

CHAPTER 34
NONUTILITY SERVICE

199—34.1(476) Statement of purpose. A public utility which engages in a systematic marketing effort, other than on an incidental or casual basis, to promote the availability of a nonutility service from the public utility shall allow competitors access to certain services.

199—34.2(476) Definition—nonutility service. “*Nonutility service*” as defined in this chapter means the sale, lease, or other conveyance of commercial and residential gas or electric appliances, interior lighting systems and fixtures, or heating, ventilating, or air-conditioning systems and component parts or the servicing, repair, or maintenance of the equipment.

199—34.3(476) Definition—systematic marketing effort. In determining whether activity constitutes a “*systematic marketing effort, other than on an incidental or casual basis,*” the board will consider whether the effort is regular or irregular, recurring or nonrecurring, active or passive in nature and whether the effort is done on a comprehensive basis. Factors that shall be considered include, but are not limited to, the types and number of media used, the frequency, extent, and duration of the marketing effort, the amount of marketing expenses incurred, and whether the public utility appeared to intend to increase significantly its market share.

199—34.4(476) Engaged primarily in providing the same competitive nonutility services in the area—defined. “*A person is engaged primarily in providing the same competitive nonutility services in the area*” when the person on an ongoing basis sells or leases equipment or products or offers services, accounting for at least 60 percent of the person’s gross business revenue, which are functionally interchangeable and considered similar by the public with the nonutility service provided by a public utility in the same identifiable geographic area where the public utility provides utility service.
[ARC 3695C, IAB 3/14/18, effective 4/18/18]

199—34.5(476) Charges permitted. A person meeting the requirements of rule 199—34.4(476) shall be permitted to use, to the same extent utilized by the public utility for its nonutility service in connection with nonutility services as defined in rule 199—34.2(476), the customer lists, billing and collection system, and mailing system of the public utility company engaged in a systematic marketing effort, other than on an incidental or casual basis. The person shall be charged for the cost or expense incurred by the public utility in providing access to its systems and its lists. The charge shall not be greater than the charge, fee, or cost imposed upon or allocated to the provision of nonutility service by the utility for the similar use of the systems.

199—34.6(476) Procedures for utilization of billing and collection system.

34.6(1) When a person meeting the requirements of rule 199—34.4(476) uses the billing and collection system of a public utility, the public utility shall promptly remit to that person all funds collected by the public utility on behalf of the person.

34.6(2) Where a customer makes a partial payment and owes both a public utility and a person(s) meeting the requirements of rule 199—34.4(476) for services or goods provided, the payment received shall be allocated first to the regulated utility bill plus tax, unless otherwise allocated by the customer. Any balance remaining after payment of the utility bill plus tax shall be allocated between the public utility for any unpaid nonutility services and any other person(s) utilizing the utility’s billing system according to the ratio of the amount billed by each unless otherwise allocated by the customer. A public utility shall not disconnect a customer’s utility service for nonpayment of a bill for nonutility services.

A person shall not use a public utility’s billing and collection systems to bill and receive payments only from customers who are habitually delinquent or who have failed or refused to make payment to the person.

199—34.7(476) Complaints. The procedures in 199—Chapter 6 shall apply to all complaints regarding the provision of nonutility service.

These rules are intended to implement Iowa Code sections 476.78, 476.80, and 476.81.

[Filed 1/4/91, Notice 8/8/90—published 1/23/91, effective 2/27/91]

[Filed 6/6/03, Notice 12/25/02—published 6/25/03, effective 7/30/03]

[Filed ARC 3695C (Notice ARC 3457C, IAB 11/22/17), IAB 3/14/18, effective 4/18/18]