UTILITIES DIVISION[199]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 44
"Certificates of Franchise Authority for Cable and Video Service"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.4, 476.10 and 477A
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 476 and 477A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 11, 2024 9 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITsupport@iub.iowa.gov

Purpose and Summary

The purpose of proposed Chapter 44 is to implement Iowa Code chapter 477A regarding certificates of franchise for cable service or video service. This chapter provides an outline for those wishing to obtain or maintain such a certificate.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Entities wishing to hold a franchise certificate for cable or video service in the state will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

Those that utilize cable or video service will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The economic impact to the Board is that of the salaries paid to employees that work on ensuring compliance with these rules. The entity wishing to obtain or maintain a franchise certificate may incur costs due to the filing requirements. An interested person may have an economic impact if the person chooses to utilize the cable or video service provided by an entity holding such a certificate.

- Qualitative description of impact:

This chapter ensures that entities are properly following the guidelines to become a certificate-holding franchisee to provide cable or video service within the state.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The only costs to this agency are the cost of daily operation of the Board and the salaries of employees working in this specific area. There are no additional costs imposed on other agencies.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There is a benefit in ensuring that entities wishing to obtain or maintain a franchise certificate for providing video or cable service within the state follow the necessary rules in providing such a service. There are minimal costs involved in administering these rules. Inaction by the State would lead to noncompliance with the law by such entities.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board does not believe there are any less costly methods of addressing the purpose of this rulemaking.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board considered inaction.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Inaction is not feasible because the power to develop, maintain, and enforce rules and regulations surrounding the granting and maintenance of franchise certificates to entities wanting to provide video or cable service within the state has been delegated to the Board.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is not a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 44 and adopt the following **new** chapter in lieu thereof:

CHAPTER 44
CERTIFICATES OF FRANCHISE AUTHORITY FOR
CABLE AND VIDEO SERVICE

199—44.1(17A,476,477A) Authority and purpose. These rules are intended to implement Iowa Code chapter 477A relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

199—44.2(17A,476,477A) Definitions. The following words and terms, when used in this chapter, shall mean the same as defined in 47 U.S.C. Section 522, effective February 8, 1996, and Iowa Code section 477A.1, unless defined below:

"Board" means the Iowa utilities board.

"Certificate of franchise authority" means the certificate issued by the board authorizing the construction and operation of a cable or video service provider's network in a public right-of-way.

"Competitive cable or video service provider" means a person who provides cable service over a cable system or video system in an area other than the incumbent cable provider providing service in the same area.

199—44.3(17A,476,477A) Certificate of franchise authority. After July 1, 2007, a person shall not provide cable or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

44.3(1) *Existing franchise agreements.* A franchise in effect before July 1, 2007, is subject to the exemptions and requirements of Iowa Code section 477A.2.

44.3(2) *Municipal utilities.* A municipal utility that provides cable or video service in Iowa is exempt from this chapter pursuant to Iowa Code section 477A.2(2)*"c."*

44.3(3) *Initial application.* The requirements and procedures for obtaining a cable or video service franchise are set forth in Iowa Code section 477A.3. Applications are to be submitted using a form developed by and available from the board.

44.3(4) *Content of certificate.* A certificate of franchise authority issued by the board shall conform to the requirements set forth in Iowa Code section 477A.3(5).

44.3(5) *Modification of service area.* At least 14 days before expanding cable or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and notify the board of the effective date of the expansion or other change in service area in a manner prescribed by the board. The board will acknowledge receipt of a notice of service area modification by letter.

44.3(6) *Transfer of certificate of franchise authority.* The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality pursuant to Iowa Code section 477A.3(8). The board will acknowledge receipt of a notice of transfer by letter.

44.3(7) *Termination of certificate of franchise authority.* The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form prescribed by the board. The board will acknowledge receipt of a notice of termination by letter.

44.3(8) *Updates.* The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by updating such information in the board's IUB 24/7 electronic system. The updates shall be completed within 14 days after the effective date of the change.

199—44.4(17A,476,477A) Notice to municipality and incumbent cable provider.

44.4(1) *Notice of intent to provide service.* At least 30 days before providing service in any part of a competitive cable or video service provider's service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable or video service provider shall notify each municipality and incumbent cable provider pursuant to Iowa Code section 477A.2(4).

44.4(2) *Notice of application.* In addition to the notice of intent to provide service, an applicant shall notify each municipality with authority to grant a franchise in the applicant's proposed service area that the applicant has filed an application with the board for a certificate of franchise authority. This notice shall be mailed by certified mail on the date the application is filed with the board.

199—44.5(17A,476,477A) Conversion of municipal franchise by incumbent cable provider. If a competitive cable or video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality pursuant to Iowa Code section 477A.2(6).

199—44.6(17A,476,477A) Renewal of certificate of franchise authority.

44.6(1) Thirty days prior to the tenth anniversary of the issuance of the original certificate and every ten years thereafter, the certificate holder shall file with the board a notice of renewal containing the following:

a. An acknowledgment that the certificate holder continues to hold the certificate;

b. A statement that the certificate holder continues to provide cable or video service in all or a portion of its approved service territory;

c. Any necessary updates to the address of the principal place of business, the telephone number for customer service, and the names and titles of the principal executive officers with direct authority over and responsibility for the cable or video operations;

d. A list of the approved areas the certificate holder currently is serving; and

e. A list of the areas in which the certificate holder was previously authorized to offer service but where service has ceased or never commenced.

44.6(2) The notice of renewal shall be filed using the VCA docket number in which the initial certificate was issued. The board will acknowledge the renewal by letter.

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and chapter 477A.