

**UTILITIES DIVISION[199]**

**Adopted and Filed**

**Rule making related to recordkeeping and cost allocations in nonutility activities**

The Utilities Board hereby amends Chapter 33, “Nonutility Activities—Record Keeping and Cost Allocations,” 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 476.72 and 476.78 to 476.80.

*Purpose and Summary*

199—Chapter 33 applies to all rate-regulated public utilities and contains regulations regarding public utilities’ nonutility services, including provisions that govern the Board’s access to a public utility’s nonutility service records, the costing methodologies between a public utility’s utility and nonutility operations, and the standards for service and asset transfers between a public utility’s utility and nonutility operations. As part of a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2), the Board initiated this rule making to identify and update provisions that are outdated, inconsistent, or incompatible with statutes and other rules.

The Board issued an order adopting these amendments on November 21, 2022. The order is available on the Board’s electronic filing system under Docket No. RMU-2021-0033.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 1, 2022, as **ARC 6340C**. A public hearing was held on June 23, 2022, at 1:30 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Representatives from the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); Black Hills/Iowa Gas Utility Company, LLC, doing business as Black Hills Energy (Black Hills); and Iowa-American Water Company (Iowa-American) attended the public hearing. OCA supported all the proposed amendments and requested that the Board include a reference in rule 199—33.2(476) to the National Association of Regulatory Utility Commissioners’ Uniform System of Accounts for water utilities. All other commenting parties either supported or took no position on the proposed amendments.

The Board also received written comments from OCA, Black Hills, IPL, MidAmerican, and Iowa-American. Written comments from OCA supported all the proposed amendments and included the same request regarding rule 199—33.2(476) made by OCA during the hearing. All other commenting parties either supported or took no position on the proposed amendments contained in the Notice.

The Board has made one change from the Notice. In the Notice, the Board proposed to replace the “approval” of manuals with the “acceptance” of manuals in subrule 33.5(2). However, one reference to the “approval” of manuals in subrule 33.5(2) was missed. Because no commenting party opposed replacing “approval” with “acceptance,” the Board made this additional change.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 21, 2022.

*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 proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 33.

*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 February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 33**, title, as follows:

~~NONUTILITY ACTIVITIES SERVICES—RECORD KEEPING~~ RECORDKEEPING  
AND COST ALLOCATIONS

ITEM 2. Amend rule 199—33.1(476) as follows:

**199—33.1(476) Applicability.** This chapter applies to all rate-regulated ~~gas or electric~~ public utilities.

ITEM 3. Amend rule **199—33.2(476)**, definition of “Filing threshold,” as follows:

“*Filing threshold*” means that the summation of ~~a an electric or gas~~ utility’s revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility’s operating revenues recorded in FERC account 400, or the summation of a water utility’s revenues from nonutility service equals 3 percent of the utility’s operating revenues. 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.

ITEM 4. Amend subrule 33.3(1) as follows:

**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.

ITEM 5. Amend rule 199—33.5(476) as follows:

**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. In the event the utility has made only minor changes to its manual to reflect new accounts or new affiliates or has modified language, the utility may file only the pages affected together with a cover letter explaining the pages being filed. A utility excused from filing a cost allocation manual for any of the foregoing reasons shall comply with the other requirements of this rule.

**33.5(1) Contents of manuals.** Each cost allocation manual must contain the following information:

a. ~~Nonutility activities services.~~ A list, the location, and description of all nonutility ~~activities as defined in Iowa Code section 476.72(3)~~ services.

b. and c. No change.

d. *Allocation methodology.* A description of the cost allocation methodology, including an overview, explanation, and justification of the details provided in response to paragraphs “e” ~~33.5(1)~~ “e” through “h” below.

e. No change.

f. *Accounts and records.* A description of each account and record used by the utility for financial ~~record keeping~~ recordkeeping for nonutility services, including all subaccounts.

g. *Allocation factors.* A paragraph containing, for each allocation factor identified in compliance with paragraph “e,” ~~33.5(1)~~ “e,” 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. to j. No change.

**33.5(2)** *Annual filing and ~~approval~~ acceptance of manuals.* The following procedure shall be used for the annual filing and ~~approval~~ acceptance of manuals.

a. No change.

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 cost allocation manual. Notice to customers may be provided by means agreed to between the public utility and the customer, such as a customer electing to receive electronic notice. 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. to e. No change.

**33.5(3)** and **33.5(4)** No change.

ITEM 6. Adopt the following new implementation sentence in **199—Chapter 33**:  
These rules are intended to implement Iowa Code sections 476.72 through 476.83.

[Filed 11/29/22, effective 2/1/23]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/28/22.