

CHAPTER 6
COMPLAINT PROCEDURES
[Previously ch 1, renumbered 10/20/75 Supp.]
[Prior to 10/8/86, Commerce Commission[250]]

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 E. Court Avenue, Des Moines, Iowa; by mailing an inquiry to the board's office; by placing a telephone call to the board's customer service center at (515)725-7321 or toll-free (877)565-4450; by sending an inquiry by electronic mail to customer@iub.iowa.gov; or by contacting the board through any other electronic means. Customer service staff shall obtain the information necessary to either answer the inquiry or direct the person to the appropriate staff person who can provide a response. If the inquiry is not resolved after customer service staff has obtained the additional information, the person making the inquiry may escalate the inquiry to a written complaint requesting an informal investigation pursuant to rule 199—6.2(476) and Iowa Code section 476.3.

[Editorial change: IAC Supplement 12/29/10; ARC 4253C, IAB 1/16/19, effective 2/20/19]

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 include a person 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familiar with the facts stated in the complaint, and the location of the office of the utility where the complaint was originally made and processed.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 that attests 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 officer of the organization.

c. The address, or addresses, of the premises where the service, billing problems, or other actions occurred and, if known, the telephone number and the account number of those premises. If the complainant resides at a different address, the complaint should also state where a response to the complaint is to be mailed. The complainant shall also provide a telephone number and, if available, an electronic mail 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 should be provided. If the requested additional information is not provided within 20 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.

[ARC 4253C, IAB 1/16/19, effective 2/20/19]

199—6.3(476) Processing the informal complaint. When the board receives 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. The following informal complaint procedures shall be followed during the investigation:

6.3(1) Within ten days after receipt of the written complaint, or of any additional information requested, 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 to board staff and shall at the same time send a copy of its response to the complainant and the consumer advocate within 20 days of the date the board staff forwards the complaint to the utility. Prior to the date the response is due, the utility may request an extension of time to respond to the complaint. Staff shall notify the utility, the complainant, and the consumer advocate within five days whether the request for an extension is granted and of the length of the extension, if granted.

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.

[ARC 4253C, IAB 1/16/19, effective 2/20/19]

199—6.4(476) Proposed resolution of an informal complaint.

6.4(1) After the utility's response is received, 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, 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. If no party files a request for formal proceedings within 14 days pursuant to subrule 6.5(1), the parties shall be deemed to have accepted the proposed resolution, which shall be binding. Once the proposed resolution is accepted, or deemed accepted, the parties shall comply with the terms and conditions of the proposed resolution.

6.4(3) After the proposed resolution is issued, the complainant, utility, or consumer advocate may request in writing that staff reopen the investigation to consider additional information, changed circumstances, or other relevant information not provided in the initial investigation, regarding the complaint. The request to reopen the investigation shall be made within 14 days of issuance of the proposed resolution. Within five days of receiving the request, 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).

[ARC 4253C, IAB 1/16/19, effective 2/20/19]

199—6.5(476) Initiating formal complaint proceedings.

6.5(1) *Request for formal proceeding based upon a proposed resolution.* If the consumer advocate, the complainant, or the 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 electronic mail, the date of filing in the board's electronic filing system, or the date of in-person delivery to the board's customer service center. The request shall include the file number marked on the proposed resolution. 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 a formal complaint proceeding by pleading.* Any person may request that a formal complaint proceeding be opened. The board may conduct an informal investigation pursuant

to rule 199—6.2(476) before granting or denying the request for a formal complaint proceeding. A person filing a request for a formal complaint proceeding shall participate in the informal complaint investigation.

6.5(3) Request for formal complaint proceeding. Upon receipt of a request for a formal complaint proceeding, whether based upon a proposed resolution or a pleading, board staff shall prepare a recommendation to the board whether to grant or deny the request for a formal complaint proceeding. The board will review any investigation conducted by staff and staff's recommendation and shall issue an order either granting or denying a formal complaint proceeding. If the board grants the request for a formal complaint proceeding, the board will issue a procedural schedule or conduct a scheduling conference as required for a contested case proceeding.

[ARC 4253C, IAB 1/16/19, effective 2/20/19]

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

[ARC 4253C, IAB 1/16/19, effective 2/20/19]

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 (see rule 199—22.23(476)) will be processed pursuant to the rules set forth in 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 ten 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, then 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 the event of a soft slam (as defined in 199—subrule 22.23(1)), board staff may also propose joint and several liability between the reseller and the facilities-based service provider. 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 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 which may alter the allocation of liability.

6.8(6) No entity shall commence any actions to re-bill, 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 re-billing 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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