

CHAPTER 1
ORGANIZATION AND OPERATION
[Prior to 10/8/86, Commerce Commission[250]]

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board) including the offices where, and the means by which any interested person may obtain information and make submittals or requests.

199—1.2(17A,474) Scope of rules. Promulgated under Iowa Code chapters 17A and 474, these rules shall apply to all matters before the Iowa utilities board. No rule shall in any way relieve a utility or other person from any duty under the laws of this state.

199—1.3(17A,474,476) Waivers. In response to a request, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The burden of persuasion rests with the person who petitions the board for the waiver. If the above criteria are met, a waiver may be granted at the discretion of the board upon consideration of all relevant factors.

Persons requesting a waiver may use the form provided in 199—subrule 2.2(17), or may submit their request as a part of another pleading. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if they have not already been provided to the board in another pleading. The waiver request must also state the scope and operative period of the requested waiver. If the request is for a permanent waiver, the requester must state reasons why a temporary waiver would be impractical.

The waiver shall describe its precise scope and operative period. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

[ARC 3340C, IAB 9/27/17, effective 11/1/17]

199—1.4(17A,474) Duties of the board. The board regulates electric, gas, telephone, and water utilities; and certain sanitary sewer and storm water drainage facilities. The board regulates the rates and services of public utilities pursuant to Iowa Code chapter 476; certification of electric power generators pursuant to chapter 476A; construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground storage pursuant to chapters 479, 479A and 479B.

[ARC 3340C, IAB 9/27/17, effective 11/1/17]

199—1.5(17A,474) Organization. The board consists of the three-member board, the technical and administrative staff, and the general counsel.

1.5(1) The board. The three-member board is the policy-making body for the utilities division. The chairperson serves as the administrator of the utilities division. As administrator, the chairperson is responsible for all administrative functions and decisions.

1.5(2) General counsel. Rescinded IAB 9/27/17, effective 11/1/17.

1.5(3) The office of the executive secretary. Rescinded IAB 9/27/17, effective 11/1/17.

[ARC 3340C, IAB 9/27/17, effective 11/1/17]

199—1.6(68B) Consent for the sale or lease of goods and services. An official or employee shall not sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the board without complying with the provisions of rule 351—6.11(68B) of the Iowa ethics and campaign disclosure board.

1.6(1) General prohibition. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(2) Definitions. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(3) Application for consent. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(4) Conditions of consent for officials. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(5) Conditions of consent for employees. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(6) Effect of consent. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(7) Participation in utility programs. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(8) Appeal. Rescinded IAB 8/16/06, effective 9/20/06.

1.6(9) Notice. Rescinded IAB 8/16/06, effective 9/20/06.

199—1.7 Rescinded, effective January 1, 1984.

199—1.8(17A,474) Matters applicable to all proceedings.

1.8(1) Communications. All communications to the board, other than those filed through the board's electronic filing system, may be addressed to the Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Pleadings and other papers required to be filed with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt and acceptance at the office of the board.

1.8(2) Office hours. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found at 199—14.9(17A,476).

1.8(3) Sessions of the board. Rescinded IAB 9/27/17, effective 11/1/17.

1.8(4) Cross reference to rules regarding electronic filing, placement of docket numbers on filings, service of documents, and required number of copies. The board's rules regarding electronic filing are found at 199—Chapter 14. The board's rules regarding paper filing are found at 199—Chapter 7, including the board's rule regarding placement of docket numbers on filings at 199—subrule 7.4(3); the board's rule regarding service of documents at 199—subrule 7.4(6); and the board's rule regarding required number of copies of documents filed on paper at 199—subrule 7.4(4).

[Editorial change: IAC Supplement 12/29/10; ARC 3340C, IAB 9/27/17, effective 11/1/17]

199—1.9(22) Public information and inspection of records.

1.9(1) Public information. Any interested person may examine all public records of the board by written request or in person at the board offices. Public records may be examined at the board office only during regular business hours, Monday through Friday from 8 a.m. to 4:30 p.m., excluding legal holidays. Public records in docketed matters may be examined at any time using the board's electronic filing system. Unless otherwise provided by law, all public records, other than confidential records, maintained by the board shall be made available for public inspection.

1.9(2) Definitions.

“Confidential records.” Records not available for public inspection under state law.

“Personally identifiable information.” Information about or pertaining to an individual, specifically including the following unique identifiers when combined with an individual's name: social security number or a financial account number (checking, savings, or share account number or credit, debit, or charge card number). “Personally identifiable information” does not include information pertaining to corporations.

“Public records.” Records of or belonging to the board which are necessary to the discharge of its duties.

1.9(3) Inspection of records. Rescinded IAB 9/27/17, effective 11/1/17.

1.9(4) *Board records routinely available for public inspection.* Rescinded IAB 9/27/17, effective 11/1/17.

1.9(5) *Records not routinely available for public inspection.* The following records are not routinely available for public inspection. The records are listed in this subrule by category, according to the statutory basis for withholding them from inspection.

a. Materials that are specifically exempted from disclosure by statute and which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under subparagraphs 1.9(5) “a”(1) and 1.9(5) “a”(3), the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. Records the board is authorized to withhold from public inspection under Iowa law in its discretion include, but are not limited to, the following:

- (1) Trade secrets recognized and protected as such by law. Iowa Code section 22.7.
- (2) Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7.
- (3) Reports made to the board which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7.
- (4) Personal information in confidential personnel records of the board. Iowa Code section 22.7.
- (5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger. Iowa Code section 22.7.

- (6) Materials exempted from public inspection under any other provisions of law.

b. Materials that are specifically exempted from disclosure by statute and which the board is prohibited from making available for public inspection. The board is required to withhold the following materials from public inspection:

- (1) Tax records submitted to the board and required by it in the execution of its duties shall be held confidential. Iowa Code section 422.20.

- (2) Reserved.

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199—14.12(17A,476) and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer’s receipt of a notice of electronic filing without further review or acknowledgement by the board,

and the material or information shall be withheld from public inspection subject to the provisions of subparagraph 1.9(8) “b”(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity, including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.
- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199—subrule 39.7(3).
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199—paragraph 39.3(2) “g.”
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199—subrule 39.7(2).
- (14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199—subrule 39.7(3).
- (15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199—subrule 39.7(4).
- (16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.
- (17) The financial records, number of customers, and volumes filed by competitive natural gas providers in each company’s annual report. The aggregate total sales volume is not granted confidential treatment by this subparagraph.
- (18) The financial information regarding affiliate transactions required for rate-regulated utilities. This information is subject to staff and legal review to ensure the information protected is similar to other information included in this subparagraph.

1.9(6) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements. In addition, parties are required to redact protected information as defined in Iowa R. Elec. P. 16.602 and 16.603.

a. Procedure. The materials to which the request applies shall be physically separated from any materials to which the request does not apply. The request shall be attached to the materials to which it applies. Each page of the materials to which the request applies shall be clearly marked confidential.

b. Content of request. Each request shall contain a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. The facts underlying the legal basis shall be supported by affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts. If the request is that the materials be withheld from inspection for a limited period of time, the period shall be specified.

c. Compliance. If a request complies with the requirements of paragraphs “a” and “b” of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the information to determine whether the information should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.

d. Request denied. If a request for confidentiality is denied, the information will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days

expire, the materials will be available for public inspection, unless the board is directed by a court to keep the information confidential.

1.9(7) Procedures for the physical inspection of board records which are routinely available for public inspection. The records in question must be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee may be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests should list the telephone number (if any) of the person making the request, and for each document requested should set out all available information which would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all of the requested documents have been located and copied, the requesting person will be notified. When the requesting person requests that the board mail copies of the materials, postage and handling expenses should also be included.

c. Procedure for written request. The records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records may be made in the board's records and information center and the charge shall be the actual copying cost.

1.9(8) Procedures for the inspection of board records which are not routinely available for public inspection. Any person desiring to inspect board records which are not routinely available for public inspection shall file a request for inspection meeting the requirements of this subrule.

a. Content of request. The records must be reasonably described by the person requesting them, so as to permit their location by staff personnel. Requests shall be directed to the executive secretary of the board.

b. Procedure. Requests for inspection shall be acted upon as follows:

(1) If the board is prohibited from disclosing the records, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the board is prohibited from disclosing part of a document from inspection, that part will be redacted and the remainder will be made available for inspection.

(3) In the case of requests to inspect records not routinely available for public inspection under 1.9(5)“a”(1), 1.9(5)“a”(3), and 1.9(5)“c,” the board will notify all interested parties of the request to view the materials. The board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief. If injunctive relief is not requested within this period, the records will be produced for inspection. Requests to review materials not routinely available for public inspection under any other category of paragraph 1.9(5)“a” will be acted upon by the board. If the request is granted by the board, or is partially granted and partially denied, the person who submitted the records to the board will be afforded 14 days from the date of the written ruling in which to seek injunctive relief. If injunctive relief is not requested within this period, the records will be produced for inspection.

1.9(9) Procedures by which the subject of a confidential record may have a copy released to a named third party. Upon a request which complies with the following procedures, the board will disclose a confidential record to its subject or to a named third party designated by the subject. Positive identification is required of all individuals making such a request.

a. In-person requests. Subjects of a confidential record who request that information be given to a named third party will be asked for positive means of identification. If an individual cannot provide suitable identification, the request will be denied.

Subjects of a confidential record who request that information be given to a named third party will be asked to sign a release form before the records are disclosed.

b. Written request. All requests by a subject of a confidential board record for release of the information to a named third party sent by mail shall be signed by the requester and shall include the requester's current address and telephone number (if any). If positive identification cannot be made on the basis of the information submitted along with the information contained in the record, the request will be denied.

Subjects of a confidential record who request by mail that information be given to a named third party will be asked to sign a release form before the records are disclosed.

c. Denial of access to the record. If positive identification cannot be made on the basis of the information submitted, and if data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom the record pertains, the board may deny access to the record pending the production of additional evidence of identity.

1.9(10) Procedure by which the subject of a board record may have additions, dissents or objections entered into the record. An individual may request an addition, dissent or an objection be entered into a board record which contains personally identifiable data pertaining to that individual. The request shall be acted on within a reasonable time.

a. Content of request. The request must be in writing and addressed to the executive secretary of the board. The request should contain the following information:

- (1) A reasonable description of the pertinent record.
- (2) Verification of identity.
- (3) The requested addition, dissent or objection.
- (4) The reason for the requested addition, dissent or objection to the record.

b. Denial of request. If the request is denied, the requester will be notified in writing of the refusal and will be advised that the requester may seek board review of the denial within ten working days after issuance of the denial.

1.9(11) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the executive secretary of the board at the following address: Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

1.9(12) Data processing system. As required by Iowa Code section 22.11(1) "g," the board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

[Editorial change: IAC Supplement 12/29/10; **ARC 1899C**, IAB 3/4/15, effective 4/8/15; **ARC 3340C**, IAB 9/27/17, effective 11/1/17]

These rules are intended to implement Iowa Code sections 17A.3, 68B.4, 474.1, 474.5, 474.10, 476.1, 476.2, 476.31 and 546.7.

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