

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to practice and procedure before the board

The Utilities Board (Board) hereby amends Chapter 7, “Practice and Procedure,” 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 section 476.2.

Purpose and Summary

These amendments update the Board rules that establish filing requirements and procedures for filings made with the Board.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4537C**. A public hearing was held on August 20, 2019, at 2 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Comments were made at the oral presentation by the Office of Consumer Advocate, the Iowa Communications Alliance, the Farm Bureau, and rate-regulated utilities. The comments addressed the proposed amendments related to the scope of the procedures, the time for filing a response to a pleading initiating a proceeding, filing of electronic and paper pleadings, and filing requirements for prepared testimony, exhibits and workpapers.

The written comments were the same comments that were made at the oral presentation, described above.

The Board issued an order adopting amendments on December 27, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0022.

The Board made several changes from the Notice based upon comments. The Board retained current language, which was proposed to be stricken, that included a contested case proceeding in the scope of the rules. The Board also retained the time for responding to an initial pleading as 20 days rather than the 14 days proposed in the Notice. The Board cited the electronic filing rules in 199—Chapter 14 for when a pleading is considered filed with the Board, rather than considering a pleading to be filed upon acceptance by the Board.

Adoption of Rule Making

This rule making was adopted by the Board on December 27, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

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 amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in 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 March 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—7.1(17A,474,476) as follows:

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

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings proceedings conducted by the board or a presiding officer, ~~unless such the 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~~ have specific procedures established in board rules. 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. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and number of copies required apply to paper filings. ~~Where electronic filing is required, Electronically filed documents shall be filed and served according to 199—Chapter 14. The board has established additional procedural requirements in other chapters as described in subrules 7.1(2) through 7.1(5).~~

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 199—7.22(17A,476) (ex parte communications), 199—7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 199—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)**~~ **7.1(3)** Notice of inquiry dockets and investigations. The board may issue a notice of inquiry or open an investigation and establish a docket through which the inquiry or investigation can be processed. The procedural rules in this chapter shall ~~not~~ apply to these dockets, unless otherwise ordered by the board or presiding officer. ~~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) **7.1(4)** 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)**~~ **7.1(5)** Discontinuance of service incident to utility property transfer. ~~This subrule does not apply to telecommunications service providers registered with the board pursuant to Iowa Code section 476.95A.~~

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), 199—20.4(476), 199—21.4(476), and 199—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. and e. No change.

~~7.1(7)~~ **7.1(6)** 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).

~~7.1(8)~~ **7.1(7)** Procedural orders.

a. Authority to issue procedural orders in all proceedings, including 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 a presiding officer designated by the board. If an administrative law judge a presiding officer~~ 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.

b. 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)~~ subrule 7.1(7) 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.

ITEM 2. Amend rule 199—7.2(17A,476) as follows:

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 office of consumer advocate, a division of the Iowa department of justice, 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~~ accepted for filing by the board as defined in rule 199—14.3(17A,476).

“*Intervenor*” means any person who, upon written petition, is permitted to intervene as a party in a specific proceeding before the board.

“*Issuance*” means ~~the date written on the order unless another date is specified in the order~~ on which an order is uploaded into the board’s electronic filing system.

~~“*Parties*” include, but are not limited to, complainants, petitioners, applicants, respondents, and intervenors.~~

“*Party*” means each person named or admitted as a party in a proceeding before the board.

“*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 with the authority to preside over a particular proceeding.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a ~~contested case~~ proceeding 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~~ as prescribed in 199—Chapter 14.

ITEM 3. Amend rule 199—7.3(17A,476) as follows:

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

1. to 8. No change.

9. To render a proposed decision and order in a contested case proceeding, ~~investigation,~~ or other ~~hearing proceeding,~~ subject to review by the board on its own motion or upon ~~application~~ appeal by any party; and

10. No change.

ITEM 4. Amend rule 199—7.4(17A,474,476) as follows:

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

7.4(1) Orders. All orders ~~will~~ shall be issued and ~~placed in the board’s records and information center~~ uploaded into the board’s electronic filing system. Orders shall be deemed effective upon ~~issuance~~ acceptance into the electronic filing system, 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 and a daily summary of filings on the board’s Web site at <http://iub.iowa.gov>~~ Orders and other filings in dockets may be viewed in the specific docket accessed through the board’s electronic filing system.

7.4(2) Communications.

a. No change.

b. Paper communications filings. ~~All paper communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other documents required to be filed on paper 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. Paper filings may only be made with board approval, except for filings made pursuant to the exceptions in rule 199—14.4(17A,476).

c.—The board may order that filings be submitted electronically in proceedings in which the electronic filing requirement in 199—14.2(17A,476) does not apply. Such filings shall be made pursuant to instructions in 199—Chapter 14 and the board's published standards for electronic information or as delineated in the board order or other official statement requiring those filings.

7.4(3) No change.

7.4(4) *Number of copies for paper filings.*

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 either file an original and ten copies or make an electronic filing pursuant to 199—Chapter 14 of all filings including, but not limited to, pleadings and answers (rule 199—7.9(17A,476)), prefiled testimony and exhibits (rule 199—7.10(17A,476)), motions (rule 199—7.12(17A,476)), petitions to intervene and responses (rule 199—7.13(17A,476)), proposals for settlement and responses (rule 199—7.18(17A,476)), stipulations (rule 199—7.19(17A,476)), withdrawals (rule 199—7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 199—7.24(17A,476)), interlocutory appeals (rule 199—7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 199—7.26(17A,476)), applications for rehearing and responses (rule 199—7.27(17A,476)), and requests for stay and responses (rule 199—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. a. Rule 199—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. b. 199—Chapter 26 contains additional requirements regarding the number of paper copies of minimum filing requirements 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.

(1) ~~Paper service. In situations where service of a paper document is permitted or required, and 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. Paper service of filings is only required on those parties, or persons, whom the board has approved to receive paper service. All filings required to be served in paper shall also be served on the consumer advocate. All filings served by paper shall be filed electronically pursuant to rule 199—14.16(17A,476) in the appropriate docket in the electronic filing system and shall include a certificate of service.~~

(2) No change.

b. Date of service.

(1) Paper 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).

(2) No change.

c. Parties entitled to service.

(1) Paper service. ~~A party or other person filing a notice, motion, pleading, or other paper document in any proceeding shall contemporaneously serve the document on all other parties. If a party has been approved by the board to receive service of paper documents, the person filing the document shall serve that party as required by this subrule.~~

(2) and (3) No change.

(4) ~~Service on consumer advocate. A party formally filing any paper document or any other material on paper 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, 1375 E. Court Avenue, Room 63, Des Moines, Iowa 50319-0063.~~

d. No change.

7.4(7) Written appearance Appearance. Each party to a proceeding shall file in the docket in the board's electronic filing system 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 electronically 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~~ attorney.

a. Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed ~~attorney-at-law~~ attorney. If the attorney is not licensed by the state of Iowa, ~~permission to appear must be granted by the board or presiding officer~~ the attorney shall apply for admission pro hac vice as required by Iowa Court Rule 31.14(2)(b). ~~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. No change.

7.4(9) Cross reference to public documents, confidential filings, and electronic filings. The board's rule regarding public documents and confidential filings is at 199—1.9(22). The board's rule regarding electronic filing of documents containing confidential material is at 199—14.12(17A,476).

7.4(10) Expedited proceedings.

a. If a person claims that a ~~statutory~~ statute 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~~ statute 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. No change.

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. If a party requests an expedited proceeding pursuant to this paragraph, the pleading in which the expedited decision is requested shall state in the title "Expedited Proceedings Requested."

ITEM 5. Amend rule 199—7.6(17A,476) as follows:

199—7.6(17A,476) Telephone Electronic proceedings. The board or presiding officer may hold proceedings by telephone conference call or other electronic means, such as a webinar service, 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~~ electronic proceedings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

ITEM 6. Amend rule 199—7.7(17A,476) as follows:

199—7.7(17A,476) Electronic information. Filing of electronic information shall comply with the board's rules on electronic filing at 199—Chapter 14 and the board's published standards for electronic information, available on the board's ~~Web site~~ website at <http://iub.iowa.gov> or from the board's ~~records and information~~ customer service center.

ITEM 7. Amend rule 199—7.8(17A,476) as follows:

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 or~~ by electronic notice through the electronic filing system, and to those persons who have been approved to receive paper documents, unless otherwise ordered.

ITEM 8. Amend rule 199—7.9(17A,476) as follows:

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

7.9(1) Pleadings. Pleadings may be ~~required by~~ filed pursuant to statute, rule, or order or filed to initiate a docket and shall be filed in the board's electronic filing system.

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 filed in the board's electronic filing system and 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. to d. No change.

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

7.9(3) No change.

ITEM 9. Amend rule 199—7.10(17A,476) as follows:

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 and other proceedings. ~~If ordered to do so, parties must~~ Parties shall 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 to the prefiled testimony or exhibits, then the ~~corrections~~ corrected testimony or exhibits should be filed in ~~written form~~ the appropriate docket in the board's electronic filing system at least three days prior to the hearing. The prefiled testimony and any exhibits shall be marked and identified in conformance with the board's approved naming convention provided on the board's electronic filing system website or as directed in a board order.

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 and exhibits~~, unless otherwise ordered, or unless otherwise provided by statute or other provision of law.

7.10(4) No change.

7.10(5) Prefiled testimony and exhibits ~~submitted on paper shall include, where applicable~~ shall be filed in the board's electronic filing system in conformance with subrule 7.10(2), and any supporting documents shall be filed as follows:

a. All supporting workpapers.

(1) ~~Unless otherwise ordered by the board or presiding officer, electronic~~ Electronic workpapers in native electronic formats ~~that shall~~ comply with the board's standards for electronic information, which are available on the board's ~~Web site~~ website or from the board's ~~records and information~~ customer service center, 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) (2) 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) (3) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. and c. No change.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the board's standards for electronic information, which are available on the board's Web site website or in from the board's records and information customer service center. ~~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) Any prefiled testimony, ~~including workpapers and exhibits, that is subject to the electronic filing requirement~~ shall comply with the board's standards for electronic information, which are available on the board's Web site website or in the board's records and information customer service center, and the electronic filing rules in 199—Chapter 14.

7.10(7) If a party has filed part or all of its 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~~ shall refile the testimony and exhibits ~~without the confidential stamp on each page~~ with the information made public.

ITEM 10. Amend rule 199—7.11(17A,476) as follows:

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~~ shall 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.~~

ITEM 11. Amend rule 199—7.12(17A,476) as follows:

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 filed on paper shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed and served pursuant to rule 199—7.4(17A,476).~~ Motions ~~filed electronically shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed according to~~ in compliance with 199—Chapter 14. 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 seven 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).

ITEM 12. Amend subrule 7.13(1) as follows:

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~~ ten 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).~~

ITEM 13. Amend subrule 7.14(1) as follows:

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

a. to d. No change.

ITEM 14. Amend rule ~~199—~~7.15(17A,476) as follows:

~~199—~~7.15(17A,476) Discovery.

7.15(1) No change.

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. Data requests or interrogatories served on a day the board is closed or after 4:30 p.m. central time on a day the board is open shall be considered served on the next business day.

7.15(3) and **7.15(4)** No change.

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~~ 14 days of the filing of the motion unless the time is extended or 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~~ seven days, unless otherwise ordered by the board or presiding officer. 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.

ITEM 15. Amend rule ~~199—~~7.17(17A,476) as follows:

~~199—~~7.17(17A,476) Prehearing or scheduling conference. ~~An informal conference of parties may be ordered at the discretion of the~~ The board or presiding officer may schedule a prehearing conference, scheduling conference, or other informal conference at the board's or presiding officer's discretion 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.

ITEM 16. Amend subrule 7.18(6) as follows:

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. Settlements in general rate case proceedings shall comply with rule ~~199—~~26.3(17A,476).

ITEM 17. Amend paragraph 7.23(4)“d” as follows:

d. Unless the exhibit was previously included with prefiled testimony, the party seeking admission of an exhibit at a hearing 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 in accordance with the board’s approved naming convention and made part of the evidentiary record. If an exhibit is admitted, unless it was 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. The sponsoring party shall file the hearing exhibit in the docket in the board’s electronic filing system within three days of the close of the hearing.

ITEM 18. Amend subrule 7.23(7) as follows:

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. If a person who is not a party to a proceeding appears at a hearing and requests to examine or cross-examine witnesses, the board or presiding officer may grant the person intervention in the proceeding as a party for the limited purpose requested by the person and in compliance with subrule 7.4(8).

ITEM 19. Amend subrule 7.23(8) as follows:

7.23(8) Briefs.

a. No change.

~~*b.* Unless otherwise electronically filed and served pursuant to 199 Chapter 14 or 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).~~

e. b. 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.

~~*c.* 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. d. Briefs shall comply with the following requirements.

(1) to (6) No change.

(7) Briefs filed electronically shall comply with the requirements in this paragraph and the standards for electronic information available on the board's ~~Web site~~ website or in the board's records and information center.

ITEM 20. Amend subrule 7.23(9) as follows:

7.23(9) Oral arguments. The board or presiding officer may set a time for oral argument to address issues raised by the parties during the proceeding or 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.

ITEM 21. Amend subrule 7.23(10) as follows:

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 electronic filing system. Unless the record is 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, including the transcript, when available~~. 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.

ITEM 22. Amend paragraph 7.23(11)“b” as follows:

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 electronic 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 ~~40~~ ten 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.

ITEM 23. Amend rule 199—7.24(17A,476) as follows:

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 issuance of 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.

ITEM 24. Amend rule 199—7.26(17A,476) as follows:

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

7.26(1) Notification of proposed decision. Notice of the presiding officer's proposed decision and order in a contested case shall be sent through the electronic filing system, or by first-class mail if ~~any paper filing requirements apply to the proceeding~~ the board has granted a party approval to receive service in paper, 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 normally inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

7.26(2) No change.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. ~~If the electronic filing requirement applies to the proceeding in which the appeal is taken, the~~ The notice of appeal shall be electronically filed unless the appellant has received permission from the board to submit paper filings. ~~If the electronic filing requirement does not apply, 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. On appeal of a proposed decision of a presiding officer that is based upon new evidence not introduced in the record before the presiding officer, the board shall determine whether the new evidence requires a new hearing.~~

If the board determines that the new evidence is material to the proposed decision and a new hearing should be held, the board may remand the proposed decision to the presiding officer for the taking of the new evidence or may conduct a hearing and issue an order based upon the record before the presiding officer and the new evidence.

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. to f. No change.

g. If a party wishes to request a stay or other temporary remedy pending review of the proposed decision by the board, the request shall state the reasons justifying a stay or other temporary remedy and shall address the factors listed in Iowa Code section 17A.19(5) "c."

~~*g. h.*~~ 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. If a request for a stay or other temporary remedy was included in the notice of appeal, any party wishing to respond to the request shall include the response to the request in the party's response to the notice of appeal or notice of cross-appeal. 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 seven days of filing the notice of appeal.

a. and b. No change.

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. If a request for a stay or other temporary remedy was included in the notice of appeal, the request shall be evaluated by the board using the factors stated in rule 199—7.28(17A,476). A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

ITEM 25. Amend rule 199—7.27(17A,476) as follows:

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. The board shall either grant or refuse an application for rehearing within 30 days after the filing of the application or may, after giving the interested parties notice and opportunity to be heard and after consideration of all the facts, including those arising since the making of the order, abrogate or modify its order. A failure by the board to act upon the application for rehearing within the above period shall be deemed a refusal of the application.

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).~~

ITEM 26. Amend subrule 7.28(3) as follows:
7.28(3) A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

[Filed 12/27/19, effective 3/4/20]

[Published 1/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.