facility. Such cost shall include, but shall not be limited to, the cost of all electric power generating units, all electric supply lines within the facility site boundary, all electric supply lines beyond the facility site boundary with voltage of 69 kilovolts or higher used for transmitting power from the facility to the point of junction with the distribution system or with the interconnected primary transmission system, all appurtenant or miscellaneous structures used and useful in connection with said facility or any part thereof, and all rights-of-way, lands or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility.

j. The names and addresses of those owners and lessees of record or real property identified in 24.6(2)*"d"* and *"e."*

24.4(2) In section 2, entitled "Regulatory requirements," applicant shall include the following:

a. All information related to the regulatory agency and zoning authority requirements for permits or licenses necessary to construct, operate, and maintain the facility.

b. A listing of every state agency from which any approval or authorization concerning the proposed facility is required and a listing of zoning authorities.

c. Information equivalent to the information required in the rules and application forms of such state regulatory agencies and zoning authorities, to the extent such information is ready to be filed.

24.4(3) In section 3, entitled "Community impact," the applicant shall include an identification and analysis of the effects the construction, operation and maintenance of the proposed facility will have on the site impact area including, but not limited to, the following:

a. A forecast of the permanent impact of the construction, operation, and maintenance of the proposed facility on commercial and industrial sectors, housing, land values, labor market, health facilities, sewage and water, fire and public protection, recreational facilities, schools and transportation facilities.

b. A forecast of any temporary stress placed upon housing, schools or other community facilities as a result of a temporary influx of workers during the construction of the proposed facility.

c. A forecast of the impact of the proposed facility on property taxes of affected taxing jurisdictions. The forecast shall include the effects on property taxes caused by all community development proximately related to the construction of the proposed facility.

d. A forecast of the impact on agricultural production and uses.

e. A forecast of the impact on open space areas and areas of significant wildlife habitat. Such forecast shall include identification and description of the impact of the proposed facility on terrestrial and aquatic plants and animals.

f. A forecast of the impact on transportation facilities.

g. A forecast of the impact on cultural resources including known archaeological, historical and architectural properties, which are on, or eligible for, the National Register of Historic Places.

h. A forecast of the impact on landmarks of historic, religious, archaeological, scenic, natural or other cultural significance. Such information shall include applicant's plans to coordinate with the office of state archaeologist to reduce or obviate any adverse impact and the applicant's plans to coordinate with the state office of disaster services in the event of accidental release of contaminants from the proposed facility.

24.4(4) Site selection methodology. In section 4, entitled "Site selection methodology," applicant shall present information related to its selection of the proposed site for the facility. Such information shall include the following:

a. The general criteria used to select alternative sites and how these criteria were used to select the proposed site.

b. A discussion of the extent to which reliance upon eminent domain powers could be reduced by use of an alternative site, alternative generation method or alternative waste handling method.

199—24.5(476A) Initial board review: Application acceptance.

24.5(1) Upon the filing of the application or a portion of the application, the board and the appropriate regulatory agencies shall make an initial review thereof to determine if it is in substantial compliance with the requirements of rule 24.4(476A) which pertain thereto. If any significant deficiencies, including those noted by applicant, are determined to exist in the application, or such portion of the application by either the board or regulatory agency, the board shall notify the applicant specifying such deficiencies, within 45 days from the date of the filing of the application or such portion of the application.

24.5(2) Applicant shall have 30 days from notification of deficiencies to amend or request, for good cause, a reasonable extension of time to amend. In the event the applicant fails to amend within the time allowed or, after amendment, the application or portion thereof filed is not in substantial compliance with the requirements of rule 24.4(476A) which pertain thereto, the board may reject the application or such portion thereof. Such rejection shall constitute final agency action, but shall not preclude reapplication.

24.5(3) If the application or portion thereof, after amendment or otherwise, is in substantial compliance with the requirements of rule 24.4(476A) which pertain thereto, the board shall, within 45 days of the filing of the application or portion thereof or amendment thereto, accept the application or portion thereof and set the time and place for hearing as provided in rule 24.6(476A); provided, however, that upon acceptance of a partial application, the board may order separate proceedings on particular phases of the application, pursuant to rule 24.9(476A), where such partial application permits a finding to be made with regard to any of the facility siting criteria contained in subrule 24.10(2).

199—24.6(476A) Procedural schedule.

24.6(1) Upon acceptance of the application, the board shall establish a schedule for the certification proceeding which shall include:

a. A hearing to be commenced in accordance with 24.8(476A), no earlier than 90 days nor later than150 days from the date of acceptance. This hearing shall be conducted in the county in which the construction of the greater portion of the facility is being proposed.

b. Provision for the publication of notice of the schedule for the hearing held by the board in the form provided in Iowa Code section 17A.12(2), which notice shall be published in a newspaper of general circulation in each county in which the proposed site is located once each week for two consecutive weeks with the second publication being no later than 30 days after acceptance of the application.

24.6(2) The board shall serve notice of the acceptance of the application and proceeding schedule upon the following:

a. All regulatory agencies, including Iowa department of transportation and the Iowa department of natural resources.

b. Interested agencies as determined by the board, including the office of state archaeologist and the office of historical preservation of the state historical society of Iowa.

c. County and city zoning authorities from the area in which the proposed site is located; and

d. All owners of record of real property located within one mile of the intersection of the transverse center-line axis and longitudinal center-line axis of the generator, or all such generator axis intersections where the proposed facility includes multiple generators, and all owners of record of real property located within 1000 linear feet of the proposed boundary, but outside any such one-mile radius.

e. All lessees of record of real property of one acre or more located within the site boundary or within 1000 linear feet outside of the proposed site boundary.

f. Other interested persons as determined by the board.

24.6(3) Status of notice recipient.

a. Those receiving notice under 24.6(2)*"a"* shall be deemed parties to the proceeding.

b. Such notice provided under 24.6(2)*"b," "c," "d," "e"* or *"f"* shall state that the recipient shall have the right to become an intervenor upon duly filing written notice of intervention.

199—24.7(476A) Informational meeting.

24.7(1) *Place of meeting.* Not less than 30 days prior to the filing of an application the applicant shall hold an informational meeting in the county of the proposed site for the facility. In the event the

proposed site is in more than one county, such meeting shall be in that county containing the greatest portion of the proposed facility site.

24.7(2) *Meeting facilities.* The applicant shall be responsible for all negotiations and compensation for a suitable facility to be used for the informational meeting, including but not limited to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

24.7(3) *Location.* The location of the meeting shall be reasonably accessible to all persons which may be affected by the granting of the certificate.

24.7(4) *Board approval.* Board approval shall be obtained for the proposed informational meeting date, time, and location.

24.7(5) *Personnel.* The prospective applicant shall provide qualified personnel to speak for the applicant in matters relating to the following:

a. Utility planning which has resulted in the proposed construction.

b. When the facility or significant alteration will be constructed.

c. In general terms the physical construction, appearance and location of major structures with respect to proposed property lines.

d. In general terms the property rights which the applicant shall seek including purchase, option to buy, and easement.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring property rights.

f. Methods and factors used in arriving at offered compensation.

g. Manner in which payments are made including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages for which compensation is made.

i. If the undertaking is a joint effort, other participants shall be represented at the informational meeting by qualified personnel designated to speak for them.

24.7(6) *Conduct of the meeting.* A member of the board, or a hearing examiner designated by the board, shall serve as the presiding officer at the meeting and present an agenda for such meeting, which shall include a summary of the legal rights of affected legal landowners. No formal record of the meeting is required. The meeting shall be considered an opportunity for interested members of the public to raise questions regarding the proposal, and an opportunity for the applicant to respond.

24.7(7) *Notice.* At least one week prior to the time set for the informational meeting, the applicant shall cause to be published a notice of such meeting in a newspaper of general circulation in each county containing a portion of the proposed site impact area. The notice of the informational meeting shall contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the utilities board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made. Proof of such notice shall be provided to the board by applicant. Additional notice shall be made through press release to all newspapers of general circulation in each county containing a portion of the proposed site impact area and, as deemed appropriate by the board, electronic media.

This rule is intended to implement Iowa Code sections 476A.2 and 476A.12.

199—24.8(476A) Hearing procedure.

24.8(1) *General.* The proceedings conducted by the board pursuant to this chapter shall be treated in the same manner as a contested case pursuant to the provisions of Iowa Code chapter 17A. Except where contrary to express provisions below, the hearing procedure shall conform to the board's rules of practice and procedure, 199—Chapter 7, IAC. The proceeding for the issuance of certificate may be consolidated with the contested case proceeding for determination of applicable ratemaking principles under Iowa Code section 476.53.

24.8(2) *Intervention.*

a. *Notice of intervention.* An agency not receiving notice pursuant to 24.6(2)*"b"* may become a party to the contested case proceeding by filing with the board an original and ten copies of a notice of

intervention. Such notice shall contain a statement of the jurisdiction or interest of the particular agency with respect to the proposed facility.

b. Petition to intervene. Any other person wishing to become a party to the contested case proceeding may request to intervene in the proceeding by petition to intervene filed at least 30 days prior to the date of the scheduled hearing, but not afterward except for good cause shown. Such application shall specify the issues in which petitioner may contest before a regulatory agency or otherwise. A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10). The original and ten copies of the petition shall be filed with the board. All other parties to the proceeding shall have the right to resist or respond to the petition to intervene within seven days subsequent to the petitioner's service thereof.

c. Board discretion. The board may, in its discretion, grant or deny such petition or may permit intervention by the petitioner limited to particular issues or to a particular phase or stage of the proceeding. The board shall, in exercising its discretion, consider the substantiality of the petitioner's rights allegedly affected by the granting or denial of the application and whether granting the intervention will unduly delay the proceeding or have no probative value to the proceeding. The granting of any petition to intervene shall not have the effect of changing or enlarging the issues specified in the board's notice of hearing or any prehearing order of the board unless the board shall, on motion, amend the same.

24.8(3) *Appearance.* If any regulatory agency fails to appear of record in the contested case proceeding conducted by the board, the board shall conclusively presume that the facility meets the regulatory agency's permit and licensing requirements and the regulatory agency shall immediately issue any license or permit required for the construction, operation, or maintenance of the facility.

24.8(4) *Discovery.* Discovery may begin after the commencement of the contested case proceeding. It will not be grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

24.8(5) *Application for rehearing.* All applications for rehearing will be made and processed in accordance with Iowa Code section 17A.16(2). Applications for rehearing after decision made by the board must state the specific grounds upon which the application is based and must specify such findings of fact and conclusions of law and such terms or conditions of any certificate or amendment to certificate as are claimed to be erroneous, with a brief statement of the grounds of error. An application for rehearing shall substantially comply with the form prescribed in 199—subrule 2.2(13). The original and ten copies of the application shall be filed with the board.

199—24.9(476A) Separate hearings on separate issues.

24.9(1) *By motion.* The board, upon its own motion or on the motion of the applicant, may order separate phases on particular issues of the proceeding. Each phase shall be addressed to issues involved in applying one or more of the facility siting criteria set forth in subrule 24.10(2) and shall result in board findings with respect thereto.

24.9(2) *By agreement.* In accordance with agreements made pursuant to Iowa Code chapter 28E, with regulatory agencies, the board shall establish separate phases of the hearing process to determine whether the proposed facility will conform to the permit and licensing requirements of the regulatory agencies.

24.9(3) *Procedure.* Each such hearing phase shall be conducted in conformance with the requirements of 24.8(476A) or other rules of practice and procedure designated in the applicable chapter 28E agreement.

199—24.10(476A) Certification decision.

24.10(1) *Issuance of decision.* Upon the close of the record in the proceeding, the board shall expeditiously render a written decision with complete determinations as to the facility siting criteria or portion thereof under consideration, other necessary findings of fact or conclusions of law necessary to support the board's decision.

24.10(2) *Facility siting criteria.* In rendering its certification decision, the board shall consider the following criteria:

a. Whether the service and operations resulting from the construction of the facility are consistent with the legislative intent as expressed in Iowa Code section 476.53 and the economic development policy of the state as expressed in Iowa Code Title I, Subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service. Such determination shall include whether the existing transmission network has the capability to reliably support the proposed additional generation interconnection to the network.

b. Whether the construction, maintenance, and operation of the proposed facility will be consistent with reasonable land use and environmental policies, and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives. Such determination shall include:

(1) Whether all adverse impacts attendant the construction, maintenance and operation of the facility have been reduced to a reasonably acceptable level;

(2) Whether the proposed site represents a reasonable choice among available alternatives;

(3) Whether the proposed facility complies with applicable city, county or airport zoning requirements and, if not, whether the location of the proposed facility at the proposed site is reasonably justified from an economic, technical, and social standpoint.

c. Whether the applicant is willing to construct, maintain, and operate the facility pursuant to the provisions of the certificate and the Act.

d. Whether the proposed facility meets the permit and licensing requirements of regulatory agencies.

e. Requirement for good engineering practice. The applicant shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board:

(1) Iowa Electrical Safety Code, as defined in 199 IAC 25.

(2) National Electrical Code, as defined in 199 IAC 25.

(3) Power Piping-ANSI standard B31.1-2004.

24.10(3) *Amendment.* If the board finds that the application and record in the proceeding does not support affirmative findings with regard to these criteria, the board will, in its order, specify any deficiencies determined to exist. The applicant shall have 30 days from the notification of the deficiencies to amend or, for good cause, to request a reasonable extension of time to amend the application or to request reopening of the record to correct the deficiencies, or both.

24.10(4) *Denial.* In the event the applicant fails to amend in a timely fashion, or after amendment or reopening the record, or both, the board is still unable to make an affirmative finding, the board will deny the application. Applicant may request rehearing on such denial in accordance with Iowa Code section 17A.16(2).

24.10(5) *Application approval.* If the board finds, after amendment or record reopening, or both, or otherwise, that affirmative findings are appropriate, the board shall approve the application and, in accordance with 24.12(476A), prepare a certificate for construction of the facility.

199—24.11(476A) Site preparation.

24.11(1) In the event no certificate has been issued after 90 days from the commencement of the hearing, the board may permit applicant to begin work to prepare the site for construction of the facility. Any activities conducted pursuant to this section shall have no probative value to the board's decision concerning the actual issuance of a certificate.

24.11(2) In the event the board denies an application for a certificate or an amendment to a certificate, applicants who have received permission to begin site preparation, pursuant to 24.11(1), shall restore the site, in accordance with the board order denying the application.

199—24.12(476A) Issuance of a certificate.

24.12(1) *General.* The certificate shall authorize construction, maintenance, and operation of the facility on the site designated in the certificate according to the following:

a. Those terms and conditions imposed by the board and stated in the certificate.

b. Those terms and conditions in licenses and permits issued by regulatory agencies before and during the proceeding.

c. Those terms and conditions which have been specifically recommended by regulatory agencies in the proceeding and declared by those regulatory agencies or the board as being necessary for the applicant to comply with requirements of licenses or permits then sought but not yet issued.

24.12(2) *Eminent domain.* The certificate shall give the applicant the power of eminent domain to the extent and under such conditions as the board approves, prescribes, and finds necessary for the public convenience, use, and necessity, proceeding in the manner of works of internal improvement under Iowa Code chapter 472.

24.12(3) *Certificate transfer.* A certificate may be transferred, subject to the approval of the board, to a person who agrees to comply with the terms of the certificate including any amendments to the certificate. Certificates shall be transferable by operation of law to any receiver, trustee or similar assignee under a mortgage, deed of trust or similar instrument.

24.12(4) *Application withdrawal.* Pursuant to Iowa Code section 476.53, a rate-regulated utility shall have the option of withdrawing its application for issuance of a certificate.

199—24.13(476A) Exemptions from certification application; application for amendment for certificate: Contents.

24.13(1) Application for amendment.

a. Each person or group of persons proposing a significant alteration to any facility which was constructed pursuant to a certificate issued by the board shall file an application for an amendment to a certificate in lieu of an application for a certificate.

b. Each person or group of persons proposing a significant alteration to any facility which was not constructed pursuant to a certificate issued by the board must file an application for such certificate unless:

(1) The facility has not attained full commercial rating and has not operated in excess of 80 percent of its maximum nameplate megawatt rating for ten hours daily for 45 consecutive days; and

(2) The significant alteration requires no more land than was required for the facility, is within the scope of publicly announced plans for the facility's construction, and entails no additional contracts for major components than those let for the facility.

24.13(2) All applications for amendment to a certificate shall be filed in accordance with 24.3(476A) and shall include:

a. A complete identification and discussion of the nature of the amendment proposed; and

b. A complete enumeration of the effects the amendment has on the accuracy of the information contained in the application for a certificate filed pursuant to 24.4(476A).

24.13(3) Upon board acceptance of the application in accordance with 24.13(1), the board shall establish a hearing schedule. At the board's discretion, the informational meeting and prehearing conference for this proceeding may be waived. Notice shall be in accordance with 24.6(2).

24.13(4) In the consideration of an application for a certificate, pursuant to 24.13(1)*"b,"* or amendment to a certificate, pursuant to 24.13(1)*"a,"* there shall be a rebuttable presumption that the decision criteria of 24.10(2) are satisfied.

24.13(5) Amendment to a certificate. In determining whether an amendment to a certificate will be issued to the applicant, the board will be guided by the criteria set forth in 24.10(2) to the extent applicable and appropriate.

This rule is intended to implement Iowa Code sections 17A.3, 474.5, 476.1, and 476.2.

199—24.14(476A) Assessment of costs. The applicant for a certificate, or an amendment to a certificate, shall pay all the costs and expenses incurred by the board in reaching a decision on the application

including the costs of examinations of the site, the hearing, publishing of notice, board staff salaries, the cost of consultants employed by the board, and other expenses reasonably attributable to the proceeding.

This rule is intended to implement Iowa Code chapter 476A and sections 17A.3, 474.5, 476.1, and 476.2.

199—24.15(476A) Waiver. The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter. In determining whether the public interest would not be adversely affected, the board will consider the following factors:

1. The purpose of the facility.
2. The type of facility.
3. If the facility is for the applicant's own needs.
4. The effect of the facility on existing transmission systems.
5. Any other relevant factors.

In addition to other service requirements, the applicant must serve a copy of the waiver request on all owners of record of real property that adjoins the proposed facility site.

This rule is intended to implement Iowa Code sections 476A.1, 476A.2, 476A.4, 476A.6, 476A.7 and 476A.15.

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CHAPTER 25
IOWA ELECTRICAL SAFETY CODE
[Prior to 10/8/86, Commerce Commission[250]]

199—25.1(476,476A,478) General information.

25.1(1) *Authority.* The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) *Purpose.* The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and shall supersede all conflicting rules of any such utility. This rule shall in no way relieve any utility from any of its duties under the laws of this state.

199—25.2(476,476A,478) Iowa electrical safety code defined. The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the "Iowa Electrical Safety Code."

25.2(1) *National Electrical Safety Code.* The American National Standards Institute (ANSI) C2-2007 "National Electrical Safety Code" (NESC) as ultimately conformed to the ANSI-approved draft by correction of publishing errors through issuance of printed corrections is adopted as part of the Iowa electrical safety code, except Part 4, "Rules for Operation of Electric Supply and Communications Lines and Equipment," which is not adopted by the board.

25.2(2) *Modifications and qualifications to ANSI C2.* The standards set forth in ANSI C2 are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code.

(1) The following paragraph replaces NESC 011B: "The National Electrical Safety Code (NESC) covers utility facilities and functions from the point of generation by the utility, or delivery from another entity, of electricity or communications signals through the utility system to the point of delivery to a customer's facilities."

(2) NESC 013A2 is modified to read as follows: "Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

1. Qualified supervision is provided,
2. Equivalent safety is provided,
3. On joint-use facilities, all affected parties agree, and
4. Prior approval is obtained from the Iowa utilities board."

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 which are greater than otherwise required by these rules, the statutory clearances shall prevail.

(2) The following clearances shall apply to all lines regardless of date of construction: NESC 232, vertical clearances for "Water areas not suitable for sailboating or where sailboating is prohibited," "Water areas suitable for sailboating. . .," and "Established boat ramps and associated rigging areas. . ."; and NESC 234E, "Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement."

(3) Table 232-1, Footnote 21, is changed to read: "Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit shall govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used."

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2007 editions of the

NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2007 editions of the NESC.)

c. Reserved.

d. Rule 217C.1 is changed to read:

"The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

e. There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent "Warning" or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule shall apply to all signs placed or replaced after June 18, 2003.

f. There is added to the first paragraph of Rule 110.A.1, after the sentence stating, "Entrances not under observation of an authorized attendant shall be kept locked," the following sentences:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and must also be latched or fastened if there is a gate-latching mechanism.

g. Lines crossing railroad tracks shall comply with the additional requirements of 199 IAC 42.6(476), "Engineering standards for electric and communications lines."

25.2(3) *Grain bins.*

a. Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI)C2-2007 "National Electrical Safety Code," Rule 234F. This paragraph *"b"* shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

25.2(4) *General rules.*

a. *Joint-use construction.* Where it is mutually agreeable between the electric supply company and the communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. *Lines.* In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load which it is required to carry. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies

are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

25.2(5) *Other references adopted.*

a. The "National Electrical Code," ANSI/NFPA 70-2005, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery.

b. "The Lineman's and Cableman's Handbook," Eleventh Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the "National Electrical Safety Code" or "National Electrical Code," and for developing the inspection and maintenance plans required by 199 IAC 25.3(476,478).

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) *Filing of plan.* Each electric utility shall adopt and file with the board a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair, and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) *Annual report.* Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection plan or a detailed statement on areas of noncompliance.

25.3(3) *Contents of plan.* The inspection plan shall include the following elements:

a. *General.* A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. *Inspection of lines, poles, and substations.*

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. *Tree trimming or vegetation management plan.*

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. *Pole inspections.* Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

25.3(4) *Records.* Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation

inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action is completed or until all necessary repairs and maintenance are completed, whichever is longer.

25.3(5) *Guidelines.* Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2001, "Pruning," and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

199—25.4(476,478) Correction of problems found during inspections. Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly.

199—25.5(476,478) Accident reports. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.

25.5(1) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

25.5(2) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

a. An employee or other person coming in contact with energized electrical facilities which results in death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and others.

c. Any other incident considered significant by the company.

25.5(3) The board shall be notified by telephone immediately, or as soon as practical thereafter, by calling the board duty officer at 515-745-2332. The caller shall leave a telephone number of a person who can provide the following information:

a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.

e. Initial estimate of damages.

f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(2), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

These rules are intended to implement Iowa Code chapter 478.

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◊ Two or more ARCs

CHAPTER 26
RATE CASES, TARIFFS, AND RATE REGULATION ELECTION PRACTICE AND PROCEDURE

[Prior to 11/9/05, see 199—Ch 7]

199—26.1(17A,476) Scope and applicability.

26.1(1) This chapter contains procedural rules applicable only to rate cases, tariff filings, and rate regulation election by electric cooperatives. The board's general contested case procedural rules that also apply to these types of proceedings are contained in 199—Chapter 7.

26.1(2) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board pursuant to 199—1.3(17A,474,476).

199—26.2(17A,476) Defective filings. No application, pleading, document, testimony or other submission filed with a tariff incorporating changes in rates, charges, schedules, or regulations for public utility service shall be rejected as defective under this rule after the date of a board order docketing investigation of the tariff as a formal proceeding.

199—26.3(17A,476) Proposal of settlements. In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled. In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement who has previously filed a complete revenue requirement calculation shall file its revenue requirement calculation reflecting the adjustments proposed to be settled and any remaining issues to be litigated. In proposed settlements which produce an agreed-upon revenue requirement as a mutually acceptable outcome to the proceeding without an agreement on each revenue requirement issue, parties to the settlement shall jointly file schedules reflecting the specific adjustments for which the parties reached agreement. For those issues included in the proposed settlement which were not specifically resolved, the schedules should identify the range between the positions of the parties.

199—26.4(476) Rate case expense.

26.4(1) A utility making an application pursuant to Iowa Code section 476.6 shall file, within one week of docketing of the rate case, the estimated or, if available, actual expenses incurred or to be incurred by the utility in litigating the rate case. Except for expenses incurred in preparation of the rate filing and notification of customers, the expenses shall be limited to expenses incurred in the time period from the date the initial application is filed through the utility's reply brief. Each expense shall be designated as either estimated or actual.

26.4(2) Estimated or, if available, actual expenses shall identify specifically:

a. Printing costs for the following:
(1) Rate notification letters
(2) Initial filing
(3) Testimony
(4) Briefs
(5) Other (specify)
b. Postage costs
c. Outside counsel cost
(1) Number of attorneys engaged as outside counsel
(2) Hours
(3) Cost/hour
d. Outside expert witness/consultant
(1) Number of outside consultants employed
(2) Hours per consultant employed

(3) Cost/hour per consultant employed

e. Expenses stated by individual for both outside consultants and utility personnel

(1) Travel

(2) Hotel

(3) Meals

(4) Other (specify)

f. Other (specify)

26.4(3) Rate case expense shall not include recovery for expenses that are otherwise included in test year expenses, including salaries for staff preparing filing, staff attorneys, and staff witnesses. Rate case expense shall include only expenses not covered by test year expenses for the period stated in subrule 26.4(1).

26.4(4) Total allowable rate case expense shall include expenses incurred by board staff and the consumer advocate for the time period stated in subrule 26.4(1). The rate case expense to be filed by the utility shall not include these expenses.

26.4(5) The reasonableness of the estimates shall be litigated during the proceeding. At the request of the consumer advocate or the utilities board, company shall make witnesses available on any item included in the estimated rate case expense for cross-examination during the hearing.

26.4(6) Actual utility expenses shall be filed in the same format and detail as estimated expenses and shall be filed within two weeks after filing the final brief. All material variances shall be fully supported and justified.

26.4(7) The board may schedule any additional hearings to litigate the reasonableness of the final expenses.

This rule is intended to implement Iowa Code section 476.6(8).

199—26.5(476) Applications and petitions.

26.5(1) *Customer notification procedures.*

a. Definitions. Terms not otherwise defined in these rules shall be understood to have their usual meaning.

(1) "Rates" shall mean amounts per unit billed to customers for a recurring service or commodity rendered or offered by the public utility. "Rate amounts" shall mean the total bill rendered to a customer pursuant to a given rate schedule.

(2) "Charges" shall mean amounts billed to customers for a nonrecurring service or commodity rendered or offered by the public utility.

(3) "Commodity" or "commodities" shall mean water, electricity, or natural gas.

(4) "Effective date" shall mean the date on which the first customer begins receiving the service or commodity under the new rate or charge.

b. Notification of customers. All public utilities, except those exempted from rate regulation by Iowa Code section 476.1 which propose to increase rates or charges, shall mail or deliver a written notice pursuant to paragraph *"c"* or *"d"* to all customers in all affected rate classifications. The written notice shall be mailed or delivered before the application for increase is filed, but not more than 62 days prior to the filing. Any public utility exempt from rate regulation by Iowa Code section 476.1, which proposes to increase rates or charges, shall mail or deliver, not less than 30 days prior to the proposed effective date, a written notice pursuant to paragraph *"c"* or *"d"* of the rate or charge increase to all customers in all affected rate classifications.

Provided, however, that if a telephone utility is proposing to increase rates for only interexchange services, excluding EAS and intrastate access services, the utility shall cause the notice of proposed increase to be published, in at least one newspaper of general circulation in each county where such increased rates are proposed to be effective. The notice shall be published at least twice in such newspaper no more than 62 days prior to the time the application for the increase is filed with the board.

c. Standardized notice.

(1) Rate-regulated utilities. Any rate-regulated utility company may use the following forms for notification of its customers without seeking prior board approval. If the utility is asking for a general

and interim increase, it should use Form A below. If the utility is asking for only a general increase, it should use Form B below.

Form A

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately $(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges) (Customer Class)	Current (Charge) (Monthly Rate)	+	Proposed Increase	=	Proposed (Charge) (Monthly Rate)	Percentage Increase

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). If the proposed (rates) (and) (charges) are suspended, we are asking the Board for temporary authority to place into effect the following interim increase (collected subject to refund), to be effective (date). The Board may set interim (rates) (and) (charges) other than these:

Proposed Interim Rate Increase

(Charges) (Customer Class)	Current (Charge) (Monthly Rate)	+	Proposed Increase	=	Proposed (Charge) (Monthly Rate)	Percentage Increase

After a thorough investigation, the Board will order final (rates) (and) (charges) which may be different from those proposed, and determine when the (rates) (and) (charges) will become effective. If the final (rates) (and) (charges) are lower than the interim (rates) (and) (charges), the difference between the final and interim (rates) (and) (charges) will be refunded with interest.

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is: Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be made available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all current and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

Form B

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately $(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges) (Customer Class)	Current (Charge) (Monthly Rate)	+	Proposed Increase	=	Proposed (Charge) (Monthly Rate)	Percentage Increase

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). After a thorough investigation, the Board will

order final (rates) (and) (charges) which may be different from those we requested. These final (rates) (and) (charges) will become effective at a date set by the Board.

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all existing and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

(2) Utilities not subject to rate regulation. A utility not subject to rate regulation may use the following form for notification of its customers without seeking prior board approval.

Dear Customer:

On (date), (responsible party) approved an increase in (rates) (and) (charges) affecting prices for (type of service) that you receive. The increase will apply to your usage beginning on (date).

The increase in annual revenues will be approximately $(number), or (number)%.

Although the effect of the increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges) (Customer Class)	Current (Charge) (Monthly Rate)	+	Proposed Increase	=	(Charge) (Monthly Rate)	Percentage Increase

A written explanation of all current rate schedules is available without charge from our local business office. If you have any questions, please contact our business office.

(3) General requirements for a form notice. The standardized notice provided under this subsection shall be of a type size and of a quality which is easily legible. A copy of the notice with dates, cost figures, and cost percentages shall be filed with the board at the time of customer notification.

Any utility offering services or systems involving detailed rate schedules must include in its notification to customers a paragraph specifically noting the services or systems for which any increase is proposed and advising customers to contact the utility's local business office for further explanation of the increase.

Any "average" used in the standard form shall be a median average.

d. Other customer notification forms.

(1) Prior approval. Any public utility, as defined in Iowa Code section 476.1, which proposes to increase rates or charges and is not in substantial compliance with the form prescribed in 26.5(1)*"c"* above, shall submit to the board not less than 30 days before providing notification to its customers in accordance with 26.5(1)*"b,"* ten copies of such proposed notice for approval. The board, for good cause shown, may permit a shorter period for approval of the proposed notice.

(2) Form. The proposed notice as submitted to the board pursuant to 26.5(1)*"d"*(1) may contain blank spaces for dates, cost figures and cost percentages; however, a copy of the approved notice with dates, cost figures, and cost percentages shall be filed with the board at the time of the customer notification. The form of the notice, as approved by the board, may not be altered in the final form except to include dates, cost figures, and cost percentages reflecting the latest updates. The notice shall be of a type size and of a quality which is easily legible and shall be of the same format as that which was approved by the board.

(3) Required content of notification. The notice submitted for approval pursuant to 26.5(1)*"d"*(1) shall include, at a minimum, all of the information contained in the standard notice of 26.5(1)*"c."*

(4) Notice of deficiencies. Within 30 days of the proposed notice's filing, the utility shall be notified of either the approval of the notice or of any deficiencies in the proposed notice. In the event deficiencies are found to exist in the proposed notice, the board will describe the corrective measures necessary to

bring the notice into compliance with Iowa Code chapter 476 and board rules. A notice found to be deficient under this rule shall not constitute adequate notice under Iowa Code section 476.6.

(5) Fuel adjustment clause. Nothing in this subsection shall be taken to prohibit a public utility from establishing a sliding scale of rates and charges or from making provision for the automatic adjustment of rates and charges for public utility service, provided that a schedule showing such sliding scale or automatic adjustment of rates and charges is first filed with the board. Such adjustment factors that result from the sliding scale shall be printed on the customer's bill.

e. Reserved.

f. *Delivery of notification.*

(1) The notice, as it appears in 26.5(1)*"c"* or as approved by the board in accordance with 26.5(1)*"d,"* shall be mailed or delivered to all affected customers pursuant to the timing requirements of 26.5(1)*"b."*

(2) Rate-regulated utilities. Notice of all proposed increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice, except for proposed nonrecurring service charge increases, shall be conspicuously marked, "Notice of proposed rate increase," on the notice itself. If a separate mailing is utilized by a utility for customer notification except for proposed nonrecurring service charge increases, the outside of the mailing shall also be conspicuously marked, "Notice of proposed rate increase."

(3) Utilities not subject to rate regulation. Notice of all increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice of all increases, except nonrecurring service charge increases, shall be conspicuously marked, "Notice of rate increase," on the notice itself. If a separate mailing is utilized by a utility for customer notification of an increase, except a nonrecurring service charge increase, the outside of the mailing shall also be conspicuously marked, "Notice of rate increase." This subparagraph does not apply to municipal utilities.

(4) Failure of the postal service to deliver the notice to any customers shall not invalidate or delay a proposed rate increase proceeding.

(5) After the date the first notice is mailed or delivered to any affected customer and until such rates are resolved in proceedings before the board, any person who requests service and is affected by the proposed increase in rates shall receive a notice specified in paragraph 26.5(1)*"b"* not later than 60 days after the date of commencement of service to the customer.

(6) Approved notice will be required for each filing proposing an increase that is not directly identifiable with a previous customer notification.

(7) This subrule shall not apply to telephone utilities proposing to increase rates for only interexchange services, excluding EAS and intrastate access services.

26.5(2) *Applications filed in accordance with the provisions of Iowa Code section 476.7.*

a. Any rate-regulated public utility filing an application with the board requesting a determination of the reasonableness of its rates, charges, schedules, service, or regulations shall submit at the time the application is filed, factual evidence and written argument offered in support of its filing and provided that the public utility is not a rural electric cooperative, it shall also submit affidavits containing testimonial evidence in support of its filing for a general rate increase. All such testimony and exhibits shall be given or presented by competent witnesses, under oath or affirmation, at the proceeding ordered by the board as a result of the application, and the proceeding itself shall be governed by the applicable provisions of 199—Chapter 7 and rule 26.4(476).

b. All of the foregoing requirements shall likewise apply in the event the board shall, on its own motion, initiate a formal proceeding to determine the reasonableness of a public utility's rates, charges, schedules, service, or regulations.

26.5(3) *Tariffs to be filed.* A rate-regulated public utility shall not make effective any new or changed rate, charge, schedule, or regulation until it has been approved by the board and the board has determined an effective date, except as provided in Iowa Code section 476.6, subsections 11 and 13. If the proposed new or changed rate, charge, schedule, or regulation is neither rejected nor approved by the board, the board will docket the tariff filing as a formal proceeding within 30 days after the filing date. Proposed new or changed rates, charges, schedules, or regulations which contain energy efficiency

expenditures and related costs which are incurred after July 1, 1990, for demand-side programs shall not be included in a rate-regulated utility's proposed tariff which relates to a general increase in revenue. A utility may propose to recover the costs of process-oriented industrial assessments not related to energy efficiency as defined in rule 199—35.2(476). The filing is not a contested case proceeding under the Iowa administrative procedure Act unless and until the board dockets it as a formal proceeding. No person will be permitted to participate in the filing prior to docketing, except that the consumer advocate and any customer affected by the filing, except as limited by 199—subrules 22.12(1) and 22.13(1), may submit within 20 days after the filing date a written objection to the filing and a written request that the board docket the filing, which request the board may grant in its discretion. Such written objections and requests for docketing shall set forth specific grounds relied upon in making the objection or request.

26.5(4) *Letter of transmittal.* Three copies of all tariffs and all additional, original, or revised sheets of tariffs and the accompanying letter of transmittal shall be filed with the board and shall include or be accompanied with such information as is necessary to explain the nature, effect, and purpose of the tariff or additional, original, or revised sheets submitted for filing. Such information shall include, when applicable:

a. The amount of the aggregate annual increase or decrease proposed.

b. The names of communities affected.

c. The number and classification of customers affected.

d. A summary of the reasons for filing and such other information as may be necessary to support the proposed changes.

e. A marked version of the pages to be changed or superseded showing additions and deletions, if the tariff is prepared with word processing software supporting such marking. All new language must be marked by highlight, background shading, bold text, or underlined text. Deleted language must be indicated by strike-through. The marked version may be in either paper or electronic form and may be prepared manually or by word processing. When a marked version is infeasible or not meaningful, the letter or transmittal should state the reason for its omission.

26.5(5) *Evidence.* Unless otherwise authorized by the board in writing prior to filing, a utility must when proposing changes in tariffs or rate schedules, which changes relate to a general increase in revenue, prepare and submit with its proposed tariff the following evidence in addition to the information required in 26.5(8). The board shall act on requests for waivers not later than 14 days after filing of those requests. If no action is taken on a request for waiver, it shall be deemed denied.

a. Factors relating to value. A statement showing the original cost of the items of plant and facilities, for the beginning and end of the last available calendar year, any other factors relating to the value of the items of plant and facilities the utility deems pertinent to the board's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

b. Comparative operating data. Information covering the latest available calendar year immediately preceding the filing date of the application.

(1) Operating revenue and expenses by primary account.

(2) Balance sheet at beginning and end of year.

c. Test year and pro forma income statements. Schedules setting forth revenues, expenses, net operating income of the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates.

d. Additional evidence for rural electric cooperatives. In addition to the foregoing evidence, a rural electric cooperative shall file schedules setting forth utility long-term debt and debt costs, accrued utility operating margins and other components of patronage capital, the cooperative's plan to refund utility patronage credits, the ratio of utility long-term debt to retained utility operating margins, the times interest earned ratio, the debt service coverage, authorized utility construction programs, utility operating revenues from base rates, and utility operating revenues from power cost adjustment clauses.

e. Additional evidence for investor-owned utilities. In addition to the foregoing evidence, an investor-owned utility shall file, at the same time the proposed increase is filed, the following information. For the purposes of these rules, "year of filing" means the calendar year in which the filing is made.

Unless otherwise specified in these rules, the information required shall be based upon the calendar year immediately preceding the year of filing.

(1) Rate base for both total company and Iowa jurisdictional operations calculated by utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis, except for the cash working capital component of this figure, which will be computed on the basis of a lead-lag study as set forth in subparagraph (5).

The rate base for the Iowa jurisdictional operations of rate-regulated telephone utilities will be computed on the basis of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated service with any previous estimates of deregulated usage for a given time period for the purpose of adjusting rate base and income statement allocations between deregulated and regulated services. Trued-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.

(2) Revenue requirements for both total company and Iowa jurisdictional operations to include: operating and maintenance expense, depreciation, taxes, and return on rate base. The Iowa jurisdictional expenses of rate-regulated telephone utilities will be adjusted to reflect allocation factors which have been computed as a result of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated usage for a given time period for the purpose of adjusting rate base and income statement allocations between deregulated and regulated services. Trued-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.

(3) Capital structure calculated utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis.

(4) Schedules supporting the proposed capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure and schedules showing requested return on rate base with capital structure and corresponding capital cost.

(5) Cash working capital requirements, including a recent lead-lag study which accurately represents conditions during the test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.

(6) Complete federal and state income tax returns for the two calendar years preceding the year of filing and all amendments to those returns. If a tax return or amendment has not been prepared at the time of filing, the return shall be filed with the board under this subrule at the time it is filed with the Internal Revenue Service or the state of Iowa department of revenue.

(7) Schedule of monthly Iowa jurisdictional expense by account as required by chapter 16 of the board's rules unless, upon application of the utility and prior to filing, the board finds that the utility is incapable of reporting jurisdictional expense on a monthly basis and prescribes another periodic basis for reporting jurisdictional expense.

(8) For gas, electric and water utilities, a schedule of monthly consumption (units sold) and revenue by customer-rate classes, reflecting separately revenue collected in base rates and adjustment clause revenues. For telephone companies, a rate matrix as set forth in the company's annual report (page B-16), shall be filed along with a statement of the total amount of revenue produced under the rate matrix.

(9) Schedules showing that the rates proposed will produce the revenues requested. In addition to these schedules, the utility shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect costs, the narrative should state how that objective is achieved, and should be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect costs, a statement should be furnished justifying the departure from cost-based rates. This filing shall be in compliance with all other rules of the board concerning rate design and cost studies.

(10) All monthly or periodic financial and operating reports to management beginning in January two years preceding the year of filing. The item or items to be filed under this rule include: (a) reports of sales, revenue, expenses, number of employees, number of customers, or similar data; (b) related

statistical material. This requirement shall be a continuing one, to remain in effect through the month that the rate proceeding is finally resolved. Notwithstanding other provisions concerning the number of copies to be filed, one copy of each report shall be filed under this rule.

(11) Schedule of monthly tax accruals separated between federal, state, and property taxes, including the methods used to determine these amounts.

(12) Allocation methods, including formulas, supporting revenue, expense, plant or tax allocations.

(13) Schedule showing interest rates, dividend rates, amortizations of discount and premium and expense, and unamortized 13 monthly balances of discount and premium and expense, ending on December 31 of the year preceding the year of filing, for long-term debt and preferred stock.

(14) Schedule showing the 13 monthly balances of capital stock expense associated with common stock, ending on December 31 of the year preceding the year of filing.

(15) Schedule showing the 13 monthly balances of capital surplus, separated between common and preferred stock, ending on December 31 of the year preceding the year of filing. For the purpose of this rule, capital surplus means amounts paid in that are less than or are in excess of par value of the respective stock issues.

(16) Stockholders' reports, including supplements for the year of filing and the two preceding calendar years. If such reports are not available at the time of filing, they shall be filed immediately upon their availability to stockholders.

(17) If applicable, securities and exchange commission Form 10Q for all past quarters in the year of filing and the preceding calendar year, and Form 10K for the two preceding calendar years. If these forms have not been filed with the Securities and Exchange Commission at the time the rate increase is filed, they shall be filed under this subrule immediately upon filing with the Securities and Exchange Commission. This requirement is not applicable for any such reports which are routinely and formally filed with the board.

(18) Any prospectus issued during the year of filing or during the two preceding calendar years.

(19) Consolidated and consolidating financial statements.

(20) Revenue and expenses involving transactions with affiliates and the transfer of assets between the utility and its affiliates.

(21) A schedule showing the following for each of the 15 calendar years preceding the year of filing, and for each quarter from the first quarter of the calendar year immediately preceding the year of filing through the current quarter.

Earnings, annual dividends declared, annual dividends paid, book value of common equity, and price of common equity (each item should be shown per average actual common share outstanding, adjusted for stock splits and stock dividends).

Rate of return to average common equity.

Common stock earnings retention ratio.

For common stock issued pursuant to tax reduction act stock ownership plans, employee stock option plans, and dividend reinvestment plans: net proceeds per common share issued, and number of shares issued and previously outstanding at the beginning of the year. This shall be set forth separately for each of the three types of plans, and reported as annual aggregates or averages.

For other issues of common stock: net proceeds per common share issued, and number of shares issued and previously outstanding for each issue of common stock.

(22) If the utility is applying for a gas rate increase, a schedule for weather normalization, including details of the method used.

(23) All testimony and exhibits in support of the rate filing attached to affidavits of the sponsoring witnesses. All known and measurable changes in costs and revenues upon which the utility relies in its application shall be included.

Unless otherwise required, an original plus ten copies of all testimony and exhibits, and four copies of all other information, shall be filed. Three copies of each of the preceding items shall be provided to the consumer advocate. In addition, two electronic copies of each computer-generated exhibit which complies with the standards in 199—7.7(476) and two copies of a brief description of the software and hardware requirements of noncomplying electronic copies of computer-generated exhibits shall be filed

with the board and the consumer advocate. Two copies of the noncomplying electronic copies shall be provided upon request by any party or the board.

If the utility which has filed for the rate increase is affiliated with another company as either parent or subsidiary, the information required in subparagraphs (3), (4), (6), (13) to (19), and (21) shall be provided for the parent company (if any) and for all affiliates which are not included in the consolidating financial statements filed pursuant to this rule.

(24) Information relating to advertisements including:

1. A portfolio of all advertisements charged to ratepayers either produced, recorded or a facsimile thereof;

2. Cost data for all advertisements and the accounting treatment utilized; and

3. An account of total advertising expense including a breakdown of the expense by category.

f. All rate-regulated utilities shall submit at the time of filing an application for increased rates, all workpapers used to prepare the analysis and data submitted in support of the application. All workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

g. Additional evidence. The applicant may submit any other testimony, schedules, exhibits, and data which it deems pertinent to the application.

(1) Additional evidence may include:

1. Testimony, schedules, exhibits, and data concerning the cost of capital infrastructure investment that will not produce significant revenues and will be in service in Iowa within nine months of the test year.

2. Testimony, schedules, exhibits, and data concerning cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(2) The utility shall specifically identify and support the information, including providing an estimate at the time of filing and addressing prudence issues, regarding the changes that will be verifiable within nine months of the test year, with such verification provided to other parties as soon as the data is available. To be considered, the verifiable information must be offered into the record prior to the closing of the record at the hearing in the proceeding.

(3) A utility electing to file additional evidence under this paragraph shall include in the reports required in subparagraph 26.5(5)*"e"*(1) any capital infrastructure investments that will not produce significant revenues and have been placed in service in Iowa, or capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(4) A utility electing to file additional evidence under this paragraph shall provide additional schedules as required by subparagraphs 26.5(5)*"e"*(13), (14), and (15) related to capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

Subparagraphs 26.5(5)*"g"*(1) through (4) are repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if subparagraphs 26.5(5)*"g"*(1) through (4) had not been repealed. Upon repeal of subparagraphs 26.5(5)*"g"*(1) through (4), the board may still consider the adjustments addressed in those subparagraphs, but shall not be required to consider them.

26.5(6) *Evidence requested by the board.* The applicant shall furnish any additional evidence as ordered by the board at any time after the filing of the tariff.

26.5(7) *Applications pursuant to Iowa Code section 476.6 that are not general rate increase applications.* At the time a rate-regulated public utility, other than a rural electric cooperative, files for new or changed rates, charges, schedules, or regulations except in conjunction with general rate increase applications, it shall submit the following:

a. Any cost, revenue, or economic data underlying the filing.

b. An explanation of how the proposed tariff would affect the rates and service of the public utility.

c. All testimony and exhibits in support of the filing attached to affidavits of the sponsoring witnesses.

26.5(8) *Requests for temporary authority pursuant to Iowa Code section 476.6.*

a. A request for temporary authority to place in effect any suspended rates, charges, schedules, or regulations shall be separately identified and shall include:

(1) For each adjustment or issue, a brief explanation of the adjustment or issue and its purpose which includes the specific regulatory principles relied on to support the adjustment or issue and citations to either the rules, statutes, or decisions in which the regulatory principle was codified or previously applied.

(2) Schedules supporting the proposed temporary rate capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure, and schedules showing requested return on rate base with capital structure and corresponding capital cost.

(3) All workpapers supporting the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

b. Within 30 days of the filing of a request for temporary authority, an objection may be filed. An objection to a request for temporary authority shall separately identify each disputed adjustment or issue and shall include:

(1) A brief explanation of the basis for the disputed adjustment or issue which includes the specific regulatory principles relied on and citations to either the rules, the statutes, or decisions in which the regulatory principle was codified or previously applied.

(2) All workpapers supporting the objection to the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

c. Within 15 days of the filing of the objection, the utility may file a reply.

d. For this rule, the following filing requirements apply:

(1) Request for temporary authority—original plus ten copies.

(2) Objections to request—original plus ten copies.

(3) Replies—original plus ten copies.

(4) Exhibits—original plus ten copies. In addition, two electronic copies of each computer-generated exhibit shall be filed. Only electronic copies of computer-generated exhibits that comply with 199—7.7(476) shall be filed.

(5) Electronic workpapers—two copies and two hard-copy printouts.

(6) Other workpapers—five copies.

(7) Specific studies or financial literature—two copies. In addition, three copies of each document filed shall be provided to consumer advocate.

199—26.6(476) Answers.

26.6(1) *Time for.* Answers to applications for new or changed rates, charges, schedules, or regulations shall be permitted only if and when the application is docketed as a formal proceeding by the board, and shall be filed with the board within 20 days after the date of docketing. All answers must specifically admit, deny or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support such answer; except that a party's failure to file an answer to an application for new or changed rates, charges, schedules, or regulations will be deemed a denial of all allegations of the application.

26.6(2) *Motion to dismiss.* Motions to dismiss applications for new or changed rates, charges, schedules, or regulations shall be permitted only if and when the application is docketed as a formal proceeding by the board.

199—26.7(476) Rate investigation. The board shall commence a rate investigation upon the motion of the general counsel or the consumer advocate alleging that a rate-regulated utility's annual report, a special audit, or an investigation by the board staff or the consumer advocate, indicates that the earnings of that public utility may have been or will be excessive. The board may also commence a rate investigation upon the motion of any interested person.

199—26.8(476) Procedural schedule in Iowa Code sections 476.3 and 476.6 proceedings.

26.8(1) In any proceeding initiated as a result of the filing by a public utility of new or changed rates, charges, schedules or regulations, the utilities board or presiding officer shall set a procedural schedule based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule. The times and places of consumer comment hearings shall be set at the discretion of the utilities board or presiding officer.

Prepared direct testimony and exhibits in support of the filing—date of initial filing.

Docket case as a formal proceeding, suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.

All further testimony—completed not later than six months from date of initial filing.

Cross-examination of all testimony—completed not later than seven months from date of initial filing.

Briefs of all parties—filed not later than eight and one-half months from date of initial filing.

26.8(2) In a proceeding initiated as a result of the filing of a complaint pursuant to Iowa Code section 476.3, the utilities board or presiding officer shall set a procedural schedule based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule.

Prepared direct testimony and exhibits in support of the filing—date of initial filing.

Docket case as a formal proceeding to suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.

All further testimony—completed not later than six months from date of initial filing.

Cross-examination of all testimony—completed not later than seven months from date of initial filing.

Briefs of all parties—filed not later than eight and one-half months from date of initial filing.

26.8(3) In setting the procedural schedule in a case, the board or administrative law judge shall take into account the existing hearing calendar and shall give due regard to other obligations of the parties, attorneys and witnesses. The board or administrative law judge may on its own motion or upon the motion of any party, including consumer advocate, for good cause shown change the time and place of any hearing. Any effect such a change has on the remainder of the procedural schedule or the deadline for decision shall be noted when the change is ordered.

26.8(4) Additional time may be granted a party, including consumer advocate, upon a showing of good cause for the delay, including but not limited to:

a. Delay of completion of previous procedural step.

b. Delays in responding to discovery or consumer advocate data requests.

Any effect such an extension has on the remainder of the procedural schedule or the deadline for decision shall be noted in the motion for extension and the board order granting the extension.

26.8(5) If any party, including consumer advocate, wishes to utilize the electric generating facility exception to the ten-month decision deadline contained in Iowa Code section 476.6, it shall expeditiously file a motion seeking this exception including an explanation of that portion of the suspended rates, charges, schedules or regulations necessarily connected with the inclusion of the generating facility in rate base. Any other party may file a response to such a motion.

199—26.9(476) Consumer comment hearing in docketed rate case of an investor-owned utility company. The board shall hold consumer comment hearings to provide an opportunity for members of the general public who are customers of an investor-owned utility company involved in a docketed rate case to express their views regarding the case before the board as well as the general quality of service provided by the utility. However, specific service complaints must follow the procedure prescribed in 199—6.2(476). Nothing shall prohibit the board from holding consumer comment hearings on any other docketed rate case.

26.9(1) The consumer comment hearing will be presided over by either the board member(s) or an administrative law judge assigned by the board. Representatives from the utility company shall be

present to explain, in a concise manner, the pertinent points of the company's proposal. The company's representatives shall also respond to any questions directed to them. All representatives from the utility company that are participating, except for legal counsel, shall be under oath. All board staff members that are participating in the hearing shall be under oath.

26.9(2) Individuals who wish to testify at the consumer comment hearing need not preregister with the board but need only sign up at the time of the hearing. The board member(s) or administrative law judge may limit the length of testimony when a large number of persons wish to testify. Sworn testimony shall become a part of the permanent record of the rate proceeding.

26.9(3) All participants in the hearing may correct misinformation within testimony. Correction of misinformation may be made at the time of the hearing during oral presentation or, if the misinformation does not come to the attention of the participants until after the hearing, correction of misinformation may be submitted in writing to the board within 20 days after the oral presentation. Written submissions shall be limited to a statement identifying the party whose testimony is to be corrected, and a brief statement of the incorrect testimony. This shall be followed by a brief statement of the correct information. This procedure shall be utilized to correct only such information that is clearly erroneous. Written submissions of corrections of misinformation shall not be used to slant, clarify or add to the testimony given during oral presentation. Corrections of misinformation which comply with this rule shall become a part of the permanent record.

The consumer comment hearing is not an appropriate forum for any party to make a record for or against the rate case.

26.9(4) The consumer comment hearing shall be held in a major population center served by the utility company at a time of day convenient to the largest number of customers. It shall be conducted in a facility large enough to accommodate all who wish to attend. Notice of the consumer comment hearing shall be sent by the board's public information office to newspapers, radio, and television stations in the area served by the utility company.

26.9(5) Individuals unable to attend a consumer comment hearing may submit written comments to the board. Written comments shall become part of the permanent file of the rate proceeding, but not part of the record as sworn testimony.

26.9(6) Consumer comment hearing may be waived by the board if the interests of the public are better served without a hearing.

This rule is intended to implement Iowa Code sections 474.5, 476.1 to 476.3, 476.6, 476.8, 476.10, 476.31 to 476.33.

199—26.10(476) Appeal from administrative law judge's decision. When an appeal is taken from an administrative law judge's decision determining the reasonableness of rates after formal docketing of the proceeding pursuant to Iowa Code section 476.6, the filing of a notice of appeal in compliance with this rule may be deemed a request for additional time to complete the proceeding, for good cause shown and, if the board so determines, shall extend the date when any rates approved on a temporary basis become permanent for a period not to exceed one-half of the additional time, shown in the procedural schedule, for a final board decision on the appeal.

199—26.11(476) Consideration of current information in rate regulatory proceedings.

26.11(1) Test period. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider the use of the most current test period possible in light of existing and verifiable data respecting costs and revenues available as of the date of commencement of the proceedings.

26.11(2) Known and measurable changes. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider:

a. Verifiable data, existing as of the date of commencement of the proceedings, respecting known and measurable changes in costs not associated with a different level of revenue and known and measurable revenues not associated with a different level of costs, that are to occur within 12 months after the date of commencement of the proceedings.

b. Data which becomes verifiable prior to the closing of the record at the hearing respecting known and measurable:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

Verifiable data filed pursuant to paragraph 26.11(2)*"b"* shall be provided to other parties as soon as the data is available so that other parties have a reasonable opportunity to verify the data to be considered by the board.

Paragraph 26.11(2)*"b"* is repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if paragraph 26.11(2)*"b"* had not been repealed. Upon repeal of paragraph 26.11(2)*"b,"* the board may still consider the adjustments addressed in the paragraph, but shall not be required to consider them.

26.11(3) Postemployment benefits other than pensions. For rate-making purposes, the amount accrued for postemployment benefits other than pensions in accordance with Financial Accounting Standard No. 106 will be allowed in rates where:

a. The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by SFAS No. 106.

b. The accrued postemployment benefit obligations have been funded in a board-approved, segregated and restricted trust account, or alternative arrangements have been approved by the board. Cash deposits shall be made to the trust at least quarterly in an amount that is proportional and, on an annual basis, at least equal to the annual test period allowance for postemployment benefits other than pensions.

c. The transition obligation is amortized over a period of time determined by the board that does not exceed 20 years.

d. Any funds, including income, returned to the utility from the trust not actually used for postemployment benefits other than pensions shall be refunded to customers in a manner approved by the board.

e. The board finds the benefit program and all calculations are prudent and reasonable.

26.11(4) An actuarial study of the net periodic postemployment benefit cost and accumulated postemployment benefit obligations shall be determined and filed with the board at the time a rate increase is requested, when there has been a change in postemployment benefits other than pensions offered by the utility, or every three years, whichever comes first.

26.11(5) For a period not to exceed three years commencing January 1, 1993, a rate-regulated utility may record on its books each year as a deferral the difference between the amount accrued in accordance with SFAS 106 and the amount which would have been recorded for postemployment benefits other than pensions on a pay-as-you-go basis for that year. In calculating the amount to be deferred, the utility may include in the deferral the amortization of transition obligation costs in accordance with SFAS 106.

26.11(6) Recovery of the deferrals authorized in subrule 26.11(5) will be considered only in rate cases filed prior to December 31, 1995.

This rule is intended to implement Iowa Code sections 476.1 to 476.3, 476.6, 476.8, 476.10 and 476.31 to 476.33.

199—26.12(476) Rate regulation election—electric cooperative corporations and associations.

26.12(1) *Application of rules.* Electric cooperative corporations and associations shall not be subject to the jurisdiction of the utilities board except as provided in Iowa Code section 476.1A and paragraphs *"a," "b,"* and *"c"* of this subrule.

a. *Procedure for election by members.* Upon petition of not less than 10 percent of the members of an electric cooperative or upon its own motion, the board of directors of an electric cooperative shall order a referendum election to be held to determine whether the electric cooperative shall be subject

to the jurisdiction of the utilities board. A petition for election shall be completed within 60 days of commencement.

(1) Any member of an electric cooperative desiring a referendum election shall sign a petition for election addressed to the board of directors of an electric cooperative, in substantially the following form:

PETITION FOR ELECTION

TO: (Board of Directors of subject electric cooperative)

The undersigned members request you call an election to submit to the members the following proposition:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

Signature	Address	Date

(2) Where signatures are made on more than one sheet, each sheet of the petition shall reproduce above the signatures the same matter as is on the first sheet. Each petitioner shall sign their name in their own handwriting and shall write their address and the date on which they signed.

(3) The petition shall be filed with the board of directors of the electric cooperative and an election shall be held not less than 60 days nor more than 90 days from the date on which the petition was filed.

(4) On the election date, the board of directors of the electric cooperative shall mail by first-class mail to each member of the electric cooperative a ballot containing the following language:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

□ Yes □ No

(5) The ballot shall also contain a self-addressed envelope to return the ballot to the secretary of the board of directors of the electric cooperative. The ballot shall be dated when received by the secretary. The ballot must be received by the secretary not more than 30 days after it was mailed to the members. The election procedure shall require a signature form for verification, but shall not allow the signature to be traced to the vote of a particular member.

(6) The issue in the election shall be decided by a majority of the members voting whose ballots are received by the secretary. Fifty-one percent of the membership shall constitute a quorum for the election. The secretary shall certify the results of the election and file the results with the executive secretary of the utilities board within 30 days of the election.

b. Procedure for election by board. Upon the resolution of a majority of the board of directors of an electric cooperative, the board may elect to be subject to the jurisdiction of the utilities board. The secretary of the board of directors of the electric cooperative shall file a certified copy of the resolution with the executive secretary of the utilities board within 30 days of the adoption of the resolution.

c. Effective date. Upon the resolution of a majority of the board of directors of an electric cooperative or when a majority of the members voting vote to place the cooperative under the jurisdiction of the utilities board, the utilities board shall determine an effective date of its jurisdiction which shall be not more than 90 days from the election. On and after the effective date of jurisdiction, the cooperative shall be subject to regulation by the utilities board.

d. Prohibited acts. Funds of an electric cooperative shall not be used to support or oppose the issue presented in the election. Nothing shall prohibit a letter of explanation and direction from being enclosed with the ballot.

e. Procedure for exemption. After the cooperative has been under the jurisdiction of the utilities board for two years, the members may elect to remove the cooperative from under the jurisdiction of the utilities board in the same manner as when electing to be placed under the jurisdiction of the utilities board.

f. Frequency of election. An electric cooperative shall not conduct more than one election pursuant to this subsection within a two-year period.

26.12(2) *Rate increase considerations—rural electric cooperatives.* The board's consideration of the fair and reasonable level of rates necessary for rural electric cooperatives shall include the following:

a. After investigation of the historical test year results and pro forma adjustments thereto, the board shall determine the extent to which the applicant has met the following conditions:

(1) Revenues are sufficient for a times interest earned ratio of from 1.5 to 3.0 for coverage of interest on outstanding utility short-term and long-term debt; or

(2) Revenues are sufficient for a debt service coverage ratio of from 1.25 to 2.50 on utility long-term debt; or

(3) Utility operating margins are sufficient for a ratio of from 1.5 to 2.5 of utility operating margins to interest on utility short-term and long-term debt; or

(4) Utility operating margins are sufficient for a ratio of from 1.25 to 1.75 of utility operating margins plus utility depreciation, all divided by utility long-term interest plus principal; and

(5) Utility operating margins are sufficient to return utility patronage capital credits accumulated from utility operating margins, with a retention of such credits of no more than 20 years allowed, subject to modification where compelling circumstances require time period adjustments.

b. In addition to the information in *"a"* above, evidence of the necessity for the requested rate relief may include, but need not be limited to, utility operating margins which will enable the cooperative to attain and maintain a reasonable ratio of utility long-term debt to retained utility operating margins. Cooperative's authorized construction program and an official policy statement of its board of directors on a desired ratio will be considered factors in the determination of the reasonableness of any such ratio.

c. The utilities board's initial decision will become final 15 days following its date of issuance; however, if filed within that 15-day period, allegations of error by the cooperative, staff or any intervenor as to the utilities board's findings of fact, together with a statement of readiness to present testimony, will serve to hold final disposition in abeyance pending the scheduling and completion of an evidentiary hearing. When such allegation is made, testimony in support of such position must be filed within 30 days of such filing. Upon receipt of the testimony, the utilities board will schedule additional filing dates and set the matter for hearing. When hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of the Iowa administrative procedure Act and the utilities board's rules and regulations thereunder.

These rules are intended to implement Iowa Code sections 474.3, 474.5, 474.6, 476.1 to 476.3, 476.6, 476.8 to 476.10, 476.15, 476.31 to 476.33 and 546.7.

[Filed 10/21/05, Notice 2/16/05—published 11/9/05, effective 12/14/05]

CHAPTER 27
IOWA-SAVE AMERICA'S VITAL ENERGY

Rescinded IAB 5/13/92, effective 6/17/92

CHAPTER 28
IOWA SUPPLEMENTAL ENERGY CONSERVATION PLAN

[Prior to 10/8/86, Commerce Commission[250]]

Rescinded IAB 12/19/07, effective 1/23/08

CHAPTER 29
MANAGEMENT EFFICIENCY STANDARDS
[Prior to 10/8/86, Commerce Commission[250]]

199—29.1(476) Policy and purpose. It is the policy of the board that a public utility shall be operated in an efficient manner. This chapter describes the methodology to be used for evaluating the efficiency of rate-regulated utility management and the manner in which those evaluations will be used.

199—29.2(476) Efficiency considered in rate case. In formal rate proceedings conducted under Iowa Code chapter 476, the board may consider whether the public utility is being operated in an efficient or inefficient manner. All utilities will be evaluated according to the procedure set forth in rule 29.3(476). If the board finds the utility is poorly managed or exceptionally well managed, the board may establish a penalty or reward, respectively, as provided in rule 29.4(476).

199—29.3(476) Management efficiency standards.

29.3(1) *In general.* The efficiency or inefficiency of a utility will be evaluated on a case-by-case basis, based upon the utility's particular facts and circumstances. Utility management efficiency does not lend itself to an absolute measure due to the vast array of extremely important factors that may vary from area to area. These include such things as customer mix, territory of the utility, economic conditions in the areas served, weather patterns and disasters. The reality of change, and the ability of management to anticipate and respond to these changes, greatly affect any judgment of management efficiency or inefficiency, and must be considered in establishing any rewards for efficiency or penalties for inefficiency.

When evaluating a utility, the board may consider any of the factors listed in this subrule and any additional relevant information. These factors will be guidelines for evaluating a utility's efficiency or inefficiency. No single factor or group of factors will be deemed conclusive evidence of efficiency or inefficiency. In considering those factors, the board may collect data to compare a utility, except a water utility, to other utilities providing the same service in the state. The board may consider:

a. The price per unit of service (including amounts collected subject to refund) by customer class and type of service. For natural gas utilities, one "unit of service" is 1000 BTUs.

b. Operation and maintenance costs per unit of service. Low operations and maintenance costs will not be deemed indicative of efficiency if quality of service is substandard. This data, when required, shall be reported on a total company basis and on an Iowa jurisdictional basis if the company serves jurisdictions other than Iowa.

c. Quality of service, as reflected by customer complaints shown in company and board records and measures of customer satisfaction.

d. Officer compensation.

(1) Gas and electric utilities. The total compensation for electric and gas utilities for each officer. The utility, when required, shall provide this information both for the utility and for the parent/holding company.

(2) Telephone utilities:

1. The five largest total compensation packages that are expensed or capitalized to Iowa's regulated operations by the utility or its affiliates, and

2. The five largest total compensation packages for officers or employees stationed in Iowa.

Each telephone company, when required, shall provide this information and shall indicate what portions of the compensation packages in 29.3(1)*"d"*(2)"2" are allocated to Iowa-regulated operations.

e. The company's bad debt ratio.

f. Innovative ideas implemented by utility management.

g. Other factors the board determines to be relevant in an individual proceeding.

29.3(2) *Electric utilities.* When evaluating an electric utility, the board may consider the following factors in addition to the factors listed in subrule 29.3(1):

a. Fuel cost per kwh.

b. Availability for each generating unit with 2,000 or more service hours per year.

c. Company-wide load factor.

d. Development and implementation of energy efficiency programs.

29.3(3) *Natural gas utilities.* When evaluating a natural gas utility, the board may consider the following factors in addition to the factors listed in subrule 29.3(1):

a. Total cost per unit of gas purchased by distribution companies from the pipeline (to be considered separately from operations and maintenance costs).

b. Total cost per unit of purchased gas from other sources (to be considered separately from operations and maintenance costs).

c. Residential and commercial sales volume in relation to investment in the system (rate base).

d. Unaccounted-for gas as a percentage of total sales volume.

e. Development and implementation of energy efficiency programs.

29.3(4) *Telephone utilities.* When evaluating a telephone utility, the board may consider the following factors in addition to the factors listed in subrule 29.3(1):

a. Total plant investment per customer.

b. Quality of service, as reflected by the percentage of customers with access to specific types of service.

29.3(5) *Water utilities.* Water utilities will not be evaluated by comparison with other water utilities. Satisfactory management of water utilities will be presumed unless the contrary is established in an individual proceeding under Iowa Code chapter 476.

199—29.4(476) Rewards and penalties. In the course of a proceeding conducted under Iowa Code chapter 476, the board will determine whether a utility is being managed well or poorly. In making this determination, the board will not be limited to test year data. If the board determines that a utility is being managed exceptionally well, the board will adjust the return on common equity upward to reflect the degree of management efficiency. If the board determines that a utility, except a rural electric cooperative, is being poorly managed, the board will adjust the return on common equity downward to reflect the degree of management inefficiency. When a rural electric cooperative is shown to be poorly managed, the board will disallow from the revenue requirement all travel expenses for the board of directors and manager. The board will not establish any reward or penalty if the board finds the utility has been managed satisfactorily but not exceptionally well or poorly, because satisfactory management is expected from all public utilities.

199—29.5(476) Annual reports of management efficiency. Rescinded IAB 11/5/97, effective 12/10/97.

These rules are intended to implement Iowa Code sections 476.52 and 546.7.

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[1] Effective date of Ch 29 delayed 70 days by the Administrative Rules Review Committee.

CHAPTER 30
TAX REFORM REVENUE ADJUSTMENT

199—30.1(476) Applicability. Each rate-regulated investor-owned public utility shall include in its charges or rates to customers an amount attributable to state and federal tax liability no greater than the tax liability based on the Tax Reform Act of 1986, as required by the provisions of this chapter, unless otherwise ordered by the board in a rate case proceeding.

199—30.2(476) General filing requirement. Each public utility subject to the provisions of this chapter shall determine and file, on or before May 1, 1987, the following information which shall be designated as confidential documents under Iowa Code section 422.20:

1. The revenue adjustment and all supporting workpapers.
2. The revised revenue requirement and all supporting workpapers.

199—30.3(476) Revenue adjustment. The revenue adjustment (RA) shall be calculated using 1986 data according to the following formulas:

$$TE_1 = (T_1 + NITC_1 + DT_1 - DTF_1)$$
$$TE_2 = (T_2 + NITC_2 + DT_2 - DTF_2)$$
$$RA = (TE_1 - TE_2)\ RF$$

TE_1 is the income tax expense (state and federal) calculated pursuant to income tax law prior to implementation of any of the provisions of the Tax Reform Act of 1986.

TE_2 is the income tax expense (state and federal) calculated for income tax pursuant to all provisions of the Tax Reform Act of 1986 and any state tax reform enacted in the 1987 legislative session.

RA is the revenue adjustment due to changes in the tax law.

T_1 is the income tax which is the taxable income before income tax times the composite statutory income tax rate less gross investment tax credit, calculated pursuant to tax law prior to the Tax Reform Act of 1986.

$NITC_1$ is the net investment tax credit which is the gross investment tax credit less amortization of deferred investment tax credit, calculated pursuant to tax law prior to the Tax Reform Act of 1986.

DT_1 is the deferred income tax which represents the (tax/book timing differences required to be normalized to obtain the income tax benefits of the timing differences plus tax/book timing differences allowed by the board to be normalized) times the statutory federal tax rate, calculated pursuant to tax law prior to the Tax Reform Act of 1986.

DTF_1 is the deferred income tax flowback under the tax law prior to the Tax Reform Act of 1986. It is the sum of tax/book timing differences for which deferred taxes have been accrued for such vintage years for which the timing differences have reached the point of turnaround times the federal income tax rate at which the deferred taxes were accrued.

T_2 is the income tax which is the taxable income before income tax times the composite statutory income tax rate less gross investment tax credit, calculated pursuant to the Tax Reform Act of 1986 and any state tax reform enacted in the 1987 legislative session.

$NITC_2$ is the net investment tax credit which is the gross investment tax credit less amortization of deferred investment tax credit, calculated pursuant to the Tax Reform Act of 1986 and any state tax reform enacted in the 1987 legislative session.

DT_2 is the deferred income tax which represents the (tax/book timing differences required to be normalized to obtain the income tax benefits of the timing differences plus tax/book timing differences allowed by the board to be normalized) times the statutory federal tax rate, calculated pursuant to the Tax Reform Act of 1986 and any state tax reform enacted in the 1987 legislative session.

DTF_2 is the deferred income tax flowback under the Tax Reform Act of 1986 calculated as the amount of the timing of the aggregate deferred income taxes to the aggregate timing differences as of the beginning of the period in question.

RF is the revenue factor which is calculated as one plus the (composite statutory income tax rate divided by one minus the composite statutory income tax rate), pursuant to the Tax Reform Act of 1986 and any state tax reform enacted in the 1987 legislative session.

199—30.4(476) Revised revenue requirement. The revised revenue requirement shall be the revenue collected for calendar year 1986 increased or decreased, as appropriate, by the revenue adjustment.

199—30.5(476) Rate filing. On or before June 1, 1987, each public utility shall determine and file rates designed to collect an amount no greater than the revised revenue requirement. The rates shall be increased or decreased equitably among customer classes. The rate filing is not a pending rate filing for purposes of Iowa Code section 476.6(10).

199—30.6(476) Board approval. Upon approval by the board, each public utility subject to the provisions of this chapter shall implement rates based on the revised revenue requirement beginning July 1, 1987. If a public utility has not yet received board approval to implement these rates beginning July 1, 1987, it shall file bond or other undertaking approved by the board conditioned upon refund in a manner to be prescribed by the board of any amount collected in excess of the revised revenue requirement before July 1, 1987.

These rules are intended to implement Iowa Code section 476.8.

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CHAPTER 31
ACCESS TO AFFILIATE RECORDS, REQUIREMENTS FOR ANNUAL FILINGS, AND ASSET AND SERVICE TRANSFERS

199—31.1(476) Applicability and definition of terms. This chapter applies to all rate-regulated gas or electric public utilities and rate-regulated telephone utilities providing local exchange telecommunication service. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

"Fully distributed cost" is 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 the public utility shall maintain records which 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 not be 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; 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 shall be made available to the board at the principal place of business of the public utility. Notwithstanding rule 199—18.3(476), 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 new or revised contract, arrangement, or other similar transaction between the public utility and an affiliate. The executive summary shall include: the document number, 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 shall be provided to the board upon request. This includes all contracts, arrangements, or other similar transactions as required by Iowa Code subsections 476.74(1) to 476.74(4).

31.3(2) Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of $50,000 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 shall be identified separately.

31.3(3) After an initial filing under rule 31.3(476), a public utility shall file only new contracts or arrangements or other similar transactions and modifications or amendments to existing contracts or arrangements, or other similar transactions on an annual basis. If there have been no new contracts, arrangements, or other similar transactions, the public utility shall 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 30 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.

199—31.4(476) Additional filing requirements for affiliated telecommunications service providers. In addition to information provided to or filed with the board pursuant to this chapter, any incumbent local exchange carrier (ILEC) that provides service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the board the information specified in this rule. "Service territory" refers to the area defined by the applicable telephone exchange area boundary maps on file with the board.

31.4(1) *Commercial agreements filed.* An ILEC shall file with the board all commercial agreements between the ILEC and its affiliated CLEC as they are made. For purposes of this subrule, "commercial agreements" includes, but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

31.4(2) *Supplement to annual filing.* An ILEC shall include the following information as part of its annual filing pursuant to rule 199—31.3(476):

a. The number of local numbers ported by the ILEC to nonaffiliated CLECs.

b. The number of local numbers ported by the ILEC to its affiliated CLEC.

c. The number of unbundled network element loops (UNE-Ls) provided by the ILEC to nonaffiliated CLECs.

d. The number of UNE-Ls provided by the ILEC to its affiliated CLEC.

e. The number of unbundled network element platforms (UNE-Ps), or their equivalent, provided by the ILEC to nonaffiliated CLECs.

f. The number of UNE-Ps, or their equivalent, provided by the ILEC to its affiliated CLEC.

g. The number of resale access lines provided by the ILEC to nonaffiliated CLECs.

h. The number of resale access lines provided by the ILEC to its affiliated CLEC.

i. The number of central office collocation sites provided by the ILEC to nonaffiliated CLECs.

j. The number of central office collocation sites provided by the ILEC to its affiliated CLEC.

199—31.5(476) Verified copies and confidential treatment.

31.5(1) *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 need be included in an individual filing in order to verify all contracts, arrangements, or other similar transactions included in the filing.

31.5(2) *Confidential treatment.* When a public utility files contracts, arrangements, or other similar transactions with the board, all such contracts or arrangements for which confidential treatment is sought shall be clearly marked. In addition to the requirements set out in 199—1.9(22), the public utility shall provide, at the time of filing with the board, a list designating the contracts, arrangements, and other similar transactions, if any, for which confidential treatment is sought. The public utility shall designate where and to whom contracts, arrangements, and other similar transactions determined by the board to be confidential shall be returned.

199—31.6(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 which 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 required by rule 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 required by rule 31.3(476), for

at least five consecutive years. Proposals to file alternative information shall be filed by the public utility on or before December 1 of the year preceding the year for which approval is sought.

199—31.7(476) Standards for costing service transfers between regulated operations and nonregulated affiliates.

31.7(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 shall be priced at the lower of fully distributed cost or the lowest price actually charged to other affiliates. Under no circumstances shall the service 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.

31.7(2) *Service is 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 shall be recorded at fully distributed cost.

199—31.8(476) Standards for costing asset transfers between regulated operations and non-regulated affiliates valued at less than $2 million.

31.8(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 shall the asset be recorded at a cost higher than what the regulated affiliate actually paid for the asset.

31.8(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.

199—31.9(476) Waivers. Any public utility may file an application for waiver of the requirements of this chapter. The application shall include a detailed statement of why the waiver is in the public interest.

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

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CHAPTER 32
REORGANIZATION

199—32.1(476) Applicability and definition of terms.

32.1(1) This chapter applies to any person who intends to acquire, sell, lease, or otherwise dispose indirectly or directly of the whole or any substantial part of a public utility's assets; or purchase, acquire, sell, or otherwise dispose of the controlling capital stock of any public utility, either directly or indirectly. Either individually or on a joint basis, a proposal for reorganization shall be filed by the person(s) to whom this chapter applies. All terms used in this chapter not otherwise defined shall be defined as the terms are defined in Iowa Code section 476.72. "Proposal for reorganization" means the application for approval of a reorganization including the supporting testimony, evidence, and filing requirements identified in rule 32.4(476).

32.1(2) This chapter does not apply to transfers or removals of a public utility's assets which are made specifically pursuant to a board deregulation order, as long as those transfers or removals occur within 12 months of the board's approval of an accounting separation plan.

199—32.2(476) Substantial part of a public utility's assets.

32.2(1) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to 199 IAC 1.3(17A,474,476,78GA,HF2206), no public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater. For purposes of this subrule and subrule 32.2(2), "value" means the greater of market or book value.

32.2(2) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to rule 32.8(476), no public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater. However, for utilities for which the 3 percent limit is greater than $5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of $10 million.

32.2(3) Notwithstanding the provisions of subrules 32.2(1) and 32.2(2), board approval of the following types of transactions is not necessary in the public interest and such transactions are exempt from the filing requirements of Iowa Code section 476.77 and this chapter: fuel purchases, energy and capacity purchases and sales, gas purchases, sale of accounts receivables, sale of bonds, claim and litigation payments, tax payments, regulatory fees and assessments, insurance premiums, payroll, stock dividends, financings, routine financial transactions, operation and maintenance expense, construction expense, or similar transactions which occur in the ordinary course of business; provided, however, that any transaction involving more than 10 percent of a public utility's gross utility assets less depreciation, or any transaction outside the ordinary course of business, shall not be exempt under this subrule. In addition, transactions where board approval is otherwise required in a contested case proceeding are exempt from the filing requirements of Iowa Code section 476.76 and this chapter.

32.2(4) Rescinded IAB 5/26/04, effective 6/30/04.

199—32.3(476) Declaratory rulings. Any person may request a determination as to whether the action it proposes would constitute a reorganization or whether the assets involved would constitute a substantial part of a public utility's assets, as defined in Iowa Code section 476.72 and these rules, by filing a petition for declaratory ruling, as set out in 199—Chapter 4.

199—32.4(476) Proposal for reorganization—filing requirements. Any person who intends to accomplish a reorganization shall file supporting testimony and evidence with its proposal for reorganization, which shall include, but not be limited to, the following information:

32.4(1) General information.

a. A statement of the purposes of the reorganization and a description of the events which led to the reorganization.

b. An analysis of the alternatives to the proposed reorganization which were considered and their impact on rates and services, if any.

32.4(2) Reorganization details.

a. Written accounting policies and procedures for the subsequent operation, including the type of system of accounts to be used.

b. Staffing changes due to the proposed reorganization.

c. The situs of the books and records of the public utility after reorganization and their availability to the board.

d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish reorganization.

e. The proposed method for:

(1) Accounting for and allocating officer's time between the public utility and any affiliates, and

(2) Compliance with the board's rules on affiliate transactions and relationships.

f. Copies of all contracts which directly relate to the reorganization. If there are any unwritten contracts or arrangements, a summary of the unwritten contracts or arrangements verified by an officer of the operating company shall be provided.

g. Before and after organizational charts for the affected public utility and affiliates.

h. A statement of any proposed physical removal of assets from the board's jurisdiction to another jurisdiction or removal or transfer of assets from a regulated to a nonregulated environment.

32.4(3) Financial details.

a. An analysis of whether the affected public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure and corporate financial integrity, is impaired.

b. A description of the financing components of the proposed reorganization.

c. Information concerning the funding provided to any new entity created by the proposed reorganization.

d. Current and proposed reorganization balance sheets and capital structures.

e. Stockholder annual report for two years preceding the year of filing for all affected companies.

f. Stockholder quarterly reports for the two quarters just prior to the date of the filing and any subsequent reports as they become available during the proceeding, for all affected companies.

g. The major credit rating agencies' reports for two years preceding the filing date of the merger and updates as they become available during the proceeding, for all affected companies.

h. Any proxy statement to the stockholders regarding the proposed reorganization. If such is not available at time of filing, a preliminary statement shall be filed followed by the final statement when available.

32.4(4) Impact of reorganization.

a. A cost-benefit analysis which describes the projected benefits and costs of reorganizing. The benefits and costs should be quantified in terms of present value. The sources of such benefits and costs shall be identified.

b. An analysis of the projected financial impact of the proposed reorganization on the ratepayers of the affected public utilities for the first five years after reorganization.

c. An analysis of the effect on the public interest. Public interest means the interest of the public at large, separate and distinct from the interest of the public utility's ratepayers. The analysis should include a discussion of the reorganization's impact on the economy of the state and the communities where the utility is located.

If more than one public utility is involved in a reorganization, the information shall be submitted for all public utilities involved.

32.4(5) If any information required by subrules 32.4(1) through 32.4(4) is not applicable to the type of reorganization being proposed, the applicant shall, in lieu of providing the information, state the reason(s) why the particular information is not applicable to the proposal.

32.4(6) Effect on service and reliability.

a. Report on quality of service and reliability levels of utility services for each of the five years prior to the year of filing, for all affected companies.

b. Detailed statement on how the proposed reorganized entity will maintain or enhance service and reliability. Provide any investment or operational plans for this purpose that are available.

199—32.5(476) Effective date. A proposed reorganization shall not become effective until at least 90 days after the date the proposal for reorganization has been submitted to the board unless the board issues an order affirmatively approving the proposed reorganization.

199—32.6(476) Insufficient filing. The board may reject for filing within 30 days any proposal for reorganization that does not contain sufficient information for the board to evaluate the proposal for reorganization. The board shall fully describe any deficiencies in a reorganization plan which is rejected for filing.

199—32.7(476) Additional information authorized. The board may require an applicant to file information in addition to the information required by rule 32.4(476).

199—32.8(476) Waivers. Any public utility or applicant may file an application for waiver of the provisions of this chapter. The application shall include a detailed statement of why review of a proposed reorganization is not necessary or in the public interest.

199—32.9(476) Procedural matters. Because of statutory time limitations, an expedited procedural schedule shall be utilized for proposals for reorganization. The board may order additional specific procedures as needed for the expedited hearing process.

32.9(1) Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors shall file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing. However, failure to file written testimony and exhibits within 40 days shall not preclude the consumer advocate and any intervenors from presenting witness testimony and exhibits at any hearing ordered by the board to be held with respect to the proposed reorganization.

32.9(2) Responses to data requests shall be made within five days from the date of service.

32.9(3) When a hearing on the proposed reorganization is scheduled, the applicant, consumer advocate, and any intervenors shall file a joint statement of the issues at least ten days prior to the date of hearing.

32.9(4) Intervention. Notwithstanding the provisions of 199—subrule 7.13(1) regarding the time to petition to intervene, a party may petition to intervene subsequent to the filing of an application for reorganization, but no later than a date for intervention established by the board in a notice of hearing.

These rules are intended to implement Iowa Code sections 476.76 and 476.77.

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CHAPTER 33
NONUTILITY ACTIVITIES—RECORD KEEPING AND COST ALLOCATIONS

199—33.1(476) Applicability. This chapter applies to all rate-regulated gas or electric public utilities.

199—33.2(476) Definitions. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

"Exception time reporting" is when an employee works predominantly in either utility or nonutility operations and only reports time worked in the less predominant area.

"Filing threshold" means that the summation of a utility's revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility's operating revenues recorded in FERC account 400. The revenues in these accounts will be as recorded in the annual FERC Form 1 for electric and combination utilities and FERC Form 2 for gas utilities.

"Fully distributed cost" is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of utility and nonutility services.

"Incidental activities" are activities that are so closely related to the provision of utility services that to separate the costs of such services would exceed the benefit.

"Net book value" means the lower of the original purchase price net of depreciation or any transfer price between affiliates.

"Nonproductive work time" is time for which an employee is paid but is not productively working.

"Positive time reporting" is when productive work time is accounted for and assigned to utility operations or nonutility operations.

"Study time reporting" is when periodic studies are done to determine the amount of productive work time being spent on utility versus nonutility operations.

"Utility operating revenues" are the dollar amounts recorded in FERC account 400.

199—33.3(476) Availability of records.

33.3(1) *Separate records.* A rate-regulated gas or electric public utility receiving revenues for providing nonutility service shall keep and render to the board separate records on the nonutility service.

33.3(2) *Records to be maintained.* The records maintained for each nonutility service and made available for inspection shall include, but not be limited to: documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; a description of methods used to allocate revenues, expenses, and investments between utility and nonutility operations, including supporting detail; and copies of all filings required by other state and federal agencies.

33.3(3) *Method of inspection.* The records for each nonutility service shall be made available to the board at the principal place of business of the public utility. Notwithstanding rule 199—18.3(476), 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—33.4(476) Costing methodology. Costs shall be allocated between utility and nonutility operations using fully distributed cost.

33.4(1) *Cost causation for utility assets.* Each utility shall identify for each asset involved directly or indirectly, in whole or in part, to the provision of nonutility services: *(a)* the type of asset; *(b)* the use of the asset; *(c)* the applicability of the asset to utility operations, nonutility operations, or both; and *(d)* the usage characteristics of the asset.

33.4(2) *Cost causation for utility expenses.* Each utility shall identify for each expense account wherein any expense related, directly or indirectly, to the provision of nonutility services is recorded: *(a)* the function causing the expense to be incurred; *(b)* the procedure used in performing the function;

(c) the applicability of the function to utility operations, nonutility operations, or both; and *(d)* the characteristics of the cost that will allow proper assignment.

33.4(3) *Time reporting.* Positive time reporting shall be used whenever possible. In situations where positive time reporting cannot be used, exception time reporting or study time reporting may be used. Nonproductive work time shall be allocated between utility and nonutility operations in proportion to the allocation of productive work time.

199—33.5(476) Cost allocation manuals. Every rate-regulated gas or electric public utility equaling or exceeding the filing threshold in any calendar year shall file with the board a cost allocation manual on or before September 1 of the following year. If the utility has not changed its cost allocation manual since the last filing on September 1, the utility shall file a letter with the board to that effect. Refer to subrule 33.5(3) for information on updating cost allocation manuals. In the event the utility has made only minor changes to its manual regarding new accounts or new affiliates, or has modified language, the utility may file only the pages affected. The filing shall include a cover letter explaining the pages being filed.

33.5(1) *Contents of manuals.* Each cost allocation manual must contain the following information:

a. *Nonutility activities.* A list, the location, and description of all nonutility activities as defined in Iowa Code section 476.72(3).

b. *Incidental activities.* A summary of activities that are incidental to the provision of utility services and minor in size.

c. *Resource identification.* An identification of the assets and expenses involved directly or indirectly, in whole or in part, to the provision of nonutility services as identified in subrules 33.4(1) and 33.4(2).

d. *Assignment methodology.* A description of the cost assignment methodology. This paragraph provides an overview, explanation, and justification of the details provided in paragraphs *"e"* through *"h."*

e. *Assignment rationale.* A list showing the cost assignment method for each account. The list shall show for each account and subaccount identified in subrules 33.4(1) and 33.4(2) the basis for assigning costs in the account to utility and nonutility operations.

f. *Accounts and records.* A description of each account and record used by the utility for financial record keeping of nonutility services, including all subaccounts.

g. *Assignment basis.* An explanation of each assignment basis. This paragraph shall contain, for each assignment basis contained in paragraph *"e,"* a definition of the basis, an explanation of how the allocation factor is calculated, a description of each study and analysis used in developing the allocation factor, and the frequency with which each allocation factor is recalculated.

h. *Time reporting methods.* An explanation of the time reporting methods used. This paragraph shall indicate the type of time reporting (positive, exception, or study) used for each reporting organization (e.g., executive, residential sales, and external affairs), and a description of how the type of time reporting is done in that reporting organization.

i. *Training.* A description of the training programs used by the utility to implement and maintain its cost allocation process.

j. *Update process.* A description of the procedures used by the utility to (1) determine when an update is needed; (2) develop the update; and (3) provide the update to the board.

33.5(2) *Filing and approval of manuals.* The following procedure shall be used for the filing and approval of manuals.

a. *Filing.* Utilities meeting the filing threshold requirements shall file manuals on or before September 1 of the year following the year the threshold requirement was first met.

b. *Notice.* At the time of the initial filing and whenever a manual is updated, each utility shall mail or deliver a written notice to consumer advocate, local trade associations, and customers who have notified the utility in writing of their interest in the filing. The notice shall state that an objection may be filed with the board within 60 days of the filing of the manual with the board. The utility shall promptly provide copies of the manual upon request.

c. *Objections.* Any interested person may file an objection with the board within 60 days of the filing date.

d. *Docketing.* If the board finds that reasonable grounds exist to investigate the manual, the board will docket the filing as an investigation within 90 days of the date of filing. At the time of docketing, the board will set a procedural schedule which includes a date for an oral presentation and an opportunity to file comments. If the board finds that there is no reason to investigate, the board shall issue an order stating the reasons for the board's decision within 90 days of the date of filing.

e. *Acceptance of manuals.* The board may accept, reject, or modify a utility's manual. However, any board decision is for accounting purposes only and is not binding in any other proceeding.

33.5(3) *Updating of manuals.* All affected sections and pages of a utility's manual shall be updated and filed with the board annually or within 60 days of any of the following conditions:

a. A new nonutility business is added, or an existing nonutility business is dropped;

b. An affiliate relationship changes;

c. Operations affecting nonutility businesses change sufficiently to warrant a new allocation method; or

d. Accounting practices change.

33.5(4) *Reporting requirements—accounting tables.* The reporting requirements in this subrule must be accompanied by a signed statement from an officer of the utility and an independent auditor certifying that, for the year completed, the utility has followed its manual and that the results fairly reflect the actual operations of the utility. Companies required to file cost manuals shall file in their annual reports and in electronic form tables showing for each account identified in subrules 33.4(1) and 33.4(2)*(a)* the account total; *(b)* the amount assigned to nonutility services; *(c)* the amount assigned to utility services; and *(d)* the value of the allocation factors used to assign costs to utility and nonutility services.

199—33.6(476) Standards for costing service transfers within a regulated subsidiary or utility.

33.6(1) *Nonutility service provided to regulated subsidiary or utility.* Service shall be priced to the utility's operations at the price actually charged nonaffiliates. If no such price is available, the service shall be priced at the lower of fully distributed cost, the price actually charged to affiliates, or a market price of comparable services.

33.6(2) *Service provided by the utility to nonutility operations.* Service shall be provided at the tariffed price. If it is not a tariffed service, the service shall be priced at fully distributed cost.

199—33.7(476) Standards for costing asset transfers within a regulated subsidiary or utility.

33.7(1) Asset that is a direct cost of nonutility operations becomes a cost of utility operations. The asset shall be transferred or assigned to utility operations at the lesser of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

33.7(2) Asset that is a direct cost of utility operations becomes a cost of nonutility operations. The asset shall be transferred or assigned to the nonutility operations at the greater of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

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CHAPTER 34
NONUTILITY SERVICE

199—34.1(476) Statement of purpose. A public utility which engages in a systematic marketing effort, other than on an incidental or casual basis, to promote the availability of a nonutility service from the public utility shall allow competitors access to certain services.

199—34.2(476) Definition—nonutility service. *"Nonutility service"* as defined in this chapter means the sale, lease, or other conveyance of commercial and residential gas or electric appliances, interior lighting systems and fixtures, or heating, ventilating, or air-conditioning systems and component parts or the servicing, repair, or maintenance of the equipment.

199—34.3(476) Definition—systematic marketing effort. In determining whether activity constitutes a *"systematic marketing effort, other than on an incidental or casual basis,"* the board will consider whether the effort is regular or irregular, recurring or nonrecurring, active or passive in nature and whether the effort is done on a comprehensive basis. Factors that shall be considered include, but are not limited to, the types and number of media used, the frequency, extent, and duration of the marketing effort, the amount of marketing expenses incurred, and whether the public utility appeared to intend to increase significantly its market share.

199—34.4(476) Engaged primarily in providing the same competitive nonutility services in the area—defined. *"A person is engaged primarily in providing the same competitive nonutility services in the area"* when the person on a full-time, ongoing basis sells or leases equipment or products or offers services which are functionally interchangeable and considered similar by the public with the nonutility service provided by a public utility in the same identifiable geographic area where the public utility provides utility service.

199—34.5(476) Charges permitted. A person meeting the requirements of rule 34.4(476) shall be permitted to use, to the same extent utilized by the public utility for its nonutility service in connection with nonutility services as defined in rule 34.2(476), the customer lists, billing and collection system, and mailing system of the public utility company engaged in a systematic marketing effort, other than on an incidental or casual basis. The person shall be charged for the cost or expense incurred by the public utility in providing access to its systems and its lists. The charge shall not be greater than the charge, fee, or cost imposed upon or allocated to the provision of nonutility service by the utility for the similar use of the systems.

199—34.6(476) Procedures for utilization of billing and collection system.

34.6(1) When a person meeting the requirements of rule 34.4(476) uses the billing and collection system of a public utility, the public utility shall promptly remit to that person all funds collected by the public utility on behalf of the person.

34.6(2) Where a customer makes a partial payment and owes both a public utility and a person(s) meeting the requirements of rule 34.4(476) for services or goods provided, the payment received shall be allocated first to the regulated utility bill plus tax, unless otherwise allocated by the customer. Any balance remaining after payment of the utility bill plus tax shall be allocated between the public utility for any unpaid nonutility services and any other person(s) utilizing the utility's billing system according to the ratio of the amount billed by each unless otherwise allocated by the customer. A public utility shall not disconnect a customer's utility service for nonpayment of a bill for nonutility services.

A person shall not use a public utility's billing and collection systems to bill and receive payments only from customers who are habitually delinquent or who have failed or refused to make payment to the person.

199—34.7(476) Complaints. The procedures in 199—Chapter 6 shall apply to all complaints regarding the provision of nonutility service.

These rules are intended to implement Iowa Code sections 476.78, 476.80, and 476.81.

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CHAPTER 35
ENERGY EFFICIENCY PLANNING AND COST REVIEW

199—35.1(476) Policy and purpose. The board deems the implementation of effective energy efficiency plans by utilities and the opportunity of the utilities' customers to participate in and benefit from the energy efficiency plans to be of the highest priority.

These rules are intended to implement Iowa Code sections 476.1, 476.6(17, 19-21), and 476.10A, for gas and electric utilities required by statute to be rate-regulated and to provide the board the necessary information to review each utility's assessment of potential, to develop specific capacity and energy savings performance standards for each utility and to evaluate the appropriateness of each utility's energy efficiency plan.

199—35.2(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"After-tax discount rate" means the utility's weighted cost of capital reduced by the utility's composite federal and state income tax rate multiplied by the utility's weighted cost of debt.

"Assessment of potential" means development of energy and capacity savings available from actual and projected customer usage by cost-effectively applying commercially available technology and improved operating practices to energy-using equipment and buildings and considering market factors including, but not limited to, the effects of rate impacts, the need to capture lost opportunities, the nonenergy benefits of measures, uncertainty associated with industry restructuring, the strategic value of energy efficiency to the utility, and other market factors.

"Avoided cost" means the cost the utility would have to pay to provide energy and capacity from alternative sources of supply available to utilities as calculated pursuant to the formulas in subrules 35.9(7) and 35.10(4).

"Benefit/cost ratio" means the ratio of the present value of benefits to the present value of costs.

"Benefit/cost tests" means one of the four acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of an energy efficiency program or plan. The tests are the participant test, the ratepayer impact test, the societal test, and the utility cost test. A program or plan passes a benefit/cost test if the benefit/cost ratio is equal to or greater than one.

"Capacity purchase" or *"sale commitment"* means electric generating capacity which a utility has committed to purchase or sell by means of contracts or other enforceable agreements.

"Contract deliverability" means the maximum firm capacity which a utility has under contract with its suppliers.

"Customer incentive" means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in energy efficiency programs. Incentives include, but are not limited to, rebates, loan subsidies, payments to dealers, rate credits, bill credits, the cost of energy audits, the cost of equipment given to customers, and the cost of installing such equipment. Customer incentives do not include the cost of information provided by the utility, nor do they include customers' bill reductions associated with reduced energy usage due to the implementation of energy efficiency programs. For the purposes of energy efficiency pricing strategies, incentive means the difference between a customer's bill on an energy efficiency customized rate and the customer's bill on a traditional rate considering factors such as the elasticity of demand.

"Customer persistence" means a customer's consistent use of energy efficient equipment or operating practices over time. For example, a nonpersistent customer may initially adopt the use of compact fluorescent lights, but replace efficient lights with incandescent lights when the former wear out. By contrast, a persistent customer will replace burned out efficient lamps with energy saving lamps after the initial trial.

"Customer's side of the meter" means point of delivery. For reference, the utility's side of the meter refers to activities from and including generation or energy supply up to the point where the customer takes delivery, which may be the customer's billing meter or an unmetered fixture.

"Economic potential" means the energy and capacity savings that result in future years when measures are adopted or applied by customers at the time it is economical to do so. For purposes of this chapter, economic potential may be determined by comparing the utility's avoided cost savings to the incremental cost of the measure.

"Energy efficiency measures" means activities on the customers' side of the meter which reduce customers' energy use or demand including, but not limited to, end-use efficiency improvements; load control or load management; thermal energy storage; or pricing strategies.

"Energy savings performance standards" means those standards which shall be cost-effectively achieved, with the exception of low-income weatherization and tree planting programs, and includes the annual capacity savings stated in either kW or dth/day or Mcf/day and the annual energy savings stated in either kWh or dth or Mcf.

"Firm throughput" means firm sales of gas and gas transported over the utility's distribution facilities under firm transportation arrangements.

"Fixed operations and maintenance costs" means operations and maintenance costs which do not vary with changes in energy generation or supply.

"Free riders" means those program participants who would have done what an energy efficiency program intends to promote even without the program.

"Gross operating revenues" means all revenues from intrastate operations includable in the operating revenue accounts of the prescribed uniform system of accounts except:

1. Provisions for uncollectible revenues;
2. Amounts included in the accounts for interdepartmental sales and rents;
3. Wholesale revenue;
4. Revenues from the sale of natural gas used as a feedstock by customers; and
5. Revenues from the sale of transportation service.

"Incremental cost" means the difference in the customer's cost between a less energy efficient measure and a more energy efficient measure.

"Marginal energy cost" for a gas utility means the cost associated with supplying the next thousand cubic feet (Mcf) or dekatherm (dth) of gas.

"Marginal energy cost" for an electric utility means the energy or fuel cost associated with generating or purchasing the next kWh of electricity.

"Market barrier" means a real or perceived impediment to the adoption of energy efficient technologies or energy efficient behavior by consumers.

"Net societal benefits" means the present value of benefits less the present value of costs as defined in the societal test.

"Off-peak period" means the days and weeks not included in the gas utility's peak period.

"Participant test" means an economic test used to compare the present value of benefits to the present value of costs over the useful life of an energy efficiency measure or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the energy efficiency measure or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, and customer incentives for each year of the useful life of an energy efficient measure or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the measure or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Peak day demand" means the amount of natural gas required to meet firm customers' maximum daily consumption.

"Peak period" for a gas utility means the days and weeks when the gas utility's highest firm throughput is likely to occur.

"Phase-in technical potential" means the technical potential for energy and capacity savings from the adoption of commercially available technology and operating practices when existing equipment is

replaced or new equipment is installed. For example, if an energy-using unit of equipment has a ten-year lifetime, the phase-in technical potential in any one year might be one-tenth of the total number of such units in existence plus units projected to be installed.

"Process-oriented industrial assessment" means an analysis which promotes the adoption of energy efficiency measures by examining the facilities, operations and equipment of an industrial customer in which energy efficiency opportunities may be embedded and which includes:

1. The identification of opportunities which may provide increased energy efficiency in an industrial customer's production process from the introduction of materials to the final packaging of the product for shipping by:

- Directly improving the efficiency or scheduling of energy use;
- Reducing environmental waste; and
- Technological improvements designed to increase competitiveness and to achieve cost-effective product quality enhancement;

2. The identification of opportunities for an industrial customer to improve the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope;

3. The identification of cost-effective opportunities for using renewable energy technology in "1" and "2" above.

"Program delivery and support mechanisms" means methods used by the utility to promote the adoption of energy efficiency options by customers. Program delivery and support mechanisms may include but are not limited to informational, educational, or demonstration techniques, technical assistance, or energy audits. Program delivery and support mechanisms may target specific options and markets, or address a variety of options across any number of energy efficiency programs.

"Purchased gas adjustment (PGA) year" means the 12-month period beginning September 1 and ending August 31.

"Ratepayer impact measure test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from a rate level or utility bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the energy efficiency measures for each year of the useful life of the measure or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the energy efficiency measures, utility program costs, and customer incentives for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility costing periods.

"Revenue requirement per net kW per year" for an electric utility means an annual cost amount calculated by the economic carrying charge for each year of the supply option's life such that when each annual amount is discounted by the utility's after-tax discount rate the sum of the discounted amounts equals the supply option's capital cost inclusive of income taxes on the return.

"Saturation" or *"market saturation"* means a comparison (using fractions or percentages) of the number of units of a particular type of equipment or building component to the total number of units in use which perform the particular function under study.

"Seasonal peak demand" for an electric utility means the maximum hourly demand that occurred during that season.

"Sensitivity analysis" means a set of evaluation methods or procedures which provides an estimation of the sensitivity of final results to changes in particular input data or assumptions.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the utility calculates its benefit/cost tests for its energy efficiency plan in subrule 35.8(6). Benefits are the sum of the present values of the utility avoided supply and energy costs including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding customer

incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

"System energy losses" for an electric utility means net energy which is generated, purchased, or interchanged by a utility but which is not delivered either to ultimate customers or used for interdepartmental sales expressed as a percentage of net energy.

"Take-back effect" means a tendency to increase energy use in a facility, or for an appliance, as a result of increased efficiency of energy use. For example, a customer's installation of high efficiency light bulbs and then operating the lights longer, constitutes "taking-back" some of the energy otherwise saved by the efficient lighting.

"Target market" means a group of energy users who are the intended participants in an energy efficiency program.

"Technical potential" means the demand and energy savings which could occur if every existing piece of equipment or operating practice were changed to a technically feasible level of energy efficiency.

"Technically viable" means that a measure is appropriate for customers' equipment and buildings and Iowa's climatic conditions.

"Total throughput" means all volumes of natural gas flowing through the utility's distribution system.

"Transportation volume" means the volume of natural gas flowing through the utility's distribution system which is not owned or sold by the utility.

"Useful life" means the number of years an energy efficiency measure will produce benefits.

"Utility cost test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from the utility revenue requirement perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of each year's utility avoided capacity and energy costs (excluding the externality factor) over the useful life of the measure or program. Costs are the sum of the present values of the utility's program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

"Variable operations and maintenance costs" means operations and maintenance costs which vary with the amount of energy generated or supplied.

199—35.3(476) Applicability. Each gas or electric utility required by statute to be rate-regulated shall file an assessment of potential energy and capacity savings and an energy efficiency plan which shall include economically achievable programs designed to attain the performance standards developed by the board. Combination electric and gas utilities may file combined assessments of potential and energy efficiency plans. Combined plans shall specify which energy efficiency programs are attributable to the electric operation, which are attributable to the natural gas operation, and which are attributable to both. If a combination utility files separate plans, the board may consolidate the plans for purposes of review and hearing. The board will conduct a contested case proceeding for the purpose of (1) developing specific capacity and energy savings performance standards for each utility and (2) reviewing energy efficiency plans and budgets designed to achieve those savings.

199—35.4(476) Schedule of filings.

35.4(1) The board will schedule each utility's filing of an assessment of potential and energy efficiency plan and each utility's prudence review proceeding by order.

35.4(2) Initial cost recovery proceedings. Rescinded IAB 4/28/93, effective 6/2/93.

35.4(3) Subsequent biennial filings. Rescinded IAB 4/28/93, effective 6/2/93.

35.4(4) Written notice of assessment of potential and energy efficiency plan. No more than 62 days prior to and prior to filing its assessment of potential and energy efficiency plan, a utility shall mail or deliver a written notice of its filing to all affected customers. The notice shall be submitted to the board

for approval not less than 30 days prior to proposed notification of customers. The notice shall, at a minimum, include the following elements:

a. A statement that the utility will be filing an assessment of potential and energy efficiency plan with the board;

b. A brief identification of the proposed energy efficiency programs and the estimated annual cost of the proposed energy efficiency programs during the five-year budget time frame;

c. The estimated annual rate and bills impacts of the proposed energy efficiency programs on each class of customer; and the estimated annual jurisdictional rate impact for each major customer grouping in dollars and as a percent, with the proposed actual increases to be filed at the time of notice to customers;

d. A statement that the board will be conducting a contested case proceeding to review the application and that a customer may file a written objection and request a consumer comment hearing; and

e. The telephone numbers and addresses of utility personnel, the board and the consumer advocate, for the customer to contact with questions.

199—35.5(476) Required programs. Rescinded IAB 1/13/99, effective 2/17/99.

199—35.6(476) Procedures. The following procedures shall govern the board's determination of performance standards and review of energy efficiency plans:

35.6(1) *Collaboration.* A utility shall offer interested persons the opportunity to participate in the development of its energy efficiency plan. At a minimum, a utility shall provide the opportunity to offer suggestions for programs and for the assessment of potential and to review and comment on a draft of the assessment of potential and energy efficiency plan proposed to be submitted by the utility. The utility may analyze proposals from participants to help determine the effects of the proposals on its plan. A participant shall have the responsibility to provide sufficient data to enable the utility to analyze the participant's proposal. The opportunity to participate shall commence at least 180 days prior to the date the utility submits its assessment of potential and plan to the board.

35.6(2) *Contested case proceeding.* Within 30 days after filing, each application for approval of an assessment of potential and accompanying energy efficiency plan which meets the requirements of this chapter shall be docketed as a contested case proceeding. All testimony, exhibits, and work papers shall be filed with each application for approval of an assessment of potential and energy efficiency plan. The energy bureau of the division of energy and geological resources of the Iowa department of natural resources shall be considered a party to the proceeding. Any portion of any plan, application, testimony, exhibit, or work paper which is based upon or derived from a computer program shall include as a filing requirement the name and description of the computer program, and a disk and a hard copy of all reasonably necessary data inputs and all reasonably necessary program outputs associated with each such portion. One copy of the computer information will be filed with the board, one copy of this information will be provided to the energy bureau of the division of energy and geological resources of the Iowa department of natural resources, and one copy of this information will be provided to the consumer advocate. Further copies shall be provided by the utility upon request by the board or the consumer advocate. The proceeding shall follow the applicable provisions of 199 IAC Chapter 7.

35.6(3) *Review of proposals offered by third parties.* The consumer advocate or a third-party intervenor may propose approval, modification, or rejection of a utility's assessment of potential and accompanying energy efficiency plan. All testimony, exhibits, and work papers shall be filed with any proposal. The testimony, exhibits, and work papers of the consumer advocate or a third-party intervenor shall include, if applicable:

a. An analysis showing why rejection of the proposed utility assessment of potential and plan is appropriate;

b. A statement of any proposed modification or alternate plan and why approval is appropriate;

c. An estimated implementation schedule for any modification or alternate plan; and

d. A statement of the projected costs and benefits and benefit/cost test results as a result of any modification or alternate plan and the amount of difference from the utility's projected costs and benefits.

35.6(4) *Modification after implementation.* An approved energy efficiency plan and budget may be modified during implementation if the modification is approved by the board. The consumer advocate or the utility may file either a separate or joint application for modification. The board, on its own motion, may consider modification of the energy efficiency plan and budget.

a. The utility shall file an application to modify if any one of the following conditions occurs or is projected to occur during the current or subsequent calendar year of implementation of its plan:

(1) The total annual plan budget has changed or will change by a factor of at least plus or minus 5 percent;

(2) The budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10 percent;

(3) An approved program is eliminated or a new program is added.

b. All applications to modify shall be filed in the same docket in which the energy efficiency plan was approved. All parties to the docket in which the energy efficiency plan was approved shall be served copies of the application to modify and shall have 14 days to file their objection or agreement. Failure to file timely objection shall be deemed agreement.

c. Each application to modify an approved energy efficiency plan shall include:

(1) A statement of the proposed modification and the party's interest in the modification;

(2) An analysis supporting the requested modification;

(3) An estimated implementation schedule for the modification; and

(4) A statement of the effect of the modification on attainment of the utility's performance standards and on projected results of the utility's implementation of its plan.

d. If the board finds that reasonable grounds exist to investigate the proposed modification, a procedural schedule shall be set within 30 days after the application is filed.

e. If an application to modify is filed and the board finds that there is no reason to investigate, then the board shall issue an order stating the reasons for the board's decision relating to the application.

f. If the board rejects or modifies a utility's plan, the board may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

199—35.7(476) Waivers. Upon request and for good cause shown, the board may waive any energy efficiency plan requirement. If the waiver request is granted, a copy of the board order shall be filed with the energy efficiency plan.

199—35.8(476) Assessment of potential and energy efficiency plan requirements. A utility's plan shall include a range of programs which address all customer classes across its Iowa jurisdictional territory. At a minimum, the plan shall include a program for qualified lower-income residential customers, including a cooperative program with any community action agency within the utility's service area. The utility shall consider including in its plan a program for tree planting. Advertising which is part of an approved energy efficiency program is deemed to be advertising required by the board for purposes of Iowa Code section 476.18(3). The utility's assessment of potential and energy efficiency plan shall include a summary not to exceed five pages in length written in a nontechnical style for the benefit of the general public. Each utility's assessment of potential and accompanying energy efficiency plan shall include the following:

35.8(1) *Assessment of potential and determination of performance standards.* The utility shall file with the board an assessment of the potential for energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility's assessment shall address the potential energy and capacity savings in each of ten years subsequent to the year the assessment is filed. Economic and impact analyses of measures shall address benefits and costs over the entire estimated lives of energy efficiency measures. At a minimum, each utility's assessment of potential shall include data and analyses as follows:

a. A base case survey projecting annual peak demand and energy use of customers' existing and estimated new energy-using buildings and equipment. The base case survey shall identify the annual

peak demand and energy savings projected to occur from customers' adoption of measures in the absence of new or continued demand-side management programs by the utility.

b. A survey to identify and describe all commercially available energy efficiency measures and their attributes needed to perform an assessment of potential energy and capacity savings, including but not limited to all relevant costs of the measures, utility bill savings, utility avoided cost savings, peak demand and energy savings, measures' lifetimes, current market saturation of the measures, market availability of the measures, and non-energy-related features, costs and benefits.

c. A description of the methods and results for any screening or selection process used to identify technically viable energy efficiency measures. The utility shall explain its elimination of measures from further consideration. The utility shall provide an assessment of either annual economic potential or annual phase-in technical potential for peak demand and energy savings from projected adoption of technically viable measures, describing its methods and assumptions.

d. An assessment of the annual potential for utility implementation of the following special programs:

(1) Peak demand and energy savings from programs targeted at qualified low-income customers, including cooperative programs with community action agencies;

(2) Implementation of tree-planting programs; and

(3) Peak demand and energy savings from cost-effective assistance to homebuilders and homebuyers in meeting the requirements of the Iowa model energy code.

e. An identification of the utility's proposed performance goals for peak demand and energy savings from utility implementation of cost-effective energy efficiency programs and special programs. The utility shall identify annual goals, by energy efficiency program and total plan, for five years subsequent to the year of the filing. The utility may constrain or accelerate projected utility implementation of programs from estimates of economic or phase-in potential, based on its assessment of market potential. The utility may consider market factors including, but not limited to, market barriers to implementation of programs, the effects of rate impacts, lost opportunities which decrease future implementation of measures or programs, the nonenergy benefits and detriments of programs, uncertainty associated with industry restructuring, the strategic value of energy efficiency to the utility and other market factors it deems relevant. The utility shall fully describe its data and assumptions. In lieu of the data required in (1) through (5) below, the utility may reference relevant data and analyses filed in its energy efficiency plan, pursuant to subrule 35.8(2). The utility shall describe its analyses and results for factors relevant to the development of performance goals, including:

(1) Cost-effectiveness tests. The utility shall analyze for cost-effectiveness proposed programs, using the societal, utility, ratepayer impact and participant tests. The utility's analyses shall use inputs or factors realistically expected to influence cost-effective implementation of programs, including the avoided costs filed pursuant to rules 35.9(476) and 35.10(476) or avoided costs determined by the utility's alternative method. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency programs and plans, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test.

(2) Cost-effectiveness threshold(s). The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a benefit/cost ratio of 1.0, to be used as a threshold for cost-effective utility implementation of programs. The utility's threshold of cost-effectiveness for its plan as a whole shall be a benefit/cost ratio of 1.0 or greater.

(3) A description of the proposed programs to be implemented, proposed utility implementation techniques, the number of eligible participants and proposed rates of participation per year, and the estimated annual peak demand and energy savings.

(4) The budgets or levels of spending for utility implementation of programs, including proposed special programs addressing low-income, tree-planting and home-building assistance measures.

(5) The rate impacts and average bill impacts, by customer class, resulting from utility implementation of programs.

f. An optional sensitivity analysis. If the utility's proposed standards differ from the level of energy and capacity savings resulting from the utility's current plan by more than 25 percent, the utility shall provide a sensitivity analysis identifying key variables, including levels of spending, and showing their impact on cost-effectiveness, energy savings, and capacity savings. The purpose of the sensitivity analysis shall be to explore the range of potential for utility implementation of programs.

35.8(2) *Proposed energy efficiency plan, programs, and budget and cost allocation.* The utility shall file with the board an energy efficiency plan listing all proposed new, modified, and existing energy efficiency programs. The following information shall be provided:

a. The analyses and results of cost-effectiveness tests for the plan as a whole and for each program. Low-income and tree-planting programs shall not be tested for cost-effectiveness, unless the utility wishes to present the results of cost-effectiveness tests for informational purposes. The utility shall analyze proposed programs and the plan as a whole for cost-effectiveness, using the societal, utility, ratepayer impact and participant tests. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency measures, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test. The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a benefit/cost ratio of 1.0, to be used as a threshold for determining cost-effectiveness of programs. The utility's threshold of cost-effectiveness for its plan as a whole shall be a benefit/cost ratio of 1.0 or greater.

The utility shall provide an explanation of its sensitivity analysis identifying key variables showing the impact on cost-effectiveness. If appropriate and calculable, the utility shall adjust the energy and demand savings for the interactive effects of various measures contained within each program and shall adjust energy and demand savings of the plan as a whole for the interactive effects of programs. For the plan as a whole and for each program, the utility shall provide:

(1) Cost escalation rates for each cost component of the benefit/cost test that reflect changes over the lives of the options in the potential program and benefit escalation rates for benefit components that reflect changes over the lives of the options;

(2) Societal, utility cost, ratepayer impact measure, and participant test benefit/cost ratios; and

(3) Net societal benefits.

b. Descriptions of each program. If a proposed program is identical to an existing program, the utility may reference the program description currently in effect. A description of each proposed program shall include:

(1) The name of each program;

(2) The customers each program targets;

(3) The energy efficiency measures promoted by each program;

(4) The proposed utility promotional techniques, including the rebates or incentives offered through each program; and

(5) The proposed rates of program participation or implementation of measures, including both eligible and estimated actual participants.

c. The estimated annual energy and demand savings for the plan and each program for each year the measures promoted by the plan and program will produce benefits. The utility shall estimate gross and net capacity and energy savings, accounting for free riders, take-back effects, and measure degradation.

d. The budget for the plan and for each program for each year of implementation or for each of the next five years of implementation, whichever is less, itemized by proposed costs. The budget shall be consistent with the accounting plan required pursuant to subrule 35.12(1). The budget may include the amount of the remittance to the Iowa energy center and the center for global and regional environmental research and the alternative energy revolving loan fund. The plan and program budgets shall be categorized into:

(1) Planning and design costs;

(2) Administrative costs;

(3) Advertising and promotional costs;

(4) Customer incentive costs;

(5) Equipment costs;
(6) Installation costs;
(7) Monitoring and evaluation costs; and
(8) Miscellaneous costs.

Cost categories shall be further described by the following subcategories:

Classifications of persons to be working on energy efficiency programs, full-time equivalents, dollar amounts of labor costs, and purpose of work;

Type and use of equipment and other assets, including types of assets required and use of asset; and the name of outside firm(s) employed and a description of service(s) to be provided.

e. The rate impacts and average bill impacts, by customer class, resulting from the plan and each program.

f. A monitoring and evaluation plan. The utility shall describe in complete detail how it proposes to monitor and evaluate the implementation of its proposed programs and plan and shall show how it will accumulate and validate the information needed to measure the plan's performance against the standards. The utility shall propose a format for monitoring reports and describe how annual results will be reported to the board on a detailed, accurate and timely basis.

35.8(3) to **35.8(8)** Rescinded IAB 1/13/99, effective 2/17/99.

35.8(9) *Coordination with other utilities and participation in plan preparation.* The utility shall provide the following reports:

a. A report which explains the results of attempts to coordinate energy efficiency programs with other gas or electric utilities sharing its service territory within the boundaries of incorporated municipalities having a population of 1000 or more individuals.

b. A report on the participation of interested persons in the preparation of the assessment of potential and energy efficiency plan pursuant to subrules 35.8(1) and 35.8(2). The report shall identify the persons with whom the utility consulted, the date and type of meetings held or other contacts made, and the results of the meetings and contacts.

35.8(10) *Pilot projects.* Pilot projects may be included as a program, if justified by the utility. Pilot projects shall explore areas of innovative or unproven approaches, as provided in Iowa Code section 476.1. The proposed evaluation procedures for the pilot project shall be included.

35.8(11) to **35.8(13)** Rescinded IAB 1/13/99, effective 2/17/99.

199—35.9(476) Additional requirements for electric utilities. In addition to the requirements in rule 35.8(476), a plan for an electric utility shall include the following information:

35.9(1) *Load forecast.* Information specifying forecasted demand and energy use on a calendar year basis which shall include:

a. A statement, in numerical terms, of the utility's current 20-year forecasts including reserve margin for summer and winter peak demand and for annual energy requirements. The forecast shall not include the effects of the proposed programs in subrule 35.8(8), but shall include the effects to date of current ongoing utility energy efficiency programs.

b. The date and amount of the utility's highest peak demand within the past five years, stated on both an actual and weather-normalized basis. The utility shall include an explanation of the weather-normalization procedure.

c. A comparison of the forecasts made for each of the previous five years to the actual and weather-normalized demand in each of the previous five years.

d. An explanation of all significant methods and data used, as well as assumptions made, in the current 20-year forecast. The utility shall file all forecasts of variables used in its demand and energy forecasts and shall separately identify all sources of variables used, such as implicit price deflator, electricity prices by customer class, gross domestic product, sales by customer class, number of customers by class, fuel price forecasts for each fuel type, and other inputs.

e. A statement of the margins of error for each assumption or forecast.

f. An explanation of the results of sensitivity analyses performed, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts

and data. The utility may present the results and an explanation of other methods of assessing forecast uncertainty.

35.9(2) *Class load data.* Load data for each class of customer that is served under a separate rate schedule or is identified as a separate customer class and accounts for 10 percent or more of the utility's demand in kilowatts at the time of the monthly system peak for every month in the year. If those figures are not available, the data shall be provided for each class of customer that accounts for 10 percent of the utility's electric sales in kilowatt hours for any month in the reporting period. The data shall be based on a sample metering of customers designed to achieve a statistically expected accuracy of plus or minus 10 percent at the 90 percent confidence level for loads during the yearly system peak hour(s). These data must appear in the 1992 and all subsequent filings, except as provided for in paragraph 35.9(2)*"c."*

a. The following information shall be provided for each month of the previous year:

(1) Total system class maximum demand (in kilowatts), number of customers in the class, and system class sales (in kilowatt-hours);

(2) Jurisdictional class contribution (in kilowatts) to the monthly maximum system coincident demand as allocated to jurisdiction;

(3) Total class contribution (in kilowatts) to the monthly maximum system coincident demand, if not previously reported;

(4) Total system class maximum demand (in kilowatts) allocated to jurisdiction, if not previously reported; and

(5) Hourly total system class loads for a typical weekday, a typical weekend day, the day of the class maximum demand, and the day of the system peak.

b. The company shall file an explanation, with all supporting work papers and source documents, as to how class maximum demand and class contribution to the maximum system coincident demand were allocated to jurisdiction.

c. The load data for each class of customer described above may be gathered by a multijurisdictional utility on a uniform integrated system basis rather than on a jurisdictional basis. Adjustments for substantive and unique jurisdictional characteristics, if any, may be proposed. The load data for each class of customer shall be collected continuously and filed annually, except for the period associated with necessary interruptions during any year to modify existing or implement new data collection methods. Data filed for the period of interruption shall be estimated. An explanation of the estimation technique shall be filed with the data. To the extent consistent with sound sampling and the required accuracy standards, an electric public utility is not required to annually change the customers being sampled.

35.9(3) *Existing capacity and firm commitments.* Information specifying the existing generating capacity and firm commitments to provide service. The utility shall include in its filing a copy of its most recent Load and Capability Report submitted to the Mid-continent Area Power Pool (MAPP).

a. For each generating unit owned or leased by the utility, in whole or in part, the plan shall include the following information:

(1) Both summer and winter net generating capability ratings as reported to the National Electric Reliability Council (NERC).

(2) The estimated remaining time before the unit will be retired or require life extension.

b. For each commitment to own or lease future generating firm capacity, the plan shall include the following information:

(1) The type of generating capacity.

(2) The anticipated in-service year of the capacity.

(3) The anticipated life of the generating capacity.

(4) Both summer and winter net generating capability ratings as reported to the NERC.

c. For each capacity purchase commitment which is for a period of six months or longer the plan shall include the following information:

(1) The entity with whom commitments have been made and the time periods for each commitment.

(2) The capacity levels in each year for the commitment.

d. For each capacity sale commitment which is for a period of six months or longer the following information:

(1) The entity with whom a commitment has been made and the time periods for the commitment.

(2) The capacity levels in each year.

(3) The capacity payments to be received per kW per year in each year.

(4) The energy payments to be received per kWh per year.

(5) Any other payments the utility receives in each year.

35.9(4) *Capacity surpluses and shortfalls.* Information identifying projected capacity surpluses and shortfalls over the 20-year planning horizon which shall include:

a. A numerical and graphical representation of the utility's 20-year planning horizon comparing forecasted demand in each year from subrule 35.9(1) to committed capacity in each year from paragraphs 35.9(3)*"a"* to 35.9(3)*"d."* Forecasted peak demand shall include reserve requirements.

b. For each year of the 20-year planning horizon, the plan shall list in MW the amount that committed capacity either exceeds or falls below the forecasted demand.

35.9(5) *Capacity outside the utility's system.* Information about capacity outside of the utility's system that could meet its future needs including, but not limited to, cogeneration and independent power producers, expected to be available to the utility during each of the 20 years in the planning horizon. The utility shall include in its filing a copy of its most recent Load and Capability Report submitted to the Mid-continent Area Power Pool (MAPP).

35.9(6) *Future supply options and costs.* Information about the new supply options and their costs identified by the utility as the most effective means of satisfying all projected capacity shortfalls in the 20-year planning horizon in subrule 35.9(4) which shall include:

a. The following information which describes each future supply option as applicable:

(1) The anticipated year the supply option would be needed.

(2) The anticipated type of supply option, by fuel.

(3) The anticipated net capacity of the supply option.

b. The utility shall use the actual capacity cost of any capacity purchase identified in paragraph 35.9(6)*"a"* and shall provide the anticipated annual cost per net kW per year.

c. The utility shall use the installed cost of a combustion turbine as a proxy for the capacity cost of any power plant identified in paragraph 35.9(6)*"a."* For the first power plant option specified in paragraph 35.9(6)*"a,"* the following information shall be provided:

(1) The anticipated life.

(2) The anticipated total capital costs per net kW, including AFUDC if applicable.

(3) The anticipated revenue requirement of the capital costs per net kW per year.

(4) The anticipated revenue requirement of the annual fixed operations and maintenance costs, including property taxes, per net kW for each year of the planning horizon.

(5) The anticipated net present value of the revenue requirements per net kW.

(6) The anticipated revenue requirement per net kW per year calculated by utilization of an economic carrying charge.

(7) The after tax discount rate used to calculate the revenue requirement per net kW per year over the life of the supply option.

(8) Adjustment rates (for example, inflation or escalation rates) used to derive each future cost in paragraph 35.9(6)*"c."*

d. The capacity costs of the new supply options allocated to costing periods. The utility shall describe its method of allocating capacity costs to costing periods. The utility shall specify the hours, days, and weeks which constitute its costing periods. For each supply option identified in paragraph 35.9(6)*"a,"* the plan shall include:

(1) The anticipated annual cost per net kW per year of capacity purchases from subparagraph 35.9(6)*"b"*(6) allocated to each costing period if it is the highest cost supply option in that year.

(2) The anticipated total revenue requirement per net kW per year from subparagraph 35.9(6)*"c"*(6) allocated to each costing period if it is the highest cost supply option in that year.

35.9(7) *Avoided capacity and energy costs.* Avoided capacity costs shall be based on the future supply option with the highest value for each year in the 20-year planning horizon identified in subrule 35.9(6). Avoided energy costs shall be based on the marginal costs of the utility's generating units or purchases. The utility shall use the same costing periods identified in 35.9(6)*"b"* when calculating avoided capacity and energy costs. A party may submit, and the board shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided costs shall also submit an explanation of the alternative method.

a. *Avoided capacity costs.* Calculations of avoided capacity costs in each costing period shall be based on the following formula:

AVOIDED CAPACITY COST = C x (1 + RM) x (1 + DLF) x (1 + EF)

C (capacity) is the greater of NC or RC.

NC (new capacity) is the value of future capacity purchase costs or future capacity costs expressed in dollars per net kW per year of the utility's new supply options from paragraphs 35.9(6)*"b"* and *"c"* in each costing period.

RC (resalable capacity) is the value of existing capacity expressed in dollars per net kW per year that could be sold to other parties in each costing period.

RM (reserve margin) is the generation reserve margin criterion adopted by the utility.

DLF (demand loss factor) is the system demand loss factor, expressed as a fraction of the net power generated, purchased, or interchanged in each costing period. For example, the peak system demand loss factor would be equal to peak system power loss (MW) divided by the net system peak load (MW) for each costing period.

EF (externality factor) is a 10 percent factor applied to avoided capacity costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must document its accuracy.

b. *Avoided energy costs.* Calculations of avoided energy costs in each costing period shall be based on the following formula:

AVOIDED ENERGY COSTS = MEC x (1 + ELF) x (1 + EF)

MEC (marginal energy cost) is the marginal energy cost expressed in dollars per kWh, inclusive of variable operations and maintenance costs, for electricity in each costing period.

ELF (system energy loss factor) is the system energy loss factor, expressed as a fraction of net energy generated, purchased, or interchanged in each costing period.

EF (externality factor) is a 10 percent factor applied to avoided energy costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

199—35.10(476) Additional requirements for gas utilities. In addition to the requirements of rule 35.8(476), a plan for a gas utility shall include the following information:

35.10(1) *Forecast of demand and transportation volumes.* Information specifying its demand and transportation volume forecasts which includes:

a. A statement in numerical terms of the utility's current 12-month and 5-year forecasts of total annual throughput and peak day demand, including reserve margin, based on the PGA year by customer class. The forecasts shall not include the effects of the proposed energy efficiency programs in subrule 35.8(8), but shall include the effects to date of current ongoing utility energy efficiency programs.

b. A statement in numerical terms of the utility's highest peak day demand and annual throughput for the past five years by customer class.

c. A comparison of the forecasts made for the preceding five years to the actual and weather-normalized peak day demand and annual throughput by customer class including an explanation of the weather-normalization procedure.

d. A forecast of the utility's demand for transportation volume for both peak day demand and annual throughput for each of the next five years.

e. The existing contract deliverability by supplier, contract and rate schedule for the length of each contract.

f. An explanation of all significant methods and data used, as well as assumptions made, in the current five-year forecast(s). The utility shall file all forecasts of variables used in its demand and energy forecasts. If variables are not forecasted, the utility shall indicate all sources of variable inputs.

g. A statement of the margins of error for each assumption or forecast.

h. An explanation of the results of the sensitivity analysis performed by the utility, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts, and data.

35.10(2) *Capacity surpluses and shortfalls.* Information identifying projected capacity surpluses and shortfalls over the five-year planning horizon which includes a numerical and graphical representation of the utility's five-year planning horizon comparing forecasted peak day demand in each year from paragraph 35.10(1)*"a,"* to the total of existing contract deliverability, from paragraph 35.10(1)*"e."* The comparison shall list in dth or Mcf any amount for any year that contract deliverability falls below the forecast of peak day demand. Forecasted peak day demand shall include reserve margin.

35.10(3) *Supply options.* Information about new supply options identified by the utility as the most effective means of satisfying all projected capacity shortfall in the 12-month and 5-year planning horizons in subrule 35.10(2). For each supply option identified, the plan shall include:

a. The year the option would be needed.

b. The type of option.

c. The net peak day capacity.

d. The estimated future capacity costs per dth or Mcf of peak day demand of the options.

e. The estimated future energy costs per dth or Mcf of each option in current dollars.

f. A description of the method used to estimate future costs.

35.10(4) *Avoided capacity and energy costs.* Information regarding avoided costs, specifying the days and weeks which constitute the utility's peak and off-peak periods. Avoided costs shall be calculated for the peak and off-peak periods and adjusted for inflation to derive an annual avoided cost over a 20-year period. In addition, all parties may submit information specifying the hours, days, and weeks which constitute alternative costing periods. A party may submit, and the board shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided costs shall also submit an explanation of the alternative method.

a. *Avoided capacity costs.* Calculations of avoided capacity costs in the peak and off-peak periods shall be based on the following formula:

AVOIDED CAPACITY COSTS = [(D + OC) x (1 + RM)] x (1 + EF)

D (demand) is the greater of CD or FD.

CD (current demand cost) is the utility's average demand cost expressed in dollars per dth or Mcf during peak and off-peak periods.

FD (future demand costs) is the utility's average future demand cost over the 20-year period expressed in dollars per dth or Mcf when supplying gas during peak and off-peak periods.

RM (reserve margin) is the reserve margin adopted by the utility.

OC (other cost) is the value of any other costs per dth or Mcf related to the acquisition of gas supply or transportation by the utility over the 20-year period in the peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided capacity costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

b. *Avoided energy costs.* Calculations of avoided energy costs in the peak and off-peak periods on a seasonal basis shall be based on the following formula:

AVOIDED ENERGY COSTS = (E + VOM) x (1 + EF)

E (energy costs) is the greater of ME or FE.

ME (current marginal energy costs) is the utility's current marginal energy costs expressed in dollars per dth or Mcf during peak and off-peak periods.

FE (future energy costs) is the utility's average future energy costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

VOM (variable operations and maintenance costs) is the utility's average variable operations and maintenance costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided energy costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

199—35.11(476) Additional filing requirements. In those years an electric utility does not file an energy efficiency plan, the utility shall file by May 15 the information required in subrules 35.9(1) and 35.9(2). If there has been no change in the utility's forecast procedure in regard to information required in paragraphs 35.9(1)*"d"* through *"f,"* the utility may state "no change from previous forecast" for each paragraph. In those years a gas utility does not file an energy efficiency plan, the utility shall file by November 1 the information required in subrule 35.10(1). If there has been no change in the information required in paragraphs 35.10(1)*"f"* through *"h,"* the utility shall identify the portions of the previous docket where the information is located.

199—35.12(476) Energy efficiency cost recovery. A utility shall be allowed to recover the previously approved costs, deferred past costs, and estimated contemporaneous expenditures of its approved energy efficiency plans through an automatic adjustment mechanism. The utility may propose to recover the portion of the costs of process-oriented industrial assessments related to energy efficiency. Only unrecovered costs may be recovered through the automatic adjustment mechanism, and costs may be recovered only once.

For purposes of this rule, "previously approved costs" are defined as expenditures and related costs approved for recovery in previous energy efficiency cost recovery contested cases.

"Deferred past costs" are defined as funds actually spent by the utility on energy efficiency programs in its approved plan including the carrying charges associated with the deferred recovery of those costs, as defined in paragraph 35.12(1)*"b."* Deferred past costs shall be amortized and recovered over a period not to exceed the term of the plan.

"Estimated contemporaneous expenditures" are defined as costs to be incurred during the current 12-month recovery period pursuant to an approved energy efficiency plan.

35.12(1) *Accounting for costs.* Each utility shall maintain accounting plans and procedures to account for all energy efficiency costs incurred on or after July 1, 1990.

a. Deferred past costs incurred on or after July 1, 1990, up to a date terminating the accumulation of deferred costs set by a board order, shall be charged to account 186, "Miscellaneous Deferred Debits," as defined in the uniform system of accounts for utilities as provided in 199 IAC 16.

b. A carrying charge determined using the current monthly AFUDC rate from the formula prescribed in the uniform system of accounts for utilities, as provided in 199 IAC 16, shall accrue on costs in the account described in paragraph 35.12(1)*"a."* A utility shall continue to accrue a carrying charge on the account's costs, compounded semiannually, until the date terminating accumulation of deferred costs set by a board order.

c. Estimated contemporaneous expenditures proposed for concurrent recovery through an automatic adjustment mechanism shall be charged, after the date set by a board order, to the current accounts prescribed by the uniform system of accounts, as provided in 199 IAC 16, and shall be further identified using the accounts described in paragraph 35.12(1)*"d."*

d. Each utility shall maintain a subaccount system, a work order system, or an accounting system which identifies individual costs by each program. Examples of individual items include, but are not limited to, the costs for planning and design, labor, advertising and promotion, rebates, customer incentives, equipment, installation, funding of the Iowa energy center and the center for global and regional environmental research, funding of the alternate energy revolving loan program, and consultant fees. Each utility shall maintain accurate employee, equipment, materials, and other records which identify all amounts related to each individual energy efficiency program.

35.12(2) *Automatic adjustment mechanism.* Each utility required to be rate-regulated shall file by March 1 of each year, subject to the board's approval, energy efficiency costs proposed to be recovered in rates for the 12-month recovery period beginning at the start of the first utility billing month at least 30 days following board approval. Each utility may elect to file its first energy efficiency automatic adjustment up to 120 days after the effective date of these rules.

35.12(3) *Energy efficiency cost recovery (ECR) factors.* The utility shall calculate ECR factors separately for each customer classification or grouping previously approved by the board. For all plans current at the time this rule becomes effective and for all future plans, if a utility desires to use customer classifications or allocations of indirect or other related costs other than those previously approved, such customer classifications or allocations of indirect or other related costs must be approved as part of a plan filing or of a modification thereof. ECR factors shall use the same unit of measurement as the utility's tariffed rates. ECR factors shall be calculated according to the following formula:

$$\text{ECR factor} = \frac{(\text{PAC}) + (\text{ADPC} \times 12) + (\text{ECE}) + \text{A}}{\text{ASU}}$$

ECR factor is the energy efficiency recovery amount per unit of sales over the 12-month recovery period.

PAC is the annual amount of previously approved costs from earlier ECR proceedings, until the previously approved costs are fully extinguished.

ADPC is amortized deferred past cost. It is calculated as the levelized monthly payment needed to provide a return of and a return on the utility's deferred past costs (DPC). ADPC is calculated as:

$$\text{ADPC} = \text{DPC}\ [r(1+r)^n] / [(1+r)^n - 1]$$

DPC is deferred past costs including carrying charges which have not previously been approved for recovery, until the deferred past costs are fully recovered.

n is the length of the utility's plan in months.

r is the applicable monthly rate of return calculated as:

$$r = (1+R)^{1/12} - 1 \text{ or}$$

$$r = R \div 12 \text{ if previously approved}$$

R is the pretax overall rate of return the board held just and reasonable in the utility's most recent general rate case involving the same type of utility service. If the board has not rendered a decision in an applicable rate case for a utility, the average of the weighted average cost rates for each of the capital structure components allowed in general rate cases within the preceding 24 months for Iowa utilities providing the same type of utility service will be used to determine the applicable pretax overall rate of return.

ECE is the estimated contemporaneous expenditures to be incurred during the 12-month recovery period.

A is the adjustment factor equal to overcollections or undercollections determined in the annual reconciliation and for adjustments ordered by the board in prudence reviews.

ASU is the annual sales units estimated for the 12-month recovery period.

35.12(4) *Filing requirements.* Each utility proposing automatic recovery for its energy efficiency costs shall provide the following information:

a. The filing shall restate the derivation of each ECR factor previously approved by the board.

b. The filing shall include new ECR factors based on allocation methods and customer classifications and groupings approved by the board in previous proceedings.

c. The filing shall include all worksheets and detailed supporting data used to determine new ECR factors. Information already on file with the board may be incorporated by reference in the filing.

d. The filing shall include a reconciliation comparing the amounts actually collected by the previous ECR factors to the amounts expended. Overcollections or undercollections shall be used to compute adjustment factors.

e. If in a prudence review, the board has determined that previously recovered energy efficiency costs were imprudently incurred, adjustment factors shall include reductions for these amounts.

35.12(5) *Tariff sheets.* Upon approval of the new ECR factors, the utility shall file separate tariff sheets for board approval to implement the ECR factors in its rates.

199—35.13(476) Prudence review. The board shall periodically conduct a contested case to evaluate the reasonableness and prudence of the utility's implementation of energy efficiency plans and budgets. The burden shall be on the utility to prove it has taken all reasonable actions to cost-effectively implement an energy efficiency plan as it was approved.

35.13(1) *Information to be filed.* The parties to the prudence review shall provide the following information:

a. The utility shall file prepared direct testimony and exhibits in support of its past implementation results including information regarding: implementation issues; monitoring and evaluation issues; program costs; program benefits; energy and demand savings; and participation rates.

b. The Consumer Advocate Division of the Department of Justice and other intervenors to the contested case shall be allowed at least seven weeks to file rebuttal testimony and exhibits to the utility's direct testimony.

35.13(2) *Disallowance of past costs.* If the board finds the utility did not take all reasonable and prudent actions to cost-effectively implement its energy efficiency programs, the board shall determine the amount in excess of those costs that would have been incurred under reasonable and prudent implementation. That amount shall be deducted from the next ECR factors calculated pursuant to 199 IAC 35.12(3) until satisfied.

199—35.14(476) New structure energy conservation standards. A utility providing gas or electric service shall not provide 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(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.

199—35.15(476) Exterior flood lighting.

35.15(1) *Newly installed lighting.* All newly installed public utility-owned exterior flood lighting shall be high-pressure sodium lighting or lighting with equivalent or better energy efficiency.

35.15(2) *In-service lighting replacement schedule.* In-service lighting shall be replaced with high-pressure sodium lighting or lighting with equivalent or better energy efficiency when worn out due to ballast or fixture failure for any other reason, such as vandalism or storm damage. A utility shall file with the board as part of its annual report required in 199—Chapter 23 a report stating progress to date in converting to high-pressure sodium lighting or lighting with equivalent or higher energy efficiency.

35.15(3) *Efficiency standards.* The standard for lighting efficiency shall be expressed in "lumens per watt." A schedule of lumens per watt, correlated to bulb size, shall be used to reflect the inherent increase in efficiency as bulb size increases. The table of values for lighting efficacy extracted from the Standard Handbook for Electrical Engineers, Donald G. Fink and H. Wayne Beaty, Eds., Twelfth Edition, Table 26-14, shall be the standard for high-pressure sodium street and security lighting, within a 10 percent range below the stated values.

These rules are intended to implement Iowa Code sections 476.2(7), 476.6(19-21) and 476.10A.

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◊ Two or more ARCs

CHAPTER 36
ENERGY EFFICIENCY PLANNING AND REPORTING FOR NON-RATE-REGULATED GAS AND ELECTRIC UTILITIES

199—36.1(476) Non-rate-regulated utilities. Each non-rate-regulated gas and electric utility shall file energy efficiency plans as provided in this chapter.

199—36.2(476) Definitions. The following words and terms, when used in this chapter, shall have the following meanings:

"Annual" means during each calendar year.

"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.

"Energy efficiency programs" 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, 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, and hot water insulation distribution programs.

"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.

"Filing year" means the calendar year during which an energy efficiency plan is filed.

"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.

"Year" means calendar year.

199—36.3(476) 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 shall file subsequent biennial energy efficiency plans on or before July 1, 1994, and succeeding even-numbered years.

199—36.4(476) Joint filing of plans. A utility may file its plan jointly with other non-rate-regulated utilities or their agents. A joint plan shall contain the information required by rules 36.5(476) and 36.6(476) for each utility participating in the joint plan, 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.

199—36.5(476) Energy efficiency plan requirements. Each utility's energy efficiency plan shall include the following:

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. For each program implemented during the past two calendar years and completed, 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. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;

c. 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;

d. Annual number of program participants;

e. Annual and total costs of the program;

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

g. 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 in the filing year or the year following. 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. For each program under this subrule, 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 is designed to change;

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

c. Projected annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;

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

f. Annual number of program participants and annual estimated number of program participants;

g. Annual and total costs of the program;

h. Estimated annual and total cost of program;

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

j. Other relevant information.

199—36.6(476) Program selection criteria. Each utility's plan shall include a description of the procedures or criteria used to continue current and to select future energy efficiency programs for implementation.

199—36.7(476) New Structure energy conservation standards. A utility providing 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(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.

199—36.8(476) Exterior flood lighting.

36.8(1) *Newly installed lighting.* All newly installed public utility-owned exterior flood lighting shall be high-pressure sodium lighting or lighting with equivalent or better energy efficiency.

36.8(2) *In-service lighting replacement schedule.* In-service lighting shall be replaced with high-pressure sodium lighting or lighting with equivalent or better energy efficiency when worn out due to ballast or fixture failure for any other reason, such as vandalism or storm damage. Each utility shall file with the board as part of its annual report required in 199—Chapter 23 a report stating progress to date in converting to high-pressure sodium lighting or lighting with equivalent or higher energy efficiency.

36.8(3) *Efficiency standards.* The standard for lighting efficiency shall be expressed in "lumens per watt." A schedule of lumens per watt, correlated to bulb size, shall be used to reflect the inherent increase in efficiency as bulb size increases. The table of values for lighting efficacy extracted from the Standard Handbook for Electrical Engineers, Donald G. Fink and H. Wayne Beaty, Eds., Twelfth Edition, Table 26-14, shall be the standard for high-pressure sodium street and security lighting, within a 10 percent range below the stated values.

These rules are intended to implement Iowa Code sections 476.1A(6), 476.1B(1)*"l,"* and 476.2(5) to 476.2(7).

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CHAPTER 37
EQUIPMENT DISTRIBUTION PROGRAM

199—37.1(477C) Policy and purpose. The board has authority under Iowa Code section 477C.4 to plan, establish, administer, and promote a program to secure, finance, and distribute telecommunications devices for the deaf. The needs for equipment to allow persons with communication impairments to use the telephone are not being satisfied in Iowa at this time. A reasonable distribution program is desirable. All customers will benefit when access to the telephone system is available to more persons. The existing dual party relay service will be more fully utilized when more persons have the equipment necessary to gain access to the relay service.

The equipment distribution program will be limited by periodic budget amounts set by the board. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

199—37.2(477C) Program structure. The equipment distribution program will be conducted by a program administrator chosen by the board. Distribution of equipment will be made through a voucher system utilizing private vendors for equipment purchases. Vouchers to pay part or, depending upon the price, all of the cost of equipment will be issued by the program administrator to eligible recipients. After purchase using a voucher, the recipient will be the permanent owner of the equipment and responsible for enforcement of any warranties and for any repairs.

37.2(1) *Amount.* The voucher will state a standard amount for a particular piece of equipment.

a. The standard amount shall be determined and updated periodically by the program administrator.

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than $1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.

37.2(2) *Voucher use.* The recipient of a voucher may purchase equipment from any vendor who will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. A bill of sale for equipment purchased prior to the issuance of a voucher shall not be reimbursed.

37.2(3) *Term.* The vouchers shall provide for a 40-day period to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. Except for good cause shown, the vendor will not be reimbursed for a voucher issued more than 120 days before the voucher is returned to the board for payment.

37.2(4) *Payment.* The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as required by the board, including but not limited to a bill of sale showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.3(477C) Eligibility. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following standards. Applications will be processed in queue as determined by the program administrator. No person will be entitled to equipment at a particular time merely because that person meets the eligibility requirements. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period.

37.3(1) The applicant's need for the equipment must be verified by an appropriate professional, including but not limited to a licensed physician; certified teacher in the fields of hearing, speech, or visual impairment; speech pathologist; audiologist; or an appropriate state or federal agency representative, as part of the initial application. At the time of reapplication for equipment, the applicant must submit

a statement certifying the applicant's condition has not changed to the extent that a different type of equipment is needed. If an applicant's condition has changed to the extent that a different type of equipment is needed from that originally received, the applicant's need must be verified by an appropriate professional.

37.3(2) The applicant must have telephone service available to the applicant's Iowa residence or must have applied for telephone service to the Iowa residence.

37.3(3) The applicant must be an individual.

37.3(4) The applicant must be at least five years of age or demonstrate an ability to use the equipment requested. No demonstration is required for those five years of age and older.

37.3(5) The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household who have different communication impairments that require different types of assistive telecommunications equipment, the individuals may make a joint or separate request to the equipment distribution program administrator. The administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

37.3(6) Equipment may be replaced under the program by reapplication as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the program administrator for good cause shown.

37.3(7) An applicant must agree to cooperate with studies to evaluate the effectiveness of the program.

37.3(8) An applicant's gross household income must be less than $70,000 for a family of four. Household numbers above or below four will increase or decrease that amount in $8,000 increments.

199—37.4(477C) Equipment. The board will authorize the types of equipment to be distributed through the program, including but not limited to telecommunications devices for the deaf with printers, signalers, amplifiers, computer software, and a limited number of telecommunications devices for the deaf/blind.

199—37.5(477C) Complaints. All complaints concerning the equipment distribution program will be resolved pursuant to the following:

37.5(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

a. The administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, shall attempt to settle the matter informally within 45 days.

b. Should the informal dispute resolution process fail, the complaint may be submitted to the board by the complainant and will be processed by the project manager as provided for utility customers in 199 IAC 6. The complaint will be directed to the program administrator with a copy to the consumer advocate. The board staff assigned to the equipment distribution program will then issue a proposed resolution as defined in 199 IAC 6.4(476).

c. The proposed resolution shall include a description of the facts involved in the dispute and a clear statement of the proposed resolution.

d. The proposed resolution shall also give notice that any interested person dissatisfied with the proposed resolution has 14 days after the issuance of the proposed resolution to file a written request for formal complaint proceedings before the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution. The request for formal complaint proceedings shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made.

37.5(2) The request for formal complaint proceedings shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to any other persons served with the proposed resolution.

37.5(3) Upon receipt of a request for formal complaint proceedings, the board shall consider whether formal complaint proceedings should be initiated and issue an order. The request shall be granted if the

board determines there is any reasonable ground for investigating the complaint. If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business.

37.5(4) When a complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 will apply.

These rules are intended to implement Iowa Code section 477C.4.

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CHAPTER 38
LOCAL EXCHANGE COMPETITION

199—38.1(476) General information.

38.1(1) *Application and purpose of rules.* This chapter applies to local utilities. The purpose of these rules is to further the development of competition in the local exchange services market.

38.1(2) *Definitions.* For the administration and interpretation of this chapter, the following words and terms shall have the meaning indicated below, unless the context otherwise requires:

"Act" means the Telecommunications Act of 1996.

"Arbitration" means the investigative process whereby a dispute is submitted to the board for resolution.

"Bona fide request" means a request to a local utility that demonstrates a good faith showing that the requesting party intends to purchase the services requested within six months of the date of the request.

"Competitive local exchange service provider" means any person that provides local exchange services, other than a local exchange carrier or a non-rate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

"Interim number portability" means one or more mechanisms, such as remote call forwarding or route indexing, by which a local exchange customer at a particular location may change the customer's local service provider without any change in the customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

"Local exchange carrier" means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

"Local utility" means any entity that provides wireline local exchange services, including local exchange carriers, competitive local exchange service providers, and other non-rate-regulated wireline providers of local exchange services.

"Mediation" means the process in which a neutral party assists the parties in reaching their own settlement but does not have the authority to make a binding decision.

"Provider number portability" means the capability of a local exchange customer to change the customer's local service provider at the customer's same location without any change in the customer's telephone number, while preserving the full range of functionality that the customer currently experiences. Provider number portability includes the equal availability of information concerning the local service provider serving a telephone number to all carriers and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call and without the dialing of additional digits or access codes.

"Total service long-run incremental cost" for a service, or group of services, is equal to the utility's total cost of producing all of its services including the service or group of services in question, minus the utility's total cost of producing all of its services excluding the service or group of services in question.

199—38.2(476) Number portability.

38.2(1) *Interim number portability.*

a. Requests. Each local exchange carrier shall make interim number portability available upon bona fide request of a local utility. Once a local utility uses a local exchange carrier's interim number portability, it must, in turn, make interim number portability available upon approval of its tariff to all other local utilities upon bona fide request.

b. Terms and conditions. After interim number portability has been requested pursuant to paragraph *"a,"* a local exchange carrier with no tariff to provide the service shall file a tariff, within 60 days of the request, making interim number portability available. The local exchange carrier's tariff will make interim number portability available to all local utilities on the same terms and conditions.

Each local utility using the local exchange carrier's interim number portability must file tariffs within 60 days of receiving the service. For telephone numbers initially routed to the local utility, the tariffs must make interim number portability available to all other local utilities on the same terms and conditions. A local utility's tariff for interim number portability will be presumed to be reasonable and nondiscriminatory if the terms and conditions are the same as those contained in the local exchange carrier's tariff for the same geographic area and the prices charged for interim number portability are not greater than those charged by the local exchange carrier. Otherwise, the tariff filing will require cost support information.

c. Technical features. Each local utility offering interim number portability shall make good faith efforts to ensure that the calls routed or forwarded to other local utilities meet industry standards and retain the technical characteristics and functionality of calls delivered to its own customers. Calls routed or forwarded to other local utilities shall experience as little loss of functionality as is feasible using available technology.

d. Cost recovery mechanism. To recover the costs of interim number portability, a local exchange carrier must make a sufficient showing to justify inclusion of the interim number portability charge in its tariff. The amount of the charge may be adjusted to reflect the indirect benefits of interim number portability to all local service customers. The recovery of both recurring and nonrecurring costs of interim number portability must be in the form of a one-time charge to the requesting local utility for each customer retaining its number.

e. Terminating access charges. When an interim number portability arrangement is being used to route or forward a terminating intrastate long distance call to a customer's telephone number, the local utility routing or forwarding the call shall bill the interexchange carrier the access charge the local utility would bill if it provided local exchange service to the terminating number. The access charge revenue shall be divided as follows:

(1) The carrier common line charge shall flow through to the local utility that serves the customer; and

(2) The switching and transport charges shall be divided equally between the local utility that serves the customer and the local utility that routed or forwarded the call.

38.2(2) *Provider number portability.*

a. Trials. A local utility may petition the board at any time with a proposal to conduct a trial of a database architecture for provider number portability involving all local utilities in a local calling area. The petitioning local utility shall provide the board with information about the likely costs of conducting a trial, how and from whom these costs will be recovered, the proposed duration of the trial, and a complete description of what is intended to be learned from the trial, especially considering the trials already planned, underway, or complete in other areas of the country. The board will provide notice and an opportunity for a hearing to allow interested persons to provide information about the advisability of conducting a trial.

b. Requests. A local utility may petition the board at any time with a proposal that all local utilities in a local calling area implement a database architecture for provider number portability that would furnish equivalent service quality and equal feature characteristics to all carriers. The petitioning local utility shall supply the board with sufficient information to establish that the proposed database architecture for provider number portability is economically and technically feasible. In particular, the petitioning local utility shall show how calls could continue to be handled reliably, how call setup times would be affected, how much the proposed database architecture would cost to install and operate, who would install and operate the database, and how the costs of installing and operating the database would be recovered. The filing must contain a reasonable and nondiscriminatory mechanism for the recovery of all recurring and nonrecurring costs of provider number portability. The board will provide notice and an opportunity for a hearing to allow others to provide information as to whether the proposed database architecture is economically and technically feasible.

199—38.3(476) Interconnection requirements. A local utility that originates local telecommunications traffic and desires to terminate that traffic on the network of another local utility may choose the

point(s) of interconnection between the two networks for the exchange of that originating local telecommunications traffic at any technically feasible point within the terminating carrier's network. Interconnection must be equal in quality to that provided by the local utility to itself, any affiliate, or any other party to which the local utility provides interconnection. Interconnection must be on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

199—38.4(476) Unbundled facilities, services, features, functions, and capabilities.

38.4(1) *Initial tariff filings.*

a. *Filing schedule.* Each local exchange carrier shall file initial tariffs implementing unbundling for the facilities enumerated in paragraph *"b"* within 90 days of the board's final order adopting these rules, except for local exchange carriers with fewer than 75,000 access lines which must file initial unbundling tariffs on or before July 1, 1997.

b. *Initial list of unbundled essential facilities.* Each local exchange carrier's initial tariff filing shall, at a minimum, unbundle the following essential facilities, services, features, functions, and capabilities: loops, ports, signaling links, signal transfer points, facilities to interconnect unbundled links at the central office, interoffice transmission facilities, directory listings in white pages, directory listings in yellow pages, listings in the directory assistance database, inbound operator services including busy line verification and call interrupt, interconnection to the 911 system, and interconnection to the tandem switch for routing to other carriers.

38.4(2) *Subsequent requests for unbundled facilities.* Except as allowed in subrule 38.4(3), requests to unbundle facilities, services, features, functions, and capabilities shall be processed as follows:

a. Subsequent to the initial tariff filings provided for in subrule 38.4(1) above, a competitive local exchange service provider may make a bona fide request of a local exchange carrier to make additional unbundled essential facilities available. After receiving a request for additional unbundled essential facilities, the local exchange carrier shall respond within 30 days of the request by either agreeing to the request or by denying the request. If the local exchange carrier agrees to fulfill the request, it shall file a tariff unbundling the essential facility within 60 days of the initial request.

b. If the local exchange carrier denies the request, a competitive local exchange service provider may petition the board to classify the requested facility as essential, as defined by Iowa Code section 476.100(2), and to require the local exchange carrier to make it available on an unbundled basis by filing a tariff. In such a petition, the competitive local exchange service provider shall provide information to the board showing how the requested facility meets the definition of essential facility found in Iowa Code section 476.100(2).

The petitioning party under this subrule may state a preference for proceeding by rule making or contested case, but the board will select the process to be used.

38.4(3) *Alternative procedures.* As an alternative to the procedures in subrule 38.4(2), a competitive local exchange service provider may elect the negotiation, mediation, and arbitration procedures available under 47 U.S.C. Section 252, by notifying the local exchange carrier and the board in writing at the time additional unbundled facilities are requested.

38.4(4) *Reclassifying essential facilities.* A local exchange carrier may, at any time, petition the board with a request that a facility classified as essential, either by the terms of subrule 38.4(1) or pursuant to a subsequent request of a competitive local exchange service provider, be removed from that classification and no longer be required to be provided on an unbundled basis. With its petition, the local exchange carrier shall provide information to the board showing why the facility no longer meets the definition of essential found in Iowa Code section 476.100(2). The board will determine the procedure to be used in reviewing the petition.

38.4(5) *Interconnection to essential facilities.*

a. *Nondiscriminatory access.* All competitive local exchange service providers shall have access to a local exchange carrier's unbundled facilities on the same nondiscriminatory terms and conditions. Such terms and conditions shall be specified in the local exchange carrier's tariff for unbundled facilities.

b. *Reasonable equal access.* The terms and conditions under which competitive local exchange service providers shall be able to interconnect with a local exchange carrier's unbundled facilities shall

be technically and economically equivalent to those under which the local exchange carrier provides those facilities to itself or its affiliates. If it believes such terms and conditions are not technically or economically feasible, the local exchange carrier may petition the board for a waiver of this provision.

199—38.5(476) Cost standards.

38.5(1) *Existing standards.* In addition to the standards in this rule, the cost support requirements of rules 199—22.12(476) and 22.13(476) shall apply to all of a local exchange carrier's rate proceedings prior to the implementation of price regulation.

38.5(2) *Incremental cost standard.* In general, each local exchange carrier shall price each of its services above the total service long-run incremental cost of providing each service. However, this incremental cost standard shall not be construed to require any increase in the rate for any service prior to the implementation of price regulation, nor to require any price increase that is greater than allowed under a price regulation plan or under Iowa Code section 476.97(11).

38.5(3) *Imputation test.* In general, prices for each retail service offered by a local exchange carrier should equal or exceed the sum of an allocation of the tariffed prices for all unbundled essential facilities used to provide the service and the incremental costs of all other facilities or services that are components of the retail service. However, this imputation test shall not be construed to require any increase in the rate for any service prior to the implementation of price regulation, nor to require any price increase that is greater than allowed under a price regulation plan or under Iowa Code section 476.97(11).

38.5(4) *Reporting requirements.* A local exchange carrier shall provide current information to the board showing that the conditions of the incremental cost standard described in subrule 38.5(2) and the imputation test described in subrule 38.5(3) continue to be met whenever it proposes to lower the price of a retail service, it proposes the initial price of an unbundled essential facility, it proposes to raise the price of an unbundled essential facility, or it offers a new service.

38.5(5) *Competitive local exchange service providers.* Cost support will generally not be required for the tariff filings from competitive local exchange service providers, with the exception of 38.2(1)*"b."*

199—38.6(476) Compensation for termination of telecommunications services.

38.6(1) *Mutual exchange of traffic.* Until the board approves monetary compensation and until tariffs for the compensation are in effect, each local utility shall terminate local and extended area service calls on a mutual exchange of traffic basis, at no charge to the originating provider. As an alternative, a local utility may elect the negotiation, mediation, and arbitration procedures available under 47 U.S.C. Section 252, by notifying the other affected local utility and the board in writing.

38.6(2) *Requests to end mutual exchange of traffic.* A facilities-based local utility may file a cost-based tariff for monetary compensation for terminating local access service, provided its filing includes a showing that in six consecutive calendar months of mutual traffic exchange between it and another facilities-based local utility the total terminating to originating traffic for the entire six-month period was unbalanced by a ratio of at least 55 percent terminating to 45 percent originating. The tariff filing must include appropriate cost support information. The terms and conditions listed in the tariff shall be applicable to all local utilities operating within the local utility's service territory or within a service territory with extended area service to the local utility's service territory. On the date the tariff becomes effective, compensation on a mutual exchange basis will end.

38.6(3) *Monetary compensation requirements for other utilities.* Within 60 days of board approval of a tariff for monetary compensation for terminating local access service, each other local utility operating within the service territory of the local utility or within a service territory with extended area service to the local utility must file a tariff for monetary compensation for terminating local access service. The tariff filing must include sufficient evidentiary support to allow the board to determine that the compensation will be reciprocal. The terms and conditions listed in the tariff shall be applicable to all local utilities operating within the local utility's service territory or within a service territory with extended area service to the local utility's service territory. Until a local utility has an approved tariff in effect, it must charge the rates for terminating local access service in the approved tariff of the local utility with which it exchanges traffic.

38.6(4) *Terminating access charge complaints.* No local utility shall deliver traffic to another local utility as local service or extended area service terminating traffic, to which mutual exchange or monetary compensation would apply under this rule, if the terminating traffic is long distance or some other type of traffic for which terminating switched access charges would otherwise have been payable. Any local utility may bring a complaint to the board if another local utility has violated this requirement or taken insufficient measures to determine whether switched access charges would otherwise have been payable. The board may order appropriate refunds with interest of compensation received by a local utility in violation of this rule.

199—38.7(476) Mediation and arbitration. This rule shall apply to all local utilities, except for rural telephone companies as defined in Section 3(47) of the Telecommunications Act of 1996. The board may make all or part of this rule applicable to a rural telephone company or companies in proceedings relating to Section 251(f) of the Act.

38.7(1) *Voluntary negotiations.*

a. Initiation of negotiations. A telecommunications carrier initiates the negotiation process by requesting interconnection, services, or network elements as defined in the Act from an incumbent local utility pursuant to Section 252(a)(1) of the Act. The day the request is received by the local utility is day one of the schedule set for resolution of all issues. Within five days of receipt of the request, the local utility shall file ten copies of the request and a statement of the date the request was received with the board.

b. Duty to negotiate. The requesting telecommunications carrier and the local utility have the obligation to negotiate in good faith the terms and conditions for the provision of the requested interconnection, services, or network elements. Good faith negotiations require that the parties meet and confer at reasonable times and places, remain open to the arguments and proposals, and work toward the goal of reaching agreement on terms and conditions for the requested interconnections and services. Refusal of any party to give information about its costs or other pertinent data upon request of another party may be considered by the board as a failure to negotiate in good faith.

38.7(2) *Mediation.*

a. Initiation of mediation. At any time during the negotiations, any party to the negotiations may request mediation. The request shall be made in writing to the board and copies of the mediation request shall be simultaneously served on the other parties. Alternatively, parties may jointly submit their request in writing to the board. A request for mediation shall contain a brief statement of the nature of the dispute and the names, addresses, telephone and fax numbers of the parties or their representatives.

b. Appointment of mediator. The board may appoint any competent, impartial person of character and ability to act as mediator. The board will immediately convene a meeting of the parties to discuss appointment of a mutually acceptable mediator.

c. Role and duties of the mediator. The role of the mediator is to encourage voluntary settlement by the parties. The mediator may not compel a settlement. The mediator shall schedule meetings of the parties, direct the parties to prepare for those meetings, hold private caucuses with each party in an attempt to bring disputants closer together, attempt to achieve a resolution, and assist the parties in preparing a written agreement.

The mediator does not provide legal advice to the parties, nor are any of the mediator's statements as to law and policy binding unless later adopted by the board. The mediation process will be treated as confidential to the extent permitted by law. No stenographic record will be kept.

After completion of at least one mediation session, the mediator may terminate the mediation process if it appears that the likelihood of agreement is remote or if a party is not participating in good faith, or for other good cause.

d. Parties. Only parties to the negotiations will be permitted to participate as parties to the mediation.

e. Assessment of costs. The cost of mediation shall be shared equally by the parties and paid directly to the mediator.

38.7(3) *Arbitration.*

a. Initiation of arbitration. Any party to the negotiation may petition the board to arbitrate all open issues. The petition requesting arbitration must be filed during the period from the 135th day through the 160th day after the date on which the request for negotiation was received by the local utility. Simultaneously with filing the petition with the board, the petitioning party shall provide a copy of the petition and accompanying documentation to the other parties.

b. Supporting documentation. On the same day of the filing of the request for arbitration, the petitioning party shall provide to the board the date upon which the request for negotiation for the interconnection, services, or network elements in dispute was made to the local utility, a list of unresolved issues, the position of each party on each of the unresolved issues, how the parties' positions meet or fail to meet the requirements of Section 251 of the Act or other regulations, any supporting documents for positions taken by the parties on unresolved issues including all relevant cost studies where prices are in dispute, whether a hearing is requested, a list of issues discussed and resolved prior to the petition for arbitration, any requests for confidentiality, and any other documents relevant to the dispute.

c. Response to the request for arbitration. A nonpetitioning party to the negotiation may respond to the petitioning party's position and provide additional information within 25 days after the petition for arbitration was received by the board.

d. Parties. Only parties to the negotiations will be permitted to participate as parties to the arbitration, unless the board consolidates proceedings. However, the office of consumer advocate will also be considered a party to the arbitration proceeding.

e. Assessment of costs. Costs shall be directly and equally assessed to the parties involved in the arbitration to the extent provided for by Iowa Code section 476.10.

f. Docketing of the arbitration request. Upon receipt of a timely and complete petition for arbitration, the board shall docket the request for consideration by the board.

g. Arbitration schedule and procedures. Within 15 days of the receipt of the petition for arbitration, the board will schedule a conference to be held within 40 days of receipt of the petition. The purpose of the conference is to plan an arbitration hearing date, clarify the issues to be resolved, identify additional information needed to reach a decision on the issues, schedule production of documents and other information, discuss or rule on any other procedural matters, and consider any other matters that will expedite the arbitration process.

h. Hearing. An arbitration hearing shall commence no later than 60 days following receipt of the petition for arbitration.

i. Consolidation. Nothing in these rules precludes consolidation of proceedings in order to reduce administrative burdens on local utilities, other parties to the proceedings, and the board.

j. Decision. Following the hearing, the board will issue its preliminary written decision on the unresolved issues. All exceptions to the decision must be filed by the parties within ten days of issuance of the preliminary decisions. All replies to exceptions shall be filed within five days of the filing of the exceptions. A final written decision regarding all issues offered in arbitration shall be issued by the board within the nine-month deadline in the Act.

38.7(4) *Board review of agreements.*

a. Filing of agreements. All interconnection agreements shall be filed with the board for approval within 15 days after the issuance of a final decision on the arbitrated issues, in the case of arbitrated agreements or, in the case of negotiated agreements, after the execution of the agreement. An original and three copies shall be filed.

b. Notice of negotiated agreements, amendments, and adoption of agreements. Notice of the filing of a negotiated interconnection agreement, an amendment to an agreement, or adoption of an agreement will be posted within five working days after the filing date, on the board's Web site, http://www.state.ia.us/iub.

c. Comments on arbitrated agreements. Within ten days following the filing of the arbitrated agreement with the board for review, the parties involved in the arbitration, and any other interested party, may submit written comments to the board supporting either approval or rejection of the agreement. If

the board does not approve or reject the agreement within 30 days after submission by the parties of an agreement adopted by arbitration, the agreement shall be deemed approved.

d. Comments on negotiated agreements and amendments to agreements. Within 30 days of the filing date of the negotiated agreement or amendment, the parties involved in the negotiations and any other interested party may submit written comments with the board supporting either acceptance or rejection of the agreement or amendment. If no comments are filed and no issues are generated by the internal board review, the agreement or amendment shall be deemed approved 41 days after the filing date. If comments opposing approval are filed or the internal board review recommends investigation, the agreement or amendment shall be docketed. The docketing order shall be issued within 40 days after the filing date. If the board does not issue a decision on a docketed filing within 90 days after the filing date, the agreement or amendment shall be deemed approved.

e. Comments on adoption of agreements. No board approval is necessary when there is an adoption of the terms, conditions, and rates from an approved interconnection agreement. The adoption is effective upon filing. If there are terms, conditions, or rates in the filing that are not from an adopted agreement, then the filing is subject to the provisions of paragraph 38.7(4)*"d."*

f. Indefinite terms, conditions, or rates. When the agreement or amendment contains terms, conditions, or rates that are not yet agreed to, the parties shall file an amendment to the agreement once they have reached agreement on the terms, conditions, or rates.

199—38.8(476) Universal service. Rescinded IAB 12/31/97, effective 1/1/98.

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CHAPTER 39
UNIVERSAL SERVICE

199—39.1(476) Definition of terms. For the purposes of Universal Service Fund requirements, the following definitions apply:

"Eligible telecommunications carrier" or *"eligible carrier"* means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

"Facilities" means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for Universal Service Fund support.

"Federal Poverty Guidelines" means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

"Toll blocking" means a service that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

"Toll control" means a service that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

"Toll limitation" denotes both toll blocking and toll control.

199—39.2(476) Eligible carrier requirements.

39.2(1) *Services required.* Each eligible telecommunications carrier must offer the services supported by the federal Universal Service Fund throughout the approved service area. These services are:

a. Voice grade access to the public switched network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For purposes of universal service, voice grade access shall occur within the frequency range of between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz;

b. Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the Federal Communications Commission, provided free of charge to end users;

c. Dual tone multifrequency signaling or its functional equivalent. "Dual tone multifrequency (DTMF)" is a method of signaling that facilitates the transportation of signaling through the network, shortening call setup time;

d. Single-party service or its functional equivalent. "Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

e. Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. "911" is defined as a service that permits a telecommunications user, by dialing the three-digit code 911, to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

f. Access to operator services. "Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

g. Access to interexchange service. "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

h. *Access to directory assistance.* "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

i. *Toll limitation for qualifying low-income consumers.* Toll limitation for qualifying low-income consumers includes toll blocking and toll control.

39.2(2) *Additional time to complete network upgrades.* The board may grant the petition of a telecommunications carrier, otherwise eligible to receive universal service support, requesting additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier will be permitted to receive support for the duration of the period designated by the board. The board will grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period will extend only as long as the board finds that exceptional circumstances exist and will not extend beyond the time that the board deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific universal services must demonstrate to the board that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

39.2(3) *Carrier eligibility requirements.* In addition to providing the services required in 39.2(1), each eligible carrier must:

a. Offer the services required using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. A carrier cannot qualify by providing all of the required services via resale.

b. Advertise the availability of the required services and the charges for the services using media of general distribution to residential customers. Carrier must advertise at least annually, in a publication of general circulation, throughout its approved service area.

c. Submit an explanation of how the carrier will provide each of the supported services listed in 39.2(1).

d. Submit a description, including a detailed map or maps, of the area or areas for which ETC designation is sought. Commercial mobile radio service (CMRS) providers, as defined in 47 CFR Parts 20 and 24, shall file coverage area maps that depict signal strength.

e. Submit a network improvement and maintenance plan associated with the provision of universal supported services. An ETC applicant shall submit a two-year plan specifically describing its proposed network improvements, upgrades, and maintenance for its proposed designated service area. The plan must demonstrate in detail how high-cost support will be used for service improvements or maintenance that would not occur absent support. The plan must demonstrate: (1) how signal quality, coverage, or capacity will improve in the designated area due to receipt of support; (2) the projected start date and completion date for each improvement, including the estimated amount of investment per project funded by high-cost support; (3) the specific geographic areas where improvements will be made; and (4) the estimated population that will be served as a result of the improvements. This information shall identify the benefits to specific wire centers in the carrier's proposed designated service area. Carriers that are not requesting high-cost support shall indicate this in their applications. Carriers that are not seeking or receiving high-cost support are not required to file network improvement and maintenance plans, nor are they required to file annual extensions and progress reports.

f. Demonstrate compliance with applicable consumer protection standards. Wireline ETC applicants shall commit to complying with the consumer protection rules set out in 199—Chapters 6 and 22. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Provide disclosure rates and terms of service to consumers. For each rate plan offered to new consumers, wireless carriers shall make available to consumers in collateral or other disclosures at point of sale and on their Web sites, at a minimum, the following information, as applicable:

1. The calling area for the plan;

2. The monthly access fee or base charge;
3. The number of airtime minutes included in the plan;
4. Any night and weekend minutes included in the plan or other differing charges for different time periods and the time periods when night and weekend minutes or other charges apply;
5. The charges for excess or additional minutes;
6. Per-minute long distance charges or whether long distance is included in other rates;
7. Per-minute roaming or off-network charges;
8. Whether any additional taxes, fees or surcharges apply;
9. The amount or range of any such fees or surcharges that are collected and retained by the carrier;
10. Whether a fixed-term contract is required and, if so, its duration;
11. Any activation or initiation fee; and
12. Any early termination fee that applies and the trial period during which no early termination fee will apply.

(2) Make available maps showing where service is generally available. Wireless carriers shall make available at point of sale and on their Web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps shall be generated using generally accepted methodologies and standards to depict outdoor coverage. All such maps shall contain an appropriate legend concerning limitations and variations in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers shall periodically update such maps as necessary to keep the maps reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers shall request and incorporate roaming partners' coverage maps that are generated using similar industry-accepted criteria or, if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier shall provide or confirm the material terms and conditions of service with the customer.

(4) Allow a trial period for new service. When a customer initiates service with a wireless carrier, the customer shall be informed of and given a period of not less than 14 days to try out the service. The carrier shall not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and exchange policies. Other charges, including airtime usage, may still apply.

(5) Provide specific disclosure in advertising. In advertising of prices for wireless service or devices, wireless carriers shall disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows:

1. Activation or initiation fees;
2. Monthly access fees or base charges;
3. Any required contract term;
4. Early termination fees;
5. The terms and conditions related to receiving a product or service for "free";
6. The times of any peak and off-peak calling periods;
7. Whether different or additional charges apply for calls outside the carrier's network or outside designated calling areas;
8. For any rate plan advertised as "nationwide" (or using a similar term), the carrier shall have available substantiation for this claim;
9. Whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term;
10. Whether any additional taxes, fees, or surcharges apply; and
11. The amount or range of any such fees or surcharges collected and retained by the carrier.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, the carrier shall distinguish monthly charges for service and features and other charges collected and retained by the carrier from taxes, fees, and other charges collected by the carrier and remitted to federal, state, or local governments. Carriers shall not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers shall not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers shall be provided a toll-free telephone number to access a carrier's customer service department during normal business hours. Customer service contact information shall be provided to customers on line and on billing statements. Each wireless carrier shall provide information about how customers may contact the carrier in writing, by toll-free telephone number, via the Internet, or otherwise with any inquiries or complaints, and this information shall be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on carriers' Web sites. Each carrier shall also make such contact information available, upon request, to any customer calling the carrier's customer service department.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 350 Maple Street, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, "Complaint Procedures," shall be followed to enforce the minimum consumer protection standards in paragraph 39.2(3)*"f."* When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless ETC shall abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws and shall make available to the public its privacy policy concerning information collected on line.

g. Demonstrate compliance with applicable service quality standards. Wireline ETC applicants shall demonstrate that they will comply with applicable service quality standards set forth in 199—Chapter 22. All ETC applicants shall commit to complying with the service quality reporting requirements set forth in 199—39.5(476).

h. Certify the ability to maintain a minimum of two hours of backup power to ensure functionality without an external power source.

i. Demonstrate a commitment to offer a local usage plan comparable to the one offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. ETC applicants shall commit to providing Lifeline and Link-Up consistent with 47 CFR 54.401 and 47 CFR 54.411.

j. File a statement that the carrier acknowledges that the FCC may require it to provide equal access if all other eligible carriers in its ETC designated service area relinquish their designations pursuant to Section 214(e) of the Telecommunications Act of 1996.

k. When the ETC applicant seeks to provide service in a rural area, demonstrate that granting ETC designation is in the public interest. The public interest analysis shall include discussion of the benefits of increased consumer choice and, if relevant, of the benefits of providing consumer choices on service offerings in rural and high-cost areas. The public interest analysis shall also include discussion of the particular advantages and disadvantages of the applicant's offering. For example, the analysis may discuss the potential benefits of mobility that wireless carriers provide in geographically isolated areas, the potential impact on toll charges to affected consumers, and the potential for consumers to obtain services such as voicemail, numeric paging, call forwarding, three-way calling, call waiting, and

other premium services comparable to those provided in urban areas. The analysis shall also address the disadvantages of dropped-call rates and poor coverage.

l. Respond to board requests for information related to the status of local voice service markets or facilities. Board requests may include requests for surveys on the number of customers using specific services, facilities, or service packages and explanations of services or service packages, pricing on services offered, carrier advertising efforts, and market trends.

39.2(4) *Determination of eligibility.* Eligibility to receive support from the Universal Service Fund must be obtained from the board. To be designated an eligible carrier, a carrier must file a request using the form that appears in this subrule.

IOWA DEPARTMENT OF COMMERCE
UTILITIES BOARD

REQUEST FOR UNIVERSAL SERVICE
ELIGIBLE CARRIER STATUS IN IOWA

This form is to be completed by the petitioning Carrier and returned to the Board. This form is intended to enable compliance with 199 IAC 39.2(4).

1. FULL NAME OF CARRIER PROVIDING SERVICE IN IOWA:

_____

CARRIER MAILING ADDRESS:

_____
_____
_____

NAME, TITLE AND TELEPHONE NUMBER OF CONTACT PERSON:

_____
_____
_____

_____CHECK HERE IF CARRIER HEREBY CERTIFIES THAT IT OFFERS THE SERVICES DESIGNATED FOR UNIVERSAL SUPPORT AS LISTED AND DEFINED IN 199 IAC 39.2(1).

_____CHECK HERE IF CARRIER SEEKS ADDITIONAL TIME TO COMPLETE NETWORK UPGRADES UNDER THE PROVISIONS OF 199 IAC 39.2(2). THE CARRIER PETITION FOR ADDITIONAL TIME SHOULD BE INCLUDED AS AN ATTACHMENT TO THIS FORM. CARRIER CERTIFIES THAT IT OFFERS THE SERVICES LISTED IN 199 IAC 39.2(1) OTHER THAN THOSE FOR WHICH ADDITIONAL TIME IS SOUGHT.

2. CARRIER USES ITS OWN FACILITIES TO PROVIDE SERVICES SUPPORTED BY UNIVERSAL SERVICE FUND OR PROVIDES THE SERVICES BY A COMBINATION OF ITS OWN FACILITIES AND RESALE OF ANOTHER CARRIER'S SERVICE(S). "OWN FACILITIES" IS DEFINED IN 199 IAC 39.2(3)*"a."*

3. CARRIER WILL ADVERTISE AT LEAST ANNUALLY THE AVAILABILITY OF SERVICES DESIGNATED FOR UNIVERSAL SERVICE SUPPORT AND THE CHARGES THEREFOR USING MEDIA OF GENERAL DISTRIBUTION.

4. _____CHECK HERE IF CARRIER IS NOT CURRENTLY APPROVED TO PROVIDE LOCAL SERVICE. IF CHECKED, PLEASE INCLUDE WITH THE FILING OF THIS REQUEST DOCUMENTATION SHOWING YOUR SERVICE AREA.

ATTESTATION

I,_____, certify that I am the company officer responsible for this request, that I have examined the foregoing request, and that to the best of my knowledge, information, and belief all statements of fact contained in the request are correct statements of the business and affairs of the applicant with respect to each and every matter set forth.

Dated ____/____/____

Telephone Number (_____)_____-_____

SIGNATURE _____

39.2(5) *Area served.*

a. Unless otherwise ordered by the board, the approved service area for Universal Service Fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

b. In the case of a service area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the states, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c) of the Act, establish a different definition of service area for such company.

c. In the case of a wireless telecommunications carrier, "service area" means that area where the wireless company has been licensed by the FCC to provide service.

(1) If the application of 39.2(5)*"c"* and the service requirement of 39.2(1) pose an undue hardship on a wireless telecommunications carrier seeking designation as an eligible telecommunications carrier, a wireless carrier may request a waiver of 39.2(1), pursuant to 199—1.3(17A,474,476,78GA,HF2206).

(2) Requests by a wireless telecommunications carrier for a waiver of 39.2(1) must state, in addition to the requirements established in 199—1.3(17A,474,476,78GA,HF2206), the extent of the area in which the carrier is licensed by the FCC to provide service, the extent of the area in which the carrier is seeking designation, and the carrier's ability to expand universal service fund-supported services throughout its licensed service area within a reasonable time frame. A request for a waiver under 39.2(5)*"c"* must also include a statement that, should a wireless carrier receive a request from a potential customer within its service area but outside its existing network coverage, the wireless carrier will take a number of steps to provide service to that customer which may include modification or replacement of the requesting customer's equipment, deployment or installation of a roof-mounted antenna or other equipment necessary to provide service, cell tower adjustments, network or customer facility adjustments, an offer of resold services from another carrier's facilities to provide service, or the employment or construction of an additional cell site, cell extender or repeater.

39.2(6) *Location of facilities.* The facilities providing the services supported by the universal fund need not be physically located in the area served.

39.2(7) *Previously designated ETCs.* Any carrier that was designated by the board as an ETC before November 29, 2006, and that receives high-cost universal service support pursuant to applicable federal regulations governing high-cost support shall file a statement demonstrating compliance with the requirements in 39.2(3)*"d"* through *"j"* on or before March 1, 2007. As part of this filing, each ETC shall file a network improvement and maintenance plan for a reporting period of January 1, 2007, through December 31, 2008. Each carrier shall also acknowledge that it will respond to board requests for information related to the status of local voice service markets or facilities as required by 39.2(3)*"l."* A wireline ETC that has service area maps on file with the board, or that adopts such maps before November 29, 2006, does not need to refile the service area maps as would otherwise be required by 39.2(3)*"d."*

199—39.3(476) Low-income connection assistance program (Link-Up) and low-income Lifeline assistance.

39.3(1) *Filing of tariffs or inclusion of offer in contracts.*

a. Eligible telecommunications carriers that file tariffs with the board shall include in their tariffs provisions offering low-income connection assistance (Link-Up) and low-income Lifeline assistance rates to qualified applicants for single-party service, voice grade access to the public switched network, DTMF (Dual Tone Multi-Frequency) or its functional digital equivalent, access to emergency services, access to operator services, access to interexchange service, and access to directory assistance. In addition, toll limitation shall be included in this service offering without charge to the Lifeline customer.

b. Eligible carriers that do not file tariffs with the board shall include the Link-Up and Lifeline offerings in their agreements to provide service to customers. These eligible carriers shall file with the board copies of their current customer service agreements.

39.3(2) *Rates.*

a. *Link-Up connection assistance rates.* The reduced rates shall include all state-tariffed connection charges for installing basic residential service except security deposits. The eligible carrier shall offer to qualified applicants either or both of the following:

(1) A reduction of 50 percent of all connection charges or $30, whichever is less, and

(2) A deferred payment schedule of equal payments of the charges of up to $200 assessed for commencing service. The consumer does not pay interest on the deferred charges. The deferral period shall not exceed one year.

(3) The consumer shall receive the benefit of the Link-Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which Link-Up assistance was provided previously.

b. *Lifeline assistance rates.* The rates charged to qualified applicants shall reflect the following:

(1) Eligible carriers that charge federal end-user common line charges or equivalent federal charges must apply the federal baseline Lifeline support to waive the Lifeline consumer's federal end-user common line charges.

(2) Eligible carriers that do not charge federal end-user common line charges or equivalent federal charges must apply the federal baseline Lifeline support amount to reduce the Lifeline consumer's lowest tariffed residential rate.

(3) Qualified applicants shall have their monthly local exchange service rate reduced by the federal support of $1.75, in addition to the baseline federal support used either to waive the Lifeline consumer's federal end-user common line charges, or to reduce the Lifeline consumer's residential rate.

(4) Eligible carriers may not collect a service deposit in order to initiate Lifeline service, if the qualified applicant voluntarily elects toll blocking where available.

39.3(3) *Qualified applicants.* To be eligible for Lifeline or Link-Up assistance, an applicant must either have income that is at or below 135 percent of the Federal Poverty Guidelines or participate in one of the following programs:

a. Medicaid (e.g., Title XIX/Medical, state supplemental assistance);

b. Food stamps;

c. Supplemental Security Income;

d. Federal Public Housing Assistance Section 8;

e. Low-income Home Energy Assistance Program;

f. Temporary Assistance to Needy Families;

g. National School Lunch Program's free lunch program.

39.3(4) *Certification.* The certification of eligibility for Lifeline or Link-Up rate assistance shall be upon a form as set forth below. The form shall be supplied to the applicant by the eligible carrier.

LINK-UP AND LIFELINE RATE ASSISTANCE CERTIFICATION

Name_____ SSN_____

Address_____

_____

_____

City State Zip

Phone Number where you may be reached or receive messages (_____)_____

Please answer the following questions (indicate by check mark):

1. By filling out this application I (the applicant) request:

___Low-income telephone connection assistance (Link-Up) and/or

___Low-income telephone Lifeline assistance.

2. Have you received Link-Up assistance at the above address in the past?

___Yes
___No
If the answer is "yes," you are not eligible for Link-Up assistance.
3. Are you participating in any of the following programs?
___Medicaid (e.g., Title XIX/Medical, State Supplemental Assistance)
___Food Stamps
___Supplemental Security Income
___Federal Public Housing Assistance Section 8
___Low-Income Home Energy Assistance
___Temporary Assistance to Needy Families program
___National School Lunch Program's free lunch program
4. Is your income at or below 135 percent of the Federal Poverty Guidelines?
___Yes
___No

I understand completion of this application does not constitute immediate acceptance into these programs. I agree to notify the telecommunications carrier if I cease to participate in any of the public assistance programs I checked above or if my income becomes greater than 135 percent of the Federal Poverty Guidelines.

I certify under penalty of perjury the above information is true. I have read the information on this application and understand I must meet the above qualifications to receive assistance from these programs.

SIGNATURE_____DATE_____

39.3(5) *Data collection.* Eligible carriers shall keep records of the number of subscribers receiving Link-Up and Lifeline assistance. Each eligible carrier must keep accurate records of the revenues it forgoes in providing Lifeline and Link-Up. The board requires that the carrier file information with the federal administrator demonstrating the carrier's Lifeline and Link-Up plans meet the federal criteria, indicating the number of qualifying low-income consumers, and stating there are no state contributions.

In addition, eligible carriers shall mail each year to Lifeline and Link-Up subscribers the verification form set out below (or another form that requests the same information), in a sample size consistent with the formulas and table set forth in Appendix J of In the Matter of Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, Release No. 04-87, 199 FCC Rcd 8302 (April 29, 2004). Subscribers who receive the verification form should be selected at random. Eligible carriers shall then verify on their annual report that they have performed the required verification.

LINK-UP AND LIFELINE RATE ASSISTANCE VERIFICATION

Failure to return this verification within 30 days may cause you to no longer be eligible for this subsidy.

Name_____ SSN_____
Address_____
_____
_____
City State Zip

I am currently receiving low-income monthly telephone bill assistance (Lifeline) at the following:
Phone Number:_____
Address:_____
I am currently participating in the following program(s):
___Medicaid (e.g., Title XIX/Medical, State Supplemental Assistance);

___Food Stamps;
___Supplemental Security Income;
___Federal Public Housing Assistance Section 8;
___Low-Income Home Energy Assistance;
___Temporary Assistance to Needy Families program;
___National School Lunch Program's free lunch program; or
___My income is at or below 135 percent of the Federal Poverty Guidelines.

I agree to notify the telecommunications carrier if I cease to participate in any of the public assistance programs I checked above or if my income becomes greater than 135 percent of the Federal Poverty Guidelines.

I certify under penalty of perjury the above information is true. I have read the information on this application and understand I must meet the above qualifications to receive assistance from these programs.

SIGNATURE_____DATE_____

39.3(6) *Customer notification.*

a. Eligible carriers shall inform all persons ordering new or transferring existing residential service of the Link-Up and Lifeline assistance programs and shall inquire whether the customer wants to have further information concerning the programs provided, unless it is apparent that the customer would not be eligible.

b. The eligible carrier shall provide informational brochures and application forms to the county offices of the Iowa department of human services, division of community services for the counties served, to the area agency on aging, and to the community action offices of the department of human rights for the region served. In counties or regions served by more than one eligible carrier, the carriers are encouraged to cooperate in providing the brochures and forms jointly.

c. The eligible carriers shall pursue media coverage of the Link-Up and Lifeline assistance programs. This may include advertising where appropriate.

199—39.4(476) Universal service support for schools and libraries. With respect to intrastate telecommunication services, determined by either the board or the Federal Communications Commission to be within the definition of universal service, the discount for elementary schools, secondary schools, and libraries shall be equal to the discount the Federal Communications Commission sets with respect to interstate service.

199—39.5(476) Quality of service reporting by eligible telecommunications carriers. Carriers designated by the utilities board as eligible to receive high-cost universal service support pursuant to 47 U.S.C. § 214(e) and that receive such support must measure and report to the board the quality of service performance for the criteria listed below. The first service quality reports on the criteria in subrules 39.5(1) through 39.5(7) shall be filed by August 1, 2007, and shall cover a reporting period of January 1 through June 30, 2007. The next service quality reports shall be filed by May 1, 2008, and shall cover a reporting period of July 1 through December 31, 2007. Beginning with the reports due on May 1, 2009, and for subsequent reports due on May 1 of each year, the reporting period shall cover the preceding calendar year.

39.5(1) Local usage. The amount of minutes of service provided each month, without any additional charge, as part of the ETC-eligible service. Each ETC shall include a description of its rate plans; a definition of the calling area associated with the plans; an explanation of bundling of local and long distance services; an explanation of free calls to government agencies or other entities; and an explanation of other issues related to the rates and terms of the plans.

39.5(2) Access to emergency services. A listing of each area in Iowa where the eligible carrier currently provides Phase I and Phase II E-911.

39.5(3) Answer time. The average wait time experienced by customers when calling an ETC's customer service center, regardless of the locations from which the customers were calling.

39.5(4) Retail locations. The number, location, hours of service, and telephone number for each carrier-owned retail location in Iowa, as well as the eligible carrier's Web address and toll-free customer service number.

39.5(5) FCC outage reports. Each ETC shall file with the board copies of all FCC outage reports it filed with the FCC. The copies will be filed as confidential pursuant to the provisions of 199—paragraph 1.9(5)*"c."*

39.5(6) The number of requests for service from potential customers that were unfilled for over five days during the past year.

39.5(7) The number of complaints per 1000 handsets or lines. ETCs serving fewer than 1000 handsets or access lines shall report the actual number of complaints.

39.5(8) Extensions of network improvement and maintenance plans. On or before May 1 of each year, each ETC shall file a rolling one-year extension of its network improvement and maintenance plan. The initial rolling one-year extension shall report improvements and maintenance planned for calendar year 2009 and shall be filed by May 1, 2008.

39.5(9) Progress reports on network improvement and maintenance plans. On or before May 1, 2008, and each May 1 thereafter, each ETC shall file a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this subrule, "wire center" shall be defined as determined by the North American Numbering Plan Administrator.

199—39.6(476) Universal service certification.

39.6(1) *Certification to be filed with the board.* Any carrier desiring to continue to receive federal high-cost universal service support shall file with the board no later than May 1 of each year an original and two copies of an affidavit and shall file one copy with the consumer advocate division of the department of justice.

39.6(2) *Content of certification.* Each affidavit shall be titled "Certification of [Company Name]." The company name shall be the same name shown on the carrier's tariff as filed with the board. If the ETC does not file tariffs with the board, the ETC shall provide the name used on its initial application for ETC designation and its current name, if its name has changed. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier will use the support the carrier receives pursuant to FCC regulations or successor regulations concerning high-cost universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier will comply with applicable service quality standards and consumer protection rules, certify that the carrier is able to maintain backup power for a minimum of two hours to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: As an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

39.6(3) *Certifications subject to complaint or investigation.* Any certification filed by a carrier shall be subject to complaint or investigation or both by the board.

CERTIFICATION OF [COMPANY NAME]

STATE OF IOWA
COUNTY OF _____

I, [authorized corporate officer], [office], [company name], being of lawful age and duly sworn, depose and state:

[Company name], [SAC number], will use the support [company name] received pursuant to 47 CFR §§ 54.301, 54.305, or 54.307, or Part 36, Subpart F, of FCC regulations or successor regulations concerning high-cost universal service support, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, [company name] certifies that it will comply with applicable service quality standards and consumer protection rules, certifies that it is able to maintain a minimum of two hours of backup power to ensure functionality without an external power source, certifies that it is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas, and certifies that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access, within [company name's] ETC designated service area. As an eligible telecommunications carrier, [company name] agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

I further state that I am authorized by [company name] to make this statement.

_____

[authorized officer]

Subscribed and sworn to before me this _____ day of _____, _____.

_____

Notary Public

These rules are intended to implement Iowa Code section 476.102 and the Telecommunications Act of 1996, 47 U.S.C. § 214 and 254.

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CHAPTER 40
COMPETITIVE BIDDING PROCESS

199—40.1(476) General information.

40.1(1) *Definitions.* The following words and terms when used in these rules will have the meaning indicated below:

"Affiliate" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

"Arm's-length transaction" means a standard of conduct under which unrelated parties, each acting in its own best interest, would carry out a particular transaction. Applied to related parties, a transaction is at arm's length if the transaction could have been made on the same terms to a disinterested third party in a bargained transaction where each party has substantially the same bargaining power.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

"RFP" means request for proposals.

"Supply-side resource" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and nonutilities. Supply-side resources include modifications to existing generating facilities.

"Utility" as defined in this chapter refers to a rate-regulated electric public utility selling to retail customers in Iowa.

40.1(2) *Applicability and purpose.* The rules apply to any rate-regulated electric public utility choosing to establish a competitive bidding process under Iowa Code Supplement section 476.53(3)*"c"*(2). The rules establish minimum requirements for bidding processes used to purchase supply. Under these rules, bids compete not only with other bids but also with the utility's own build or lease options. Utilities maintain the right to secure or free up electric capacity and energy through means other than a competitive bidding process.

40.1(3) *General guidelines for resource acquisition.* The utility, as part of any solicitation under its competitive bidding process, will provide estimates of the cost the utility would incur in building or leasing the desired resource consistent with the requirements of 199 IAC 40.3(476).

40.1(4) *Waivers.* The utility may file for a waiver of any or all of these bidding process requirements. In making a decision regarding the granting of a waiver, the board shall consider, among other things, whether the utility is investor-owned, the timing of the solicitation, requirements of other regulatory bodies having jurisdiction over the utility, and whether or not an affiliate of the utility is considering bidding on the project.

199—40.2(476) Competitive resource acquisition procedure.

40.2(1) *Procedures.* The utility shall use the following procedures to competitively acquire supply-side resources under its competitive bidding process. If an affiliate of the utility plans to submit bids for supply-side resources it will own or operate, it shall additionally adhere to the procedures specified in 199 IAC 40.4(476).

a. If a utility determines that it has a need for additional supply-side resources, it shall make a general public announcement indicating its needs and intentions. If an affiliate of the utility decides to bid once a request for proposals is announced, it will alert the manager at the public utility responsible for the request for proposals and bid process of its intention.

b. The utility shall provide a statement to the board indicating whether an affiliate of the utility desires, in the competitive resource acquisition process, to submit bids for supply-side resources it will own or operate.

c. If an affiliate of the utility desires to submit bids for supply-side resources, the utility shall select an independent evaluator from the board-approved list of evaluators to perform the functions specified in 199 IAC 40.4(3). The name of the independent evaluator selected for this project shall be filed with the statement to the board required in 199 IAC 40.2(1)*"b."* The utility shall provide the estimated cost

to utilize the services of the independent evaluator as part of its statement. The independent evaluator shall be paid by the utility.

d. If a board-approved list of independent evaluators has not been established under 199 IAC 40.4(3) at the time of the proposed solicitation, the utility shall file a short list of names with the board with qualifications and potential conflicts of interest as part of its statement required in 199 IAC 40.2(1)*"b."* Interested parties and the board shall have 20 days to object to any names on the short list. Absent objection, the utility may proceed with any independent evaluator identified on the list. With objection, the board shall review the evaluators on the list and remove any names that it deems are not independent of the utility or the bidding process, or not qualified to perform the functions of the independent evaluator as identified in 199 IAC 40.4(3). Any board decision to remove names from the list will be issued within 15 days after the end of the objection period. If the board determines none of the persons listed are sufficiently independent or qualified to perform the functions of the independent evaluator, the process will begin again with a new list from the utility.

e. The utility shall publish and circulate an RFP that complies with the requirements of 199 IAC 40.5(476). The utility shall make the RFP readily available to interested persons by conspicuously posting the request on its Internet site or other public electronic bulletin board. The RFP shall be filed with the project's independent evaluator if one is required.

f. Within 30 days after publication of the RFP, the utility shall convene a bid conference open to all potential bidders. The bid conference shall be held no less than 20 days after it is noticed. At the bid conference, the utility shall answer questions posed by bidders concerning the RFP. Bidders may request and the utility may hold more than one bid conference if needed. However, in no event shall a bid conference be scheduled later than 30 days beyond the issuance of the RFP. The independent evaluator, if required pursuant to 199 IAC 40.4(3), shall attend the bid conference.

g. At the conclusion of the bid conference(s), the utility shall publish and circulate the date for submission of sealed bids. That date shall be no earlier than 30 days following the last bid conference.

h. The utility shall file its build or lease cost estimates required by 199 IAC 40.3(476) with the board seven days prior to the deadline for other bidders.

i. If an affiliate of the utility desires to submit a bid for supply-side resources it will own or operate, it shall submit its bid to the independent evaluator, the board, and the utility one day prior to the deadline for other bidders.

j. After the close of the deadline for the submission of bids, the utility shall commence a review to determine whether the bids are responsive to the minimum bid evaluation criteria specified in the RFP. All responsive bids shall be evaluated in accordance with the bid evaluation criteria specified in the RFP.

k. Upon completing its evaluation, the utility shall file with the board a short list of bidders whose bids the utility deems are most reasonable in meeting the resource needs of the utility. The utility's filing of its short-list selection shall include a report that is sufficiently detailed and rigorous to support those selections, including an evaluation of all bids received and an explanation for why any bidders were excluded from the short list. The utility shall provide copies of the report to all bidders and other interested parties.

l. If an independent evaluator was required as part of the solicitation, the independent evaluator shall submit its certification of the fairness of the bidding process at the same time the utility submits its short list to the board.

m. Upon filing of the short-list selection and certification from the independent evaluator, if required pursuant to 199 IAC 40.4(3), interested parties shall have 15 days to file a complaint alleging that a bidder was excluded from the short list due to unfair treatment, significant errors in the selection process, or other similar reasons.

n. Absent complaints regarding the short-list selection, the utility may select a resource provider from the short list, choose the utility-build or lease option, or combine both options to meet its resource needs, whichever the utility deems most reasonable. Final selection and contract negotiations reside solely with the utility.

40.2(2) *Evaluation of bids.* The evaluation of bids submitted in a competitive bidding process must be based on the criteria identified in the utility's request for proposals. Bids should compete not only

with other bids but also with the utility's own build or lease options, including plant life extensions, upgrades, and modifications.

40.2(3) *Contract negotiations.* The utility shall negotiate all contracts. A utility may negotiate a pricing structure that is suitable for the resource, considering such factors as the reliability of the resource, need for security of performance, the availability of other means of ensuring security of performance, the nature of the resource, the level of risk, and other appropriate factors. The utility shall negotiate contract terms that appropriately allocate the risks of future fuel costs and other resource costs between the resource provider and the utility.

40.2(4) *Utility reporting.* The utility conducting a bid solicitation under its competitive bidding process shall submit a written report to the board within 45 days of completion of its evaluation of bids. This report shall describe in detail the evaluation of bids and the utility's comparison of the bids received to its own utility-build or lease options. The report shall also include a copy of the utility's RFP, a detailed description of the utility's bid evaluation and selection process, and copies of all bids submitted to the utility in its bid solicitation.

199—40.3(476) Utility-build or lease cost estimates.

40.3(1) *General requirements.* A utility conducting a bidding process shall develop detailed cost estimates of its own build or lease options. Those options may include units jointly planned with other companies, plant upgrades or modifications, and plant extensions. The cost estimates shall be detailed and filed on both a project and per-unit basis.

40.3(2) *Project cost estimates.* Project cost estimates shall be current and based on the prices likely to be actually quoted by manufacturers and vendors of power plant equipment. The utility-build or lease option shall be structured on an incremental cost basis, including an allocation of common costs incurred for the project's development. The utility shall detail in its filing the cost allocations and methodologies used for overhead costs and any joint facilities used in its estimates.

40.3(3) *Per-unit cost estimates.* The utility shall file estimates of per-unit costs in the same measurements or units expected from other bidders on the project sufficient for the board to determine the relative costs of the utility-build or lease option versus like bids received from other bidders. The per-unit cost estimates shall clearly identify the rate-making principles used in calculating these costs.

40.3(4) *Filing requirements.* The utility-build or lease cost estimates shall be submitted to the board seven days prior to the utility's receiving competitive bids for new electric capacity and energy.

199—40.4(476) Utility affiliate bids.

40.4(1) *General requirements.* Any bid prepared by an affiliate of the utility shall comply with the selection criteria specified in the RFP and with board rules governing affiliate transactions (199 IAC 31). The utility may not give preferential treatment or consideration to a bid prepared by an affiliate of the utility. To ensure a level playing field for all bidders, the utility shall comply with its standards of conduct as required by 199 IAC 40.4(2) and shall hire an independent evaluator to ensure compliance with the standards of conduct prior to the drafting of the RFP.

40.4(2) *Standards of conduct.* Each utility must establish standards of conduct to ensure that all transactions between the utility and its affiliates are conducted on an arm's-length basis. The utility's standards of conduct shall be filed with the board prior to any solicitation under the utility's competitive bidding process. At a minimum, the utility's standards of conduct shall include the following:

a. The utility shall maintain full written records and notes of all communications between the utility and the bidding affiliate and between the utility and the independent evaluator, as well as all other bid-related communications.

b. The utility shall ensure that the bidding affiliate has access only to the same bidding information at the same time as other bidders.

c. The utility's RFP and evaluation team shall not share with the bidding affiliate any information regarding the request for proposals, standard contract, drafts of either document, information contained in those documents, or any information about the preparation of those documents unless and until such information is available to all other bidders in the solicitation.

d. The utility shall establish for each RFP and bidding process a single point of contact for all questions about bids and evaluations.

e. The utility shall keep in a secure location all requests for proposals and contract drafts, related bid documents, any analyses, notes, communications, evaluations and any other written material concerning the RFP, standard contracts, proposals, and all other documents related to the bidding process.

f. The utility's evaluation team members shall brief management regarding confidential information about the bidding process only on a need-to-know basis. Such briefings will not occur in general staff meetings or other group meetings.

g. The utility will make all pertinent employees aware of its procedures that must be followed between the public utility and the bidding public utility affiliate or division for confidentiality of RFPs, standard contracts, and other documents pertinent to the bidding process.

h. The utility shall not share resources with an affiliate bidder unless such resources are also made available to other bidders.

i. The utility shall not contract on behalf of an affiliate bidder for the provision of services and equipment that are not available to other bidders.

j. The utility shall not withhold information about Clean Air Act emissions allowances from potential bidders in order to circumvent or hinder the competitive bidding process.

k. Employees of any bidding affiliate are prohibited from participating in the evaluation process.

40.4(3) *Independent evaluator.* The utility shall use an independent evaluator if there is a likelihood that an affiliate's bid may be included among the bids to be evaluated. The utility shall maintain a written record of communications and contacts with the independent evaluator.

a. Short list of approved independent evaluators. A board-approved list of independent evaluators shall be compiled using the following process:

(1) The utility shall file with the board a list with qualifications of at least five independent evaluators it deems to be appropriate in auditing the bidding and selection process under its competitive bidding process. The utility shall reveal each listed evaluator's associations with the utility or any of its affiliates, divisions, or subsidiaries that could create a potential conflict of interest.

(2) Upon the utility's filing of the list, any interested party shall have 20 days to object to either the independence or the qualifications of one or more evaluators included on the list.

(3) After the time of objection has passed, the board shall approve a final list of potential evaluators that it deems to be independent and qualified to perform the functions of the independent evaluator as specified in 199 IAC 40.4(3)*"b."*

b. Functions of the independent evaluator. The functions of the independent evaluator shall include the following:

(1) Determine whether the utility complied with its standards of conduct as required by 199 IAC 40.4(2).

(2) Determine whether the utility's RFP complies with the minimum requirements specified in 199 IAC 40.5(476).

(3) Determine whether the utility treated and considered its affiliate's bid in the same manner it treated and considered other bids intended to meet the same resource needs.

(4) Determine if the transaction provides the utility's affiliate any unfair competitive advantage by virtue of its affiliation or association with the utility.

(5) Certify with the board at the time the utility files its short list of potential providers that the process was fair and complied with the utility's standards of conduct as required by 199 IAC 40.4(2).

(6) Any other determinations or certifications the evaluator deems relevant.

199—40.5(476) Request for proposals (RFP). The request for proposals shall clearly set forth the eligibility and evaluation criteria and shall specify the weight to be given to any price or nonprice selection criteria.

40.5(1) *Minimum evaluation criteria.* The price and nonprice factors selected for evaluation and the weightings attached to each can reasonably vary from utility to utility and project to project. However, the following factors shall be considered for each supply-side project solicitation:

a. Level and schedule of required capacity and energy payments;

b. Status of project development;

c. System fuel diversity;

d. Reliability and performance measures;

e. Firm versus variable or indexed pricing;

f. Dispatchability;

g. Project location and effect on the transmission grid;

h. Use of Iowa fuels, manpower, and other state resources;

i. Benefits to be derived by the industries and communities associated with a particular project;

j. Demonstrated financial viability of the project and the developer;

k. Developer's prior experience in the field.

40.5(2) *Contents of the request for proposals.* The RFP shall contain sufficient information to apprise potential bidders of the utility's criteria for evaluation of bids received as part of the competitive resource acquisition process specified in 199 IAC 40.2(476). This information shall include the bid evaluation criteria, including the weights to be assigned to each criterion, that the utility plans to use in ranking the bids received. Specific information associated with the bid evaluation criteria provided by the utility shall include, but not be limited to, the following:

a. Preferred fuel types;

b. The extent to which additional supply-side resources must be located in certain geographic areas due to transmission constraints, local load condition, permitting constraints, or other factors;

c. Important transmission constraints on the utility's system and on adjoining utility systems, and reasonable estimates of transmission costs for supply-side resources located in different areas;

d. The extent and degree to which supply-side resources must be dispatchable, including the requirement, if any, that supply-side resources be able to operate under automatic dispatch control;

e. Supply-side resource reliability requirements and objectives, and the method(s) that will be used to measure the achievement of those requirements and objectives, including the contribution of individual supply-side resources;

f. The desirability of firm pricing and contract terms of various durations;

g. The minimum bid evaluation criteria that must be met by a bidder for a bid to be considered responsive to the RFP. The utility shall be reasonable in its specification of minimum bid evaluation criteria and shall not artificially limit the pool of bidders through unreasonable or excessively restrictive minimum criteria;

h. The utility's proposed standard contract for the acquisition of supply-side resources.

199—40.6(476) Complaints. The board shall resolve disputes between a utility and a bidder that may arise as a result of implementation of the bidding process. The independent evaluator shall participate by providing information on the bidding process including the selection of the winning bid. A complaint by a bidder concerning the utility's decisions on the acquisition of resources in a solicitation must be filed within 15 days of the filing of the short-list selection with the board.

These rules are intended to implement Iowa Code section 476.1 and Iowa Code Supplement section 476.53.

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CHAPTER 41
Reserved

CHAPTER 42
CROSSING OF RAILROAD RIGHTS-OF-WAY

199—42.1(476) Definitions. The following words and terms, when used in these rules, shall have the meanings set forth in Iowa Code section 476.27: "board," "crossing," "direct expenses," "facility," "public utility," "railroad" or "railroad corporation," "railroad right-of-way," and "special circumstances."

In addition, as used in this chapter, the following definitions shall apply:

"Complainant" means a person who complains to the board by written complaint regarding any of the issues identified in Iowa Code section 476.27(2) or these rules.

"Petitioner" means a person who files a written petition with the board seeking a determination of special circumstances pursuant to Iowa Code section 476.27(4).

"Respondent" means a person against whom a complaint or petition is filed.

"Small utility" means a public utility and all affiliates of the public utility that collectively serve fewer than 20,000 customers. For purposes of this definition, a customer means the party responsible for payment of the utility services. When the specification exhibit is filed with the railroad, the small utility will certify on the specification exhibit that it meets the definition of a small utility as contained in this rule. The specification exhibit will also state that at such time that the small utility no longer meets the small utility definition, that it will have an affirmative duty to so notify the railroad.

199—42.2(476) Applicability and purpose. These rules provide terms and conditions for the crossing of railroad rights-of-way by public utilities. However, these rules shall not prevent a railroad and public utility from negotiating other terms and conditions applicable to a crossing or agreeing to a different dispute resolution mechanism than that provided for in Iowa Code section 476.27 and these rules. These rules do not apply to longitudinal occupancy of railroad right-of-way, but only to the crossing of railroad right-of-way.

199—42.3(476) General notice and specification exhibit requirements and payment of fee.

42.3(1) *Notice and exhibit.* Anytime a public utility intends to construct a crossing across railroad right-of-way, the utility shall submit to the railroad a notification of intent to construct, along with a specification exhibit that shows the location of the crossing and the railroad's property, tracks, and wires that the public utility's facilities will cross. The notice and exhibit shall be submitted to the railroad by certified mail, return receipt requested. The one-time standard crossing fee of $750, unless otherwise agreed to by the railroad and public utility, shall accompany the notice and exhibit. The public utility shall use its best efforts to submit the specification exhibit on a form provided or approved by the railroad. The specification exhibit constitutes the public utility's warranty that the public utility facilities that are the subject of the exhibit will be constructed and installed as shown on the exhibit. By August 1, 2003, each railroad, either individually or jointly, shall submit for board review and approval proposed specification exhibits for use with notifications of intent to construct. The board must also approve any subsequent revisions or amendments to the forms.

42.3(2) *Exhibit—overhead wireline crossings.* For overhead wireline crossings, the specification exhibit shall contain, at a minimum, the location of the poles supporting the crossing span and adjoining spans on each side of the crossing span on the proposed facilities; the number, kind, and size of wires; and the clearance between the facilities and any existing railroad tracks, wires, or fiberoptic lines.

42.3(3) *Exhibit—underground crossings.* For underground crossings, the specification exhibit shall contain, at a minimum, the number, kind, and size of wires, pipes, and conduit and casing to be used, the commodity conveyed, and the depth to which the public utility facilities will be placed below the base of the rail track and at other locations on the right-of-way. Multiple wires to be contained within a single conduit may be combined on a single exhibit and notice of intent to construct. Both cased and uncased natural gas pipeline crossings shall be provided for on the specification exhibit form or forms.

42.3(4) *Authorization to commence construction.* After 35 days from the mailing of the notice, specification exhibit, and fee, the public utility, absent a claim of special circumstances or objection

from the railroad that the information contained in the specification exhibit is inadequate or incomplete, shall be deemed to have authorization to commence construction of the facilities that are the subject of the specification exhibit. In the event the public utility does not commence construction within 120 days from the mailing of the notice or any changes to the specification exhibit, whichever is later, the notice shall expire and the fee may be retained by the railroad. If the public utility subsequently desires to proceed with construction of the facilities subject to the notice, the public utility must again comply with the notice, specification exhibit, and fee requirements of these rules.

42.3(5) *Crossing notice and payment of flagging costs.* In addition to any other required notice, a public utility, except for emergency repair or maintenance, shall provide the railroad written notice at least ten days prior to commencing any construction, maintenance, or repair of facilities within the railroad's right-of-way. Such notice is to enable the railroad to make any appropriate flagging arrangements. The public utility shall reimburse the railroad for actual flagging expenses within 30 days of receipt of a bill for flagging services.

42.3(6) *Securing damages—special circumstances.* Pending a board resolution of a claim of special circumstances raised in a petition filed by the railroad pursuant to Iowa Code section 476.27(4) and subrule 42.18(2), a public utility may, upon compliance with these rules and securing the payment of an amount sufficient for the removal of any facilities constructed by the public utility in a manner approved by the board, proceed with construction unless the board intervenes to prevent construction pursuant to Iowa Code section 476.27(6).

42.3(7) *Inductive interference study.* If the railroad reasonably determines through its initial review of the specification exhibit and engineering analysis that a proposed public utility facility has a material possibility of posing an induction problem with railroad property, the public utility, if it wishes to proceed with the facility, shall cause a formal inductive interference study to be performed by a qualified engineer approved by the railroad. The public utility shall make and pay for any modifications to the proposed facility, or to the railroad's property, that are necessary to ensure safe and reliable operations of the railroad's property that are recommended by the qualified engineer. No public utility facility that has undergone an inductive interference study pursuant to this subrule shall be energized until the railroad has had an opportunity to conduct any appropriate tests to ensure that, after the facility is energized, there will not be any interference with the operation of the railroad's property. Any appropriate tests shall be conducted by the railroad within 30 days after receipt of a notice from the public utility that the facility is ready to be energized.

199—42.4(476) Emergency notice and repairs.

42.4(1) *Notice.* In the event a public utility or railroad needs to perform emergency or nonroutine maintenance or repair within a railroad right-of-way and the maintenance or repair may affect the operations of the other entity, immediate notification of the maintenance or repair being performed shall be given.

42.4(2) *Notification plan filing.* Each railroad and public utility with a facility crossing railroad right-of-way shall establish, and file with the board, a mechanism or plan for receiving emergency notifications 24 hours per day, seven days per week.

42.4(3) *Scope of emergency work and reimbursement of expenses.* Unless permission from the affected railroad or public utility has been received, the railroad and public utility may only perform maintenance or repair work of their own respective property. If the emergency maintenance or repair performed by the railroad or public utility causes reasonable expenses to be incurred by the other entity, those reasonable expenses shall be reimbursed.

199—42.5(476) Relocation of public utility facilities.

42.5(1) *Standard for relocation.* The railroad may require that the public utility, at the public utility's expense, relocate facilities on railroad right-of-way whenever such relocation is necessary to accommodate railroad operations. The decision that relocation is required is made solely by the railroad, although the railroad may not act arbitrarily or unreasonably. The public utility shall not have to pay a standard crossing fee for such relocations.

42.5(2) *Completion of relocation.* In the event relocation of facilities is required, the relocation shall be to a location mutually agreed upon by the railroad and utility, within the railroad right-of-way. The relocation shall be completed within a reasonable period of time.

42.5(3) *Statement of reasons.* Upon the request of the public utility, the railroad shall provide within 15 days a statement or other supporting documentation indicating the operational reasons for requiring relocation of facilities.

199—42.6(476) Engineering standards for electric and communications lines. These engineering standards apply to crossings that do not involve special circumstances such that additional or more stringent engineering standards may be warranted. The determination of such additional or more stringent standards will be determined on a case-by-case basis, according to the procedures in subrule 42.18(2), depending on the facts and circumstances associated with the particular crossing.

42.6(1) *General.*

a. Except as provided for in this chapter, electric and communications lines crossing railroads shall be constructed in accordance with 199—Chapter 25, the Iowa electrical safety code.

b. Crossings should be made as near as possible at an angle of 90 degrees to the railroad tracks, but in no event shall any crossing be at less than a 60-degree angle to the railroad track.

c. Aboveground facilities at road or pedestrian crossings shall be located or constructed in a manner that minimizes interference with lines of sight for observing oncoming trains.

42.6(2) *Additional requirements for overhead crossings.*

a. In determining the line height needed to meet the clearance requirements of the Iowa electrical safety code, the height of a rail car shall be assumed to be 23 feet.

b. Electric and communications lines shall be installed with at least 4 feet of clearance above overhead railroad signal and communications lines.

c. The perpendicular distance of poles from the centerline of the tracks shall not be less than the largest of the following:

(1) Unguyed poles shall be located a minimum distance equal to the height of the pole above the ground line plus 10 feet. If guys are installed, they shall be placed in a manner that would prevent the pole from leaning or falling in the direction of the tracks.

(2) Fifty feet near straight tracks, except for industry track where 10 feet is permitted. If located adjacent to curved track, the clearance shall be increased by 1.5 inches per degree of track curvature.

(3) Towers for electric lines capable of operating at 34,500 volts or more shall not be located on railroad right-of-way.

d. Poles shall be located a minimum distance from overhead railroad signal or communications lines equal to the height of the pole above ground line, or poles must be guyed at a right angle away from such lines.

e. Crossings shall not be installed under or within 500 feet of a railroad bridge, or 300 feet from the centerline of a culvert or switch area.

42.6(3) *Additional requirements for underground crossings.*

a. The minimum depth below the base of the rail shall be 4.5 feet except for fiberoptic cables, which shall be 5.0 feet.

b. The minimum depth at other locations on the right-of-way shall be:

(1) 5.0 feet for fiberoptic cables;

(2) 4.0 feet for conductors operating at more than 750 volts;

(3) 3.0 feet for all other lines.

c. Crossings shall not be installed within 50 feet of the end of a railroad bridge, the centerline of a culvert, or a switch area.

d. Casings must extend at least 30 feet from the centerline of the nearest track, measured at a right angle, except that casings for electrical conductors operating at more than 750 volts shall extend the full width of the right-of-way. At burial depths of less than 15 feet below the track, the casing material shall be steel or rigid metal conduit. At depths of 15 feet or more, polyvinyl chloride (PVC) casing pipe may be used.

e. Except for the track and ballast area, warning tape shall be installed 1 foot below ground level over conductors operating at more than 750 volts, except that tape is not required for lines installed using horizontal directional drilling.

f. Bored crossings shall not be installed using water jetting or other methods that might leave cavities beneath a railroad embankment. Horizontal directional drilling techniques that use drilling mud are permitted. Pits for boring or drilling crossings shall be beyond the limits of the railroad embankment.

g. Unless otherwise authorized by the railroad, a railroad representative must be present during installation of buried crossings if there are underground railroad signal lines in the vicinity of the crossing.

199—42.7(476) Engineering standards for pipelines. These engineering standards apply to crossings that do not involve special circumstances such that additional or more stringent engineering standards may be warranted. The determination of such additional or more stringent standards will be determined on a case-by-case basis, according to the procedures in subrule 42.18(2), depending on the facts and circumstances associated with the particular crossing.

42.7(1) *General.*

a. Except as provided for in this chapter, pipelines crossing railroads shall be constructed in accordance with Part 5, "Pipelines," of the American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering – 2001.

b. For pipelines subject to 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline," or 49 CFR Part 195, "Transportation of Hazardous Liquids by Pipeline," the appropriate federal standard shall control for pipeline marker signs, valves, corrosion control, welding and weld testing, and pressure testing. The design stress level in such pipelines shall not exceed that permitted by the appropriate federal standard.

c. Polyethylene (PE) pipe may be used as carrier pipe for natural gas pipelines. Polyethylene and polyvinyl chloride (PVC) pipe may be used as carrier pipe for water and wastewater. Such pipe shall be manufactured of materials approved for its intended use by an appropriate standards organization.

d. Slip jointed carrier pipe may be used only for encased water or wastewater pipelines, and the ends of such casings shall be oriented such that drainage from any internal leakage will not endanger the railroad embankment.

e. Casings of material other than steel may be used with railroad company approval.

f. Cathodic protection test boxes located on railroad right-of-way shall be attached to casing vents or installed flush with the ground surface.

42.7(2) *Installation methods.*

a. Pipe shall be installed using boring, drilling, or jacking methods. Open cut crossings are permitted only with the specific authorization of the railroad company.

b. Pits for boring or jacking shall not disturb the railroad embankment and shall be located at least 30 feet from the track centerline where practical. Pits shall be of the minimum size necessary.

c. Bored crossings shall not be installed using water jetting or other drilling methods that might leave cavities beneath a railroad embankment. Horizontal directional drilling techniques that use drilling mud are permitted.

d. Pipe or casing shall be installed with at least 1 foot of separation from any other pipe or wire in the right-of-way.

e. When boring for pipe greater than 20 inches in diameter is proposed, and the pipe would be installed less than 10 feet below the base of the rail, if the railroad has knowledge of soil conditions in the vicinity which could lead to deterioration of track support if the soil is disturbed, the railroad company may require that a geotechnical study be performed by the public utility to determine if the proposed crossing site is undesirable or requires special construction methods or monitoring.

f. For unusually large pipeline crossings that do not involve special circumstances, or for crossings where geotechnical study has identified potentially destabilizing soil conditions, the railroad company may require that a railroad representative be present during installation, and may also require the presence of a survey crew to monitor the tracks for any change in alignment.

199—42.8(476) Liability. Each railroad and public utility shall maintain and repair its respective property within the railroad right-of-way, and the railroad and public utility shall bear responsibility for each person's own acts and omissions, except the public utility shall be responsible for any bodily injury or property damage that typically would be covered under a standard railroad protective liability insurance policy.

199—42.9(476) Insurance. Unless otherwise agreed upon by the railroad and public utility, the public utility shall maintain, or cause to be maintained, the following minimum insurance coverage with respect to each railroad crossing:

42.9(1) General public liability insurance with limits of not less than $500,000 for injury or death of a single person, or not less than $1 million for any one accident, and not less than $250,000 per accident for property damage. The exclusion or limitations for railroads shall be removed.

42.9(2) Comprehensive automobile liability insurance with limits of not less than $500,000 for injury or death of a single person, or not less than $1 million for any one accident, and not less than $250,000 for property damage.

42.9(3) Excess liability coverage with limits of not less than $5 million, except that the required limits shall be $1 million for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines.

42.9(4) Railroad protective liability insurance with a combined single limit of $4 million per occurrence and $6 million aggregate, except that the required limits shall be a combined single limit of $2 million per occurrence and $4 million aggregate for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines. Such coverage shall be required only during the period of construction, repair, or replacement of the facilities and may be provided by a blanket railroad protective liability insurance policy provided that the coverage, including the coverage limits, applies separately to each individual crossing on each individual railroad.

42.9(5) The coverage in 42.9(1) through 42.9(3) above must be by blanket insurance policies covering other property or risks, or self-insurance. In the event the public utility desires to self-insure, it must maintain a minimum long-term rating of A- and net assets of not less than $100 million, unless the railroad agrees to different amounts. If the public utility's long-term rating is lowered below an A-rating, the public utility will provide commercial insurance as required in this rule, and will notify the railroad that its long-term rating was lowered below A-.

42.9(6) The coverage in 42.9(1) through 42.9(4) must be in place prior to the commencement by the public utility of any work within the railroad's right-of-way in order to secure payment for any damages for which the public utility bears responsibility.

42.9(7) Before commencing construction of any facility, the public utility must provide to the railroad proof that the public utility has procured the insurance coverage as required in this rule.

199—42.10(476) Removal of equipment. Upon completion of any facility, the public utility shall remove, or cause to be removed, all tools, equipment, or other property used in the construction and, if railroad property was moved or disturbed, restore that property to the same condition it was in prior to being moved or disturbed.

199—42.11(476) Assignment. The public utility may assign or otherwise transfer any rights to cross railroad right-of-way to any financially responsible entity controlled by, controlling, or under common control with the public utility or to any entity into or with which the public utility is merged or consolidated or which acquires ownership or control of all or substantially all of the transmission assets of the public utility. Notice of the assignment or transfer shall be given to the railroad within 30 days. No other transfer or assignment may take place without the written permission of the railroad, which permission shall not be unreasonably withheld.

199—42.12(476) Prohibition against mechanic's liens. The public utility shall not create, permit, or suffer any mechanic's lien or other lien of any kind or any nature to be created or enforced against the

railroad's property for any work performed by the public utility in connection with its facilities that are located in the railroad's right-of-way. The railroad shall not create, permit, or suffer any mechanic's lien or other lien of any kind or any nature to be created or enforced against the public utility's property located in the railroad's right-of-way for any work performed by the railroad in connection with the railroad's facilities.

199—42.13(476) Taxes. The public utility shall promptly pay or discharge all taxes and charges levied upon its facilities located in the railroad's right-of-way. Where any such tax or charge may not be separately made or assessed to the public utility, but is included in the taxes or charges assessed to the railroad, the public utility shall pay to the railroad an equitable portion of such taxes determined by the value of the public utility's facilities located on railroad right-of-way as compared with the entire value of the railroad property.

199—42.14(476) Protection of signal systems. Prior to penetrating the surface of any railroad right-of-way, the public utility shall contact the railroad to determine if any of the railroad's signal systems are located in the area. If signal systems are located in the area, the public utility, at its expense, shall arrange for a cable locator and make arrangements for relocation or other protection of the signal system. The public utility shall also contact Iowa One-Call for locating other underground facilities and shall comply with all other applicable statutes, regulations, and rules pertaining to such underground facilities.

199—42.15(476) Safety regulations. The public utility shall ensure compliance with all applicable local, state, and federal safety rules and regulations during the time any work is being performed on a facility within the railroad's right-of-way. Any personal injury arising during work being performed on a facility shall be promptly reported by the public utility to the railroad.

199—42.16(476) Recording. The public utility, at its own expense, may record a memorandum of its rights pursuant to Iowa Code section 476.27 and these rules. A legal description of the crossing that has been approved by both the railroad and public utility shall be attached to the memorandum. Upon termination of the public utility's rights, the public utility shall file an appropriate document to evidence such termination.

199—42.17(17A,476) Complaints and petitions for relief—general information. These rules are promulgated under Iowa Code chapter 17A and Iowa Code section 476.27 as guides for procedures when railroads or public utilities file with the board complaints regarding crossings pursuant to Iowa Code section 476.27(2)*"a"*(9) or petitions for relief pursuant to Iowa Code section 476.27(4). The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, any of these rules, unless otherwise provided by law, may be waived by the board or its designated presiding officer pursuant to rule 199—1.3(17A,474,476,78GA,HF2206). The board recognizes that the parties will ordinarily require expedited procedures and a swift decision. Therefore, any procedural rules in 199—Chapter 7 that are in conflict with these rules do not apply to contested cases under this chapter.

199—42.18(17A,476) Filing of complaint or petition.

42.18(1) *Complaints.* A railroad or public utility that has a complaint regarding any of the issues identified in Iowa Code section 476.27(2) that cannot be resolved without intervention by the board may file a complaint with the board. The complainant must serve the other railroad or public utility involved and the consumer advocate, either in person or by overnight delivery, on the same day the complaint is filed with the board. The complaint must be in writing and must include the following:

a. The name, address, telephone number, and contact person for the complainant and the complainant's attorney, if any;

b. The basis for the board's jurisdiction over the matter;

c. A statement of the complainant's position and a detailed discussion of the facts that support the complainant's position, including a description of the issues involved, the resolution requested, and the facts supporting the resolution requested;

d. The particular provisions of the statutes and rules involved;

e. A description of the attempts made to informally resolve the complaint;

f. All documentation relied on to support the facts alleged in the complaint and the requested resolution; and

g. The name, address, telephone number, and contact person and attorney, if any, for the other railroad or public utility involved and a statement that the complaint was served on the other railroad or public utility involved and the consumer advocate, the method of service, and the date served.

42.18(2) *Petitions for relief.* A railroad or public utility that believes special circumstances exist for a particular crossing pursuant to Iowa Code section 476.27(4) may file a petition for relief with the board if the railroad and the public utility have been unable to resolve their differences without intervention by the board. The petitioner must serve the other railroad or public utility involved and the consumer advocate, either in person or by overnight delivery, on the same day the petition is filed with the board. The petition must be in writing and must include the following:

a. The name, address, telephone number, and contact person for the petitioner and the petitioner's attorney, if any;

b. The basis for the board's jurisdiction over the matter;

c. A statement of the petitioner's position and a detailed discussion of the facts that support the petitioner's position, including a description of the issues involved, why special circumstances exist for the particular crossing, the relief requested, and the facts supporting the relief requested;

d. The particular provisions of the statutes and rules involved;

e. A description of the attempts made to informally resolve the issues involved in the petition;

f. All documentation relied on to support the facts alleged in the petition and the requested relief; and

g. The name, address, telephone number, contact person and attorney, if any, for the other railroad or public utility involved and a statement that the petition was served on the other railroad or public utility involved and the consumer advocate, the method of service, and the date served.

199—42.19(17A,476) Presiding officer. The presiding officer who conducts the contested case hearing on the complaint or petition may be one or more members of the board or a qualified person designated by the board. The presiding officer has the authority granted by the board as specified in 199—subrule 7.1(4) and given by statute.

199—42.20(17A,476) Answer. Upon receipt of a complaint filed pursuant to subrule 42.18(1), or a petition for relief filed pursuant to subrule 42.18(2), the railroad or public utility must file an answer with the board. The railroad or public utility must serve the answer upon the other railroad or public utility involved and the consumer advocate, either in person or by overnight delivery, on the same day the answer is filed with the board. The answer must be filed within ten days of the date of service of the complaint or petition.

42.20(1) The answer must be in writing and must include the following, at a minimum:

a. The name, address, telephone number, and contact person for the respondent and the respondent's attorney, if any;

b. An admission or denial of each allegation in the petition;

c. A statement of the respondent's position and a detailed discussion of the facts that support the respondent's position, including a description of the issues involved, the resolution or relief requested, and the facts supporting the resolution or relief requested;

d. A description of the attempts made to informally resolve the complaint or the issues involved in the petition;

e. All documentation relied on to support the facts alleged in the answer and the requested resolution or relief; and

f. A statement that the answer was served on petitioner or complainant and the consumer advocate, the method of service, and the date served.

42.20(2) Failure to file a timely answer may be deemed a default and, upon motion and absent objection by the consumer advocate, the resolution or relief requested by the moving party may be granted. On motion and for good cause shown, the presiding officer may set aside a default order. The motion to set aside must be filed promptly, and in no case more than ten days after issuance of the default order.

199—42.21(17A,476) Parties and appearances. The parties include the petitioner or complainant, the respondent, the consumer advocate, and any intervenors. Each party must file a written appearance at the earliest possible time identifying one person upon whom the board and the other parties may serve all orders, correspondence, and other documents.

199—42.22(17A,476) Procedural order and notice of hearing. Upon receipt of a complaint or petition filed pursuant to rule 199—42.18(17A,476), the presiding officer will prepare and issue a procedural order and notice of hearing. Prefiled testimony will not be used unless deemed necessary by the presiding officer, or unless requested by the railroad and public utility involved or the consumer advocate. In scheduling the hearing, the presiding officer will consider the schedules of the parties involved and will schedule the hearing as soon as possible. However, the hearing will not be scheduled earlier than seven days after the answer is due to be filed. The procedural order and notice of hearing will be served upon the parties by ordinary mail.

199—42.23(17A,476) Discovery. Discovery procedures available to parties in civil actions are available to the parties. However, because of the expedited nature of these proceedings, all responses must be given within five days of receipt of any request, and all discovery requests must be delivered so that discovery is completed at least five days prior to the date set for hearing. Parties must make good-faith efforts to resolve discovery disputes before filing any motion relating to discovery.

199—42.24(17A,476) Hearing procedures.

42.24(1) All hearings will be recorded either by mechanized means or by certified shorthand reporters. All testimony will be taken under oath or affirmation.

42.24(2) If a party fails to appear at a hearing after proper service of the notice of hearing, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. The parties will be notified of the decision by ordinary mail. If adequate reasons are provided showing good cause for the party's failure to appear, the presiding officer may vacate the decision and, after proper service of notice, conduct another hearing and issue a decision.

42.24(3) The presiding officer shall maintain the decorum of the hearing, and may refuse to admit, or may expel, anyone whose conduct is disorderly, contemptuous, or disruptive.

42.24(4) Subject to terms and conditions set by the presiding officer, each party has the right to introduce evidence, cross-examine witnesses, present evidence in rebuttal, and present oral argument. The presiding officer will determine the order for the presentation of evidence. Prior to or at the hearing, the parties must alert the presiding officer if circumstances exist that require expedited issuance of the decision.

42.24(5) A party that wishes to present a brief must file it prior to or at the hearing.

42.24(6) A party that wishes a shortened appeal time must make a motion at the hearing. If there are no objections and there are no issues that indicate the need for a 15-day appeal period, the presiding officer may shorten the time for appeal set forth in 199—subrule 7.8(2).

199—42.25(17A,476) Decision. The presiding officer will issue a decision as soon as possible after the conclusion of the hearing. If the board issues the decision, it is final agency action. If a single presiding officer issues the decision, it is a proposed decision, and the rules applicable to appeals from the decision of a presiding officer at rule 199—7.8(476) apply, except that the appeal time may be shortened at the

discretion of the presiding officer, and all times set forth in rule 199—7.8(476) may be shortened at the discretion of the board.

These rules are intended to implement Iowa Code sections 476.1, 476.1A, 476.1B, and 476.27.

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[1] Effective date of 42.9(3) and 42.9(4) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 2003. At its meeting held August 12, 2003, the Committee voted to delay the effective date until adjournment of the 2004 Session of the General Assembly. At its meeting held by telephone on December 15, 2003, the Committee voted to lift the delay effective December 16, 2003.

CHAPTER 43
IOWA BROADBAND INITIATIVE

199—43.1(476) Authority and purpose. These rules are intended to implement Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, relating to the Iowa broadband initiative.

The purpose of these rules is to provide guidelines for rate-regulated telecommunications carriers electing to participate in the Iowa broadband initiative and to evaluate the appropriateness of each carrier's broadband initiative revenue plan.

199—43.2(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"Advanced telecommunications services" means the telecommunications infrastructure capable of delivering a data transmission speed of at least 200 kilobits per second in both directions.

"Affordable rates" is presumed to mean the current price for advanced telecommunications services being charged for similar services in areas with multiple broadband providers, as demonstrated by published or advertised prices. However, this presumption may be rebutted in appropriate circumstances.

"Plan" encompasses 36 consecutive months of projects for the deployment of advanced telecommunications services.

"Project" means individual or logically grouped proposals for the deployment of advanced telecommunications services.

"Public interest" includes, but is not limited to, the effective deployment, at the lowest reasonable expenditure of broadband initiative revenues, of advanced telecommunications services to the public at affordable rates, and the fostering of economic development through the increased availability of advanced telecommunications services.

199—43.3(476) Applicability. Rate-regulated telecommunications carriers electing to participate in the Iowa broadband initiative shall file for the board's review and approval a proposed plan for using the revenue each carrier will receive from the price increase permitted by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6. The plan shall include economically achievable projects designed to expand advanced telecommunications services into areas of the state where advanced telecommunications services are currently unavailable. Each plan shall cover a time period not to exceed 36 months.

199—43.4(476) Procedures. The following procedures shall govern the board's review of broadband initiative plans:

43.4(1) *Written notice of a broadband initiative plan.* At least 30 days prior to a carrier's implementation of the price increase permitted by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, and prior to filing its initial broadband initiative plan, a carrier shall mail or deliver to all affected customers a written notice of its intent to file a plan. A copy of the notice shall also be filed with the board at the time the notice is sent to all affected customers. The notice shall, at a minimum, include the following elements:

a. The monthly price increase to be implemented pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, and the date for implementation.

b. A statement that the carrier will be filing a broadband initiative plan with the board pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

c. The telephone numbers and addresses of carrier personnel, the board, and the consumer advocate for customers to contact with questions.

d. A statement describing the application of a credit, in an amount equal to the amount of the proposed residential service increase, to the monthly local exchange service rate for qualified applicants for low-income lifeline assistance programs.

A carrier shall file its broadband initiative plan within 60 days of the date that the notice is filed with the board.

43.4(2) *Plan review procedures.* The board shall issue an order approving, rejecting, or docketing a broadband initiative plan no later than 90 days after the plan is filed with the board. However, if the board seeks additional information from a carrier that submits a proposed plan, the 90-day period shall not commence until all such information has been filed with the board.

a. Supporting documents shall be filed with each carrier's application for approval of a broadband initiative plan.

b. Responses to a proposed plan shall be filed with the board within 10 days after the date on which the plan or any additional information sought pursuant to paragraph 43.4(2)*"a"* is filed.

c. If the board dockets a plan for further investigation, the plan shall be docketed as a formal contested case proceeding by the board and the procedures set forth in 199—Chapter 7 of these rules will apply.

43.4(3) *Price increases.* A carrier may implement a price increase for selected classes of customers. The price increase for any particular class of residential or business customers shall be a uniform increase across the carrier's Iowa service territory unless otherwise ordered by the board. A carrier electing to participate in the broadband initiative shall file a revised tariff with the board that reflects the proposed price increase for residential or business customers, as allowed by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

43.4(4) *Interim approval.* While the proposed plan is under review, the board may grant interim approval to specific projects included in the proposed plan. Projects to be considered for interim approval may include, but are not limited to, the deployment of advanced telecommunications services into areas where advanced telecommunications services are unavailable in any part of the carrier's local exchanges.

43.4(5) *Modification of a plan.* The consumer advocate, the carrier, or a third-party intervenor may propose modification of a carrier's plan at any time. The board, on its own motion, may consider modification of a carrier's plan. All applications to modify a plan shall be filed in the same docket in which the original plan was filed. The board shall issue an order docketing, approving, or rejecting a proposed modification within 30 days of the date the proposed modification is filed. If the board rejects or modifies a carrier's plan, the board may require the carrier to file a modified plan and may specify the minimum acceptable contents of the modified plan. A carrier may withdraw its proposed plan at any time.

a. Reasons for modifying or rejecting a plan may include, but are not limited to, the following:

(1) A demonstration that advanced telecommunications services are already available at affordable rates in a substantial portion of the area(s) where the services are proposed to be deployed;

(2) A demonstration that significant investment by a third party has been committed for the deployment of advanced telecommunications services in one or more of the areas specified in the plan, and advanced telecommunications services will be offered in those areas within a reasonable time; or

(3) A demonstration that the deployment of advanced telecommunications services in one or more of the areas specified in the plan may no longer be cost-effective.

b. The carrier shall file an application to modify its plan if either of the following conditions occurs or is projected to occur during the life of the plan:

(1) The total plan budget has changed or will change by a factor of plus or minus 10 percent.

(2) An approved project is proposed to be eliminated or a new project is proposed to be added.

43.4(6) *Refunds.* If a carrier withdraws its plan prior to the completion of the plan, the carrier shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be determined by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.5(476) Broadband initiative plan requirements. A carrier's proposed plan shall include individual projects spanning 36 consecutive months from the date the plan is filed and shall include a plan for extending advanced services to all customers in the areas where the services are proposed to be deployed (if that will require more than 36 months) to the extent consistent with technological

limitations and the public interest. Each project description shall include the means by which the carrier proposes to provide advanced telecommunications services to customers that currently cannot be offered such services as well as an estimate of the number of potential customers that may benefit as a result of the project. The plan shall also include a description of how the public interest will be met by the plan and a description of the geographic locations where the improvements are proposed. The plan shall include a ranking of projects, or group of projects, depicting the order and areas in which a carrier proposes to deploy advanced telecommunications services.

43.5(1) *Description of each proposed project.* The description of each proposed project shall include but not be limited to:

a. The name of the proposed project;

b. The exchange(s) or area(s), the total number of access lines in the exchange(s) or area(s), and the number of unserved access lines that the project targets;

c. The proposed improvements and related costs for the project;

d. The calculation of the total investment divided by the number of additional access lines to be served;

e. The anticipated date(s) for the deployment of advanced telecommunications services to the exchanges specified in the project; and

f. A narrative description of the company's reasons for proposing each particular project at the proposed priority level.

43.5(2) *Plan and project budget categories.* The plan and project budgets shall be itemized by proposed costs. Each category shall contain sufficient information to allow the board to perform an adequate analysis of the plan. The plan and project budgets shall be categorized as follows for each proposed project:

a. Planning and design costs;

b. Equipment costs;

c. Costs for the installation of the equipment; and

d. Other project and plan costs.

43.5(3) *Board review of proposed projects.* In reviewing the proposed projects, the board shall consider all relevant factors, including but not limited to the following:

a. Cost efficiency of deployment, which is the calculation of the total investment divided by the number of additional access lines to be served.

b. The extent to which the carrier's proposed investments and expenditures serve the public interest, including the upgrading of existing telecommunications infrastructure to permit improved data services for customers that cannot be offered advanced telecommunications services due to their geographic locations.

c. The availability of funding sources other than the funds received pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, as well as external funding sources and committed investments by entities other than the carrier.

The board may approve, reject, or modify the plan. For example, the board may reorganize the project priority list or deny approval of specific projects that fail to meet the public interest test. A carrier may withdraw its plan if the carrier disagrees with the board's proposed modifications and shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be determined by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.6(476) Upon completion of approved plan.

43.6(1) Within 60 days of completion of an approved plan, a carrier shall file a final reconciliation report. The reconciliation report shall include total incremental revenues collected, total costs incurred, access lines developed, utilization of service, and pricing of services.

43.6(2) At the same time that a carrier files a reconciliation report, a carrier shall do one or more of the following:

a. File a continuation plan for board review and approval for the continued use of the revenue resulting from the price increase allowed by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, for further deployment of advanced telecommunications services.

b. File a rate of return rate proceeding pursuant to Iowa Code section 476.6 to determine new rates.

c. File proposed tariffs for board review and approval to reduce the monthly prices that were adjusted pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, by an amount equal to the increase.

d. File a refund plan. If, after the completion of the plan, a carrier elects no longer to participate in the broadband initiative, the carrier shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be approved by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.7(17A) Confidentiality. The portions of a carrier's proposed broadband initiative plan that identify the exchanges where advanced telecommunications services are to be deployed, the time frame in which those services are expected to become available in the described exchanges, and the types of services that are to be available in those exchanges will be made available for public inspection. Supporting documents and additional information, including but not limited to market share information, cost data, vendor information, and proprietary information, may be held confidential pursuant to 199—1.9(476) if an appropriate request for confidential treatment is filed. The board may request additional information from a carrier during the board's review of a plan. If the board requests additional information from a carrier, the carrier shall supply the information upon the board's request. The requested information may also be subject to confidential treatment in accordance with rule 199—1.9(476).

199—43.8(476) Project reports.

43.8(1) A carrier shall file a project report with the board 12 months following the board's approval of a broadband initiative plan, interim projects, or tariff for rate increase, whichever comes first, and every 12 months thereafter until a final reconciliation report is filed.

43.8(2) The project report shall include the following information:

a. A statement detailing the carrier's progress toward completion of its approved plan;

b. A statement identifying the amount of money collected pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6;

c. A statement identifying the carrier's expenditures for each approved project;

d. A statement identifying the total number of access lines in the exchange(s) specified in the plan and the access lines made available for advanced telecommunications services; and

e. A narrative statement of the reasons any particular project was not completed as described, proposed, or approved.

These rules are intended to implement Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

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CHAPTER 44
CERTIFICATES OF FRANCHISE AUTHORITY FOR CABLE AND VIDEO SERVICE

199—44.1(17A,476,82GA,SF554) Authority and purpose. These rules are intended to implement 2007 Iowa Acts, Senate File 554, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures and filing fees for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

199—44.2(17A,476,82GA,SF554) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"Board" means the utilities board within the utilities division of the department of commerce.

"Cable operator" means the same as defined in 47 U.S.C. Section 522.

"Cable service" means the same as defined in 47 U.S.C. Section 522.

"Cable system" means the same as defined in 47 U.S.C. Section 522.

"Certificate of franchise authority" means the certificate issued by the board authorizing the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Competitive cable service provider" means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.

"Competitive video service provider" means a person who provides video service other than a cable operator.

"Franchise" means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Franchise fee" means the fee imposed pursuant to 2007 Iowa Acts, Senate File 554, section 8.

"Incumbent cable provider" means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

"Municipality" means a county or a city.

"Public right-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "Public right-of-way" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

"Video programming" means the same as defined in 47 U.S.C. Section 522.

"Video service" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. "Video service" does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332 or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

199—44.3(17A,476,82GA,SF554) Certificate of franchise authority. As provided in 2007 Iowa Acts, Senate File 554, section 3, after July 1, 2007, a person shall not provide cable service or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

44.3(1) *Existing franchise agreements.* A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the

case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board.

44.3(2) *Municipal utilities.* A municipal utility that provides cable service or video service in Iowa is not required to obtain a certificate of franchise authority in the municipality in which the provision of cable service or video service by the municipality was originally approved.

44.3(3) *Initial application.* Within 15 business days after receiving an application and affidavit from an applicant using a form developed by and available from the board, the board shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

a. A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa;

b. A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules;

c. A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered;

d. A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable;

e. The address of the applicant's principal place of business and the names and titles of the applicant's principal executive officers with direct authority over and responsibility for the applicant's cable or video operations; and

f. The telephone number for customer service contact.

The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant's proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.

44.3(4) *Content of certificate.* A certificate of franchise authority issued by the board shall contain all of the following:

a. A grant of authority to provide cable service or video service in the service area designated in the application;

b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of Iowa, including the police powers of the municipalities in which the service is delivered;

c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor; and

d. A statement that the franchise is for a term of ten years, is renewable, and is nonexclusive.

44.3(5) *Modification of service area.* At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board upon expansion or other change in service area using a form developed by and available from the board.

44.3(6) *Transfer of certificate of franchise authority.* The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date

the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate.

44.3(7) *Termination of certificate of franchise authority.* The holder of a certificate of franchise authority may terminate the certificate by providing written notice of termination to the board and to each affected municipality using a form developed by and available from the board.

44.3(8) *Updates.* The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by sending a letter to the board specifying the change and certificate number. The notice shall be provided within 14 days after the effective date of the change.

199—44.4(17A,476,82GA,SF554) Notice to municipality and incumbent cable provider. A competitive service provider shall notify affected municipalities and incumbent cable providers of its plan to offer service as provided in this rule.

44.4(1) At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

44.4(2) The competitive cable service provider or competitive video service provider shall file a copy of the notice required by this rule with the board.

44.4(3) If the competitive cable service provider or competitive video service provider determines that its entry into the market will be delayed, no further notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin.

199—44.5(17A,476,82GA,SF554) Conversion of municipal franchise by incumbent cable provider. If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality using an application form developed by the board and providing the information required in 44.3(3). The board shall automatically grant the incumbent's application, if complete, effective on the same day a competitive cable service provider or competitive video service provider files the 30 days' notice of offering service as required pursuant to 44.4(17A,476,82GA,SF554) if the incumbent cable provider files its application within 30 days of the day the competitive service provider provides the 30 days' notice. If the incumbent cable provider files its application more than 30 days after the date the competitive service provider provides the 30 days' notice, the board shall grant the incumbent's application, if complete, to be effective on the date the application is filed with the board.

199—44.6(17A,476,82GA,SF554) Filing fees. Each applicant shall submit one or more of the following fees, as applicable:

1. A filing fee of $100 with an initial application; and
2. A filing fee of $50 with a notice of modification or transfer; and
3. A filing fee of $25 with a notice of termination.

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554.

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