

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to recordkeeping and cost allocation requirements for nonutility services

The Utilities Board hereby rescinds Chapter 33, “Nonutility Services—Recordkeeping and Cost Allocations,” 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 476.78.

Purpose and Summary

Chapter 33 is intended to provide recordkeeping and cost allocation requirements for rate-regulated utilities with nonutilities services in the Iowa Administrative Code. The Board is rescinding and repromulgating Chapter 33 because the chapter’s provisions contain duplicative language contained in the Iowa Code and other portions of the Iowa Administrative Code. The Board is also reducing unnecessary and restrictive language in the chapter.

On February 9, 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-2023-0033.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 15, 2023, as **ARC 7111C**. Public hearings were held on December 5, 2023, at 9 a.m. and January 23, 2024, at 9 a.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; Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy; Iowa-American Water Company; and ITC Midwest LLC.

Commenters relied on written comments filed by OCA. Those written comments supported the proposed Chapter 33 and provided grammatical and clarification suggestions.

OCA submitted written comments prior to the hearing that supported the proposed Chapter 33 and provided grammatical and clarifying suggestions. No additional comments were received at the hearing. Changes from the Notice have been made to ensure clarity and proper grammar.

Adoption of Rulemaking

This rulemaking was adopted by the Board on February 9, 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 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 this chapter.

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 April 10, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33
NONUTILITY SERVICES—RECORDKEEPING
AND COST ALLOCATIONS

199—33.1(476) Applicability. This chapter applies to all rate-regulated public utilities.

199—33.2(476) Definitions. All terms used in this chapter are defined in Iowa Code section 476.72 unless further defined in this chapter.

“Exception time reporting” means when an employee works predominantly in either utility or nonutility operations and only reports time worked in the less predominant area.

“Filing threshold” means that the summation of an electric or gas utility’s revenues recorded in Federal Energy Regulatory Commission (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, FERC Form 2 for gas utilities, and similar National Association of Regulatory Utility Commissioners (NARUC) accounts for water, sanitary sewage, or storm water drainage service utilities.

“Fully distributed cost” means a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of utility and nonutility services.

“Incidental activities” means activities that are so closely related to the provision of utility services and limited in scale that it is impracticable to identify separately the costs of such activities.

“Net book value” means the original purchase price net of depreciation.

“Nonproductive work time” means time for which an employee is paid but which is not specifically attributable either to utility or to nonutility operations.

“Positive time reporting” means when productive work time is accounted for and allocated to utility operations or nonutility operations.

“Study time reporting” means when periodic studies are done to determine the amount of productive work time being spent on utility versus nonutility operations.

“Utility operating revenues” means the dollar amounts recorded in FERC account 400, or similar NARUC account, for water, sanitary sewage, or storm water drainage service utilities.

199—33.3(476) Availability of records.

33.3(1) Separate records. A rate-regulated public utility receiving revenues for providing nonutility service shall keep and render to the board separate records on the nonutility service.

33.3(2) Records to be maintained. The records maintained for each nonutility service and made available for inspection include the following: documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; a description of methods used to allocate revenues, expenses, and investments between utility and nonutility operations, including supporting detail; and copies of all filings required by other state and federal agencies.

199—33.4(476) Costing methodology. Costs shall be allocated between utility and nonutility operations using fully distributed cost consistent with this rule. The utility shall do the following:

33.4(1) Cost causation for utility assets. Identify for each asset utilized directly or indirectly, in whole or in part, in the provision of nonutility services:

- a. The type of asset;
 - b. The use of the asset;
 - c. The proportional utilization of the asset between utility operations and nonutility operations;
- and
- d. The characteristics of the asset that allow proper allocation.

33.4(2) Cost causation for utility expenses. Identify for each expense account wherein any expense related, directly or indirectly, to the provision of nonutility services is recorded:

- a. The function causing the expense to be incurred;
 - b. The procedure used in performing the function;
 - c. The proportional utilization of the function between utility operations and nonutility operations;
- and
- d. The characteristics of the cost that allow proper allocation.

33.4(3) Time reporting. Use positive time reporting whenever possible; when it is not possible, exception time reporting or study time reporting may be used. Allocate nonproductive work time between utility and nonutility operations in proportion to the allocation of productive work time.

199—33.5(476) Cost allocation manuals. Every rate-regulated 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; however, a letter so stating may be filed if the utility has not changed its cost allocation manual since the last filing. 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 must comply with the other requirements of this rule.

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

- a. *Nonutility services.* A list, the location, and a description of all nonutility services.
- b. *Incidental activities.* A summary of incidental activities conducted by the utility.
- c. *Resource identification.* An identification of the assets and expenses involved directly or indirectly, in whole or in part, in the provision of nonutility services as identified in subrules 33.4(1) and 33.4(2).

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

- e. *Allocation rationale.* A statement identifying, for each asset and expense account and subaccount identified in compliance with subrules 33.4(1) and 33.4(2), the basis for allocating costs in the account or subaccount to utility and nonutility operations, including any allocation factor used by the utility for this purpose.

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

- g. *Allocation factors.* A paragraph containing, for each allocation factor identified in compliance with paragraph 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. Time reporting methods. A paragraph indicating the type of time reporting (positive, exception, or study) used for each reporting organization (e.g., executive, residential sales, and external affairs) and providing a description of how the identified type of time reporting is performed in that reporting organization.

i. Training. A description of the training programs used by the utility to implement and maintain its cost allocation process.

j. Update process. A description of the procedures used by the utility to:

- (1) Determine when an update is needed;
- (2) Develop the update; and
- (3) Provide the update to the board.

33.5(2) Annual filing and acceptance of manuals. The following procedure is used for the annual filing and acceptance of manuals.

a. Notice. At the time of the initial filing and whenever a manual is updated, each utility mails or delivers 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. The notice will 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.

b. Docketing. If the board finds that reasonable grounds exist to investigate the manual, the board will docket the filing for investigation. At the time of docketing, the board will set a procedural schedule that includes a date for an oral presentation and an opportunity to file comments. If the board finds that there is no reason to investigate, the board will issue an order stating the reasons for the board's decision within 90 days of the date of filing.

c. Acceptance of manuals. The board may accept, reject, or modify a utility's manual. However, any board decision is for accounting purposes only and is not binding in any other proceeding.

33.5(3) Updating of manuals. All affected sections and pages of a utility's manual are updated and filed with the board within 60 days of any of the following conditions:

- a.* A new nonutility business is commenced or acquired, or an existing nonutility business is eliminated or divested;
- b.* An affiliate relationship changes;
- c.* Operations affecting nonutility businesses change sufficiently to warrant a new allocation method; or
- d.* Accounting practices change.

33.5(4) Reporting requirements—accounting tables. Companies filing cost allocation manuals shall include in their annual reports tables showing for each account identified in compliance with subrules 33.4(1) and 33.4(2) the following: (a) the account total; (b) the amount allocated to nonutility services; (c) the amount allocated to utility services; and (d) the value of the allocation factors used to allocate costs to utility and nonutility services. Such tables are to be accompanied by a signed statement by an officer of the utility and an independent auditor certifying that, for the year covered by the report, the utility has complied with its cost allocation manual and that the data reported fairly reflect the actual operations of the utility.

199—33.6(476) Standards for costing service transfers within a regulated subsidiary or utility.

33.6(1) Nonutility service provided to regulated subsidiary or utility. The utility or its regulated subsidiary shall pay for a nonutility service provided to it by an affiliate at the price actually charged to nonaffiliates. If no such price is available, the service is to be priced at the lower of fully distributed cost, the price actually charged to affiliates, or the market price for comparable services.

33.6(2) Service provided by the utility to nonutility operations. A utility that provides utility service to a nonutility affiliate is to charge such affiliate the tariffed price or, if a tariffed price is not available, the fully distributed cost of the service.

199—33.7(476) Standards for costing asset transfers within a regulated subsidiary or utility.

33.7(1) If an asset that is a direct cost of nonutility operations becomes a cost of utility operations, the asset shall be transferred or allocated to utility operations at the lesser of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

33.7(2) If an asset that is a direct cost of utility operations becomes a cost of nonutility operations, the asset shall be transferred or allocated to the nonutility operations at the greater of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

These rules are intended to implement Iowa Code sections 476.72 through 476.83.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/24.