

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to complaint procedures

The Utilities Board hereby rescinds Chapter 6, “Complaint Procedures,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 476.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.83.

Purpose and Summary

Chapter 6 is intended to describe the process under Iowa Code sections 476.3 and 476.83 for a person to file a complaint with the Board against a utility. The Board is repromulgating Chapter 6 because it contains unnecessary and restrictive language the Board needed to reduce.

On January 18, 2024, the Board issued an order adopting amendments. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0006.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 29, 2023, as **ARC 7124C**. Public hearings were held on December 19, 2023, at 9 a.m. and January 8, 2024, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The public hearings were attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy; ITC Midwest LLC; the Iowa Communications Alliance (ICA); and Iowa-American Water. All oral comments received were in support of the proposed repromulgation of Chapter 6. IPL and ICA commented that additionally, they would like the Board to implement a jurisdictional check to rule 199—6.3(476). The Board received written comments from OCA expressing its support for the repromulgation of Chapter 6.

Two changes from the Notice have been made:

1. A redundancy error was found in subrule 6.5(1) published under the Notice, which stated: “The request shall include the file number of the informal complaint and explain why the proposed resolution should be modified or rejected. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternative resolution.” This was reduced to: “The request shall include the file number of the informal complaint. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution.”

2. A citation error was found in rule 199—6.8(476) published under the Notice, which stated: “...complaints alleging an unauthorized change in telecommunications service (more information is contained in rule 199—22.9(476)) will be processed pursuant to 199—Chapter 22, unauthorized changes in telecommunications service[.]” This was corrected to: “...complaints alleging an unauthorized change in telecommunications service (more information is contained in the ‘Unauthorized changes in telecommunications service’ rule in 199—Chapter 22) will be processed pursuant to this chapter[.]”

Adoption of Rulemaking

This rulemaking was adopted by the Board on January 18, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, 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 Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking will become effective on March 27, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
COMPLAINT PROCEDURES

199—6.1(476) General inquiries. Any person may seek assistance from the Iowa utilities board by appearing in person at the board's office at 1375 East Court Avenue, Des Moines, Iowa 50319-0069; by mailing an inquiry to the board's office; by placing a telephone call to the board's customer service bureau at 515.725.7300 or toll-free at 877.565.4450; by sending an inquiry by email to customer@iub.iowa.gov; or by contacting the agency through any other means. If the inquiry is not resolved after board staff has obtained additional information, the person making the inquiry may escalate the inquiry to a written complaint by requesting an informal investigation pursuant to rule 199—6.2(476) and Iowa Code section 476.3.

199—6.2(476) Informal complaint procedures. Any person may submit a written complaint to the board requesting a determination of the reasonableness of rates, charges, schedules, service, regulations, or anything done or not done by a public utility for those services or rates subject to regulation by the board. "Person" as used in this chapter shall have the same definition as defined in Iowa Code section 4.1(20).

6.2(1) Information to be filed. The written complaint should include the following information:

a. The name of the utility involved, any utility personnel known or believed to be familiar with the facts stated in the complaint, 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 made on behalf of a person other than the complainant, an affidavit from the person upon whose behalf the complaint is being made, attesting to the accuracy of the complaint, should be included. A complaint filed by an organization on behalf of its members shall include an affidavit signed by an attorney for, or an officer of, the organization.

c. The address, or addresses, of the premises where the service, billing problems, or other actions occurred. If the complainant resides at a different address, the complaint shall also state where a response

to the complaint is to be mailed. The complainant shall provide a telephone number and, if available, an email address where the complainant can be reached.

d. The nature of the complaint, and efforts made to resolve the matter. Bills, correspondence, or other relevant documents should be included if the documents will aid the board's understanding of the utility's action or 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. Also, a description of the efforts made by the complainant to resolve the complaint with the utility should be included. The complainant should contact the utility to attempt to resolve the complaint prior to submitting a complaint to the board.

e. A proposal for resolving the complaint. The proposal should refer to any known statutes, board orders, or rules that support the resolution proposed by the complainant.

6.2(2) Request for additional information. If board staff determines that additional information is needed prior to forwarding the complaint to the utility, the complainant will be notified that specified additional information is needed. If the requested additional information is not provided within ten 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 informal complaint. When the board receives a written complaint that includes the necessary information outlined in rule 199—6.2(476), board staff shall initiate the informal complaint process by opening an investigation into the complaint and assigning the informal complaint a file number.

6.3(1) Within ten days after receipt of the written complaint, or of any additional information requested, board staff shall forward to the public utility and the consumer advocate the complaint and any additional information provided by the complainant.

6.3(2) The utility shall respond to the complaint within 20 days of receipt and send a copy of its response to the complainant and the consumer advocate. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Within five days, board staff shall notify the utility, the complainant, and the consumer advocate whether the request for an extension is granted and of the length of the extension.

6.3(3) The utility shall specifically address each allegation made by the complainant and provide any supporting facts, statutes, rules, board orders, or tariff provisions supporting its response. The utility shall include 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 of an informal complaint.

6.4(1) After the utility's response is received, board staff may request additional information deemed necessary to complete the investigation and resolve the complaint. When all necessary information has been received and the investigation is complete, board staff shall, within 30 days, send a letter with a proposed resolution of the complaint to the complainant, the utility, and the consumer advocate. Staff shall notify the complainant, the utility, and consumer advocate when the investigation is complete and the 30-day time period to issue a proposed resolution commences.

6.4(2) In the proposed resolution, board staff shall inform the parties of their right to request formal proceedings. The complainant, utility, and consumer advocate have 14 days after the date the proposed resolution is issued to file a request for a formal proceeding. If no party files a request for formal proceeding within 14 days pursuant to subrule 6.5(1), the proposed resolution is binding.

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing within 14 days that board staff reopen the investigation regarding the complaint to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation. Within five days of receiving the request, board staff shall send a response to the request to reopen the investigation, either advising the parties that the investigation will be reopened and a second proposed resolution will be issued or denying the request. If the request to reopen the

investigation is denied, the complainant, utility, or consumer advocate has 14 days from the issuance of the denial to request that the board open a formal complaint proceeding pursuant to subrule 6.5(1).

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* If the consumer advocate, complainant, or public utility does not agree with the proposed resolution, a request for a formal complaint proceeding may be made in writing within 14 days of the issuance of the proposed resolution. The request for a formal proceeding shall be considered as filed on the date of the United States Postal Service postmark, the date of email, the date of filing in the board’s electronic filing system, or the date of in-person delivery to the board’s customer service bureau. The request shall include the file number of the informal complaint. The request shall explain why the proposed resolution should be modified or rejected and shall propose an alternate resolution. All parties to the informal complaint shall be provided copies of the request for a formal proceeding. Any other party to the informal complaint investigation may submit a response to the request for a formal proceeding within ten days of the date the request was submitted to the board.

6.5(2) *Request for formal complaint proceeding.* Upon receipt of a request for a formal complaint proceeding, the board shall issue an order either granting or denying the request.

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

199—6.7(476) Record. The written complaint and all information obtained during the informal investigation shall be uploaded into the electronic filing system formal complaint docket and be made part of the record in the formal complaint proceeding. The information from the informal complaint investigation shall be redacted pursuant to requirements in 199—Chapter 7.

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 (more information is contained in the “Unauthorized changes in telecommunications service” rule in 199—Chapter 22) will be processed pursuant to 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 20 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, 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 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 rule 199—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 that may alter the allocation of liability.

6.8(6) No entity may commence any actions to rebill, 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 rebilling 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, 476.103 and 546.7.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/21/24.