

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to electric vehicle charging services

The Utilities Board hereby amends Chapter 20, “Service Supplied by Electric Utilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.1 and 476.25.

Purpose and Summary

This adopted rule making is intended to provide clarity to the issue of whether a commercial electric vehicle (EV) charging station may provide EV charging services without becoming a public utility under Iowa Code chapter 476.

This rule making originated from a July 27, 2018, request by Iowa 80 Truckstop, Inc., and Truckstops of Iowa, Inc., (collectively, Truckstops) for the Board to issue an order declaring that electric energy sold for the purpose of EV charging is not considered the resale of electric service and declaring that EV charging may occur by the kilowatt-hour (kWh). The tariff covering the Truckstops’ electric service precludes EV charging on a kWh basis. Because the questions raised significant legal and policy issues affecting the state as a whole and to provide for greater public input and participation, the Board denied the request for declaratory relief and initiated a rule making regarding EV infrastructure.

Commercial EV charging implicates at least two separate and distinct potential electric energy transactions. First, an electric energy transaction occurs between the EV charging station and the vehicle (i.e., charging the EV’s batteries). Second, a potential electric energy transaction occurs through the electric energy generator supplying electricity to the EV charging station.

The primary intended purpose of adopted subrule 20.20(1) is to address the former of the two described transactions—to clarify that an EV charging station does not become a “public utility” under Iowa Code section 476.1 solely by virtue of the EV charging transaction between the EV charging station and the vehicle. Under the adopted subrule, the legality of the latter of the two described transactions (i.e., the transaction between the electric energy generator and the EV charging station) is not altered by the adopted subrule and is determined under existing adjudicatory and statutory law.

Subrule 20.20(2) protects consumers from the unnecessary duplication of electric service by providing that entities furnishing electricity to an EV charging station must comply with the exclusive service territory provisions in Iowa Code section 476.25.

Subrule 20.20(3) requires EV charging stations to comply with all other applicable statutes and regulations governing the provision of EV charging services, including all taxing requirements.

Following consideration of all received written and oral comments, on September 30, 2019, the Board issued an order adopting new rule 199—20.20(476) as published in the Notice of Intended Action. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2018-0100.

Public Comment and Changes to Rule Making

After the July 2018 request from the Truckstops, on August 27, 2018, the Board issued an order requesting stakeholder input concerning the proposed rule making and scheduled a workshop for October 17, 2018, to discuss the same. The Board received 23 comments. From the utility industry, the Board

received comments from the Iowa Association of Municipal Utilities (IAMU), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), and the Iowa Association of Electric Cooperatives (IAEC). The Board also received comments from businesses with an interest in electric vehicle charging, including the Truckstops; Tesla, Inc.; Siemens Digital Grid; ChargePoint, Inc.; and Kwik Trip, Inc. Other stakeholders and interested parties filed comments, including the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Environmental Law and Policy Center and the Iowa Environmental Council (Environmental Advocates); the Iowa Chapter of the Sierra Club (Sierra Club); Americans for Prosperity; the Energy Equality Coalition/Mr. George Landrith; the Electric Auto Association; and the Alliance for Transportation Electrification. In addition, the Board received a number of comments from interested individuals.

On October 17, 2018, the Board held a workshop and received presentations from OCA; the Truckstops; ChargePoint; Siemens Digital Grid; Alliance for Transportation Electrification; Greenlots; IPL; MidAmerican; IAMU; IAEC; Sierra Club; the Environmental Advocates; and Mr. Andrew Fisher.

Following receipt of the written comments and the information shared at the workshop, the Board began the process of drafting proposed rule language. On February 6, 2019, the Board issued an order sharing proposed rule language and inviting stakeholder initial and reply comments. The Board received initial comments from the Truckstops; OCA, the Environmental Advocates, Sierra Club, IAMU and IAEC, IPL, the Alliance for Transportation Electrification, MidAmerican, Greenlots, and ChargePoint. The Board received reply comments from the Truckstops, ChargePoint, IAEC and IAMU, IPL, the Environmental Advocates, and OCA. The Board also received comments from interested individuals.

On April 19, 2019, the Board issued an Order Commencing Rule Making proposing to adopt language substantially similar to the language previously shared with stakeholders on February 6, 2019. The Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin on May 8, 2019, as **ARC 4417C**. The Board accepted written comments concerning the noticed rule through May 28, 2019. OCA, ChargePoint, Tesla, the Environmental Advocates, Sierra Club, and individual Iowans filed comments in support of rule 199—20.20(476) as published in the NOIA, while IPL, MidAmerican, IAMU, and IAEC filed comments expressing concern.

The Board conducted an oral presentation on June 12, 2019. OCA, the Environmental Advocates, Sierra Club, and the Truckstops spoke in support of rule 199—20.20(476) as published in the NOIA. IPL, MidAmerican, IAMU, and IAEC expressed concern and generally advocated for rule language that permitted commercial EV charging only if the commercial charging station obtained the electricity from the incumbent electric utility.

In an effort to address the concerns expressed by the utilities and utility associations to the version of the rule published in the NOIA, on July 17, 2019, the Board issued an order containing alternative rule language, which incorporated another state's analysis of the EV charging issue, and invited additional stakeholder initial and reply comments. Through August 1, 2019, the Board received nine initial comments and through August 16, 2019, received four reply comments. A number of commenters expressed support for the July 17, 2019, amended language (with modifications); however, MidAmerican, IAMU, IAEC, and IPL objected, asserting that the revised language was based on an erroneous interpretation of a provision of law, was arbitrary and capricious, and was the product of illogical and wholly irrational reasoning. In sum, the July 17, 2019, revised language did not remedy the concerns expressed by the utilities and utility associates regarding rule 199—20.20(476) as published in the NOIA and resulted in a number of new stakeholder objections.

Because the version of rule 199—20.20(476) as published in the NOIA is narrowly drawn to solely address the commercial EV charging transaction between an EV charging station and the vehicle while leaving unaltered the existing legal principles governing the furnishing of electricity from generation to the EV charging station, on September 30, 2019, the Board issued an order adopting rule 199—20.20(476) as published in the NOIA.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 30, 2019.

Fiscal Impact

Because new rule 199—20.20(476) simply clarifies that electric vehicle charging stations are not public utilities so as to fall under the scope of the Board’s regulatory authority, it is anticipated the amendment will have no fiscal impact.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in 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 27, 2019.

The following rule-making action is adopted:

Adopt the following **new** rule 199—20.20(476):

199—20.20(476) Electric vehicle charging service.

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

20.20(2) A person, partnership, business association, or corporation, foreign or domestic, furnishing electricity to a commercial or public electric vehicle charging station shall comply with Iowa Code section 476.25.

20.20(3) Electric utilities and entities providing commercial or public electric vehicle charging shall comply with all applicable statutes and regulations governing the provision of electric vehicle charging service, including, but not limited to, all taxing requirements, and shall, if necessary, file all appropriate tariffs.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/23/19.