

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to utility management efficiency

The Utilities Board hereby amends Chapter 29, “Management Efficiency Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2 and 476.52.

Purpose and Summary

The purpose of this rule making is to update and amend the Board’s rules establishing standards for evaluation of rate-regulated utilities’ management efficiency as required in Iowa Code section 476.52. The Board issued an order requesting stakeholder comments on proposed amendments to the evaluation of management efficiency rules in Chapter 29. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Iowa American Water Company; and MidAmerican Energy Company and Interstate Power and Light Company (jointly) filed comments addressing the proposed amendments.

The Board reviewed the stakeholder comments and reviewed the current rules and adopts the following amendments to the evaluation standards for management efficiency. These amendments update the language in the chapter and apply the statutory authority provided the Board in Iowa Code section 476.52.

The Board issued an order on April 24, 2018, commencing this rule making. The order provides a full discussion of the amendments and is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0037.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3852C**. A public hearing was held on July 24, 2018, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa. The Board received comments from the OCA, as well as from Iowa American Water Company, Interstate Power and Light Company, and MidAmerican Energy Company. Black Hills Energy was also present at the public hearing. The parties did not have any objections or proposed changes to the amendments proposed in the Notice of Intended Action.

Minor changes were made to subrule 29.3(1) to correct a formatting mistake. Two factors that were intended to be listed in separate paragraphs were inadvertently listed together under paragraph 29.3(1)“d” in the Notice. Subsequent paragraphs were relettered accordingly.

Adoption of Rule Making

This rule making was adopted by the Board on September 24, 2018.

Fiscal Impact

These amendments update and amend existing rules that are required to be promulgated for evaluation of rate-regulated utilities management efficiency. No additional actions having a fiscal impact were taken.

Jobs Impact

After analysis and review, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 29**, title, as follows:

MANAGEMENT EFFICIENCY STANDARDS EVALUATION

ITEM 2. Amend rule 199—29.1(476) as follows:

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 by which the board may evaluate the management efficiency of a rate-regulated utility management and the manner in which those evaluations will be used actions that the board may take upon a finding as to the efficiency of a utility's management.

ITEM 3. Amend rule 199—29.2(476) as follows:

199—29.2(476) Efficiency considered in a complaint or rate case proceeding. In formal a complaint proceeding conducted pursuant to Iowa Code section 476.3 or in a rate proceedings proceeding conducted under pursuant to Iowa Code chapter 476 section 476.6, the board may consider determine whether the a public utility subject to rate regulation is being operated in an efficient or inefficient manner. All utilities will be evaluated according to the procedure set forth in In making such a determination, the board shall evaluate the management of the utility in the manner prescribed by rule 199—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). Any adjustment to a utility's level of profit (return on equity) or revenue requirement shall be made in compliance with Iowa Code section 476.52.

ITEM 4. Amend rule 199—29.3(476) as follows:

199—29.3(476) Management efficiency standards evaluation. The board may evaluate a utility's management efficiency based upon the utility's particular circumstances and considering a range of factors that may differ among utilities. In evaluating a utility's management efficiency, the board may consider any of the factors listed in subrule 29.3(1) and any additional relevant factors. No single factor will be deemed conclusive evidence of efficiency or inefficiency. In performing the evaluation, the board may collect data to compare a utility to other rate-regulated utilities providing the same service within the state of Iowa. The board may consider data for time periods outside a rate case test year.

~~**29.3(1) In general. Factors.** 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 the following factors:

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 may not support a finding 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 in objective measures of service quality, customer complaints shown in company and board records, findings made in complaint proceedings, penalties assessed, and measures of customer satisfaction.

d. ~~Officer compensation~~ Customer mix.

(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 total compensation for each officer of the utility.

e. f. The company's bad debt ratio.

f. g. Innovative ideas practices implemented by utility management that result in improved service or that control costs.

g. ~~Other factors the board determines to be relevant in an individual proceeding.~~

h. Geographic service territory.

i. Economic conditions in the areas served.

j. Weather patterns and disasters.

29.3(2) *Electric utilities.* When evaluating an electric utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to electric utilities including 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~~ Companywide load factor.

d. Development and implementation of energy efficiency programs.

29.3(3) *Natural gas utilities.* When evaluating a natural gas utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to natural gas utilities including 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 a pipeline (to be considered separately from operations and maintenance costs).

b. Total cost per unit of gas 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.~~

ITEM 5. Amend rule 199—29.4(476) as follows:

~~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. If the board makes a determination as to the efficiency of the management of a utility pursuant to rule 199—29.2(476), except for an electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the utility's return on common equity or revenue requirement as allowed pursuant to Iowa Code section 476.52. Upon making a determination as to the efficiency of the management of a rural electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the rates charged by the cooperative as part of an adjustment to the utility's revenue requirement.~~

[Filed 9/24/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.