



Governor Terry E. Branstad
Lt. Governor Kim Reynolds

Gerri D. Huser, Chair
Elizabeth S. Jacobs, Board Member
Nick Wagner, Board Member

TO: Members of the General Assembly
FROM: Iowa Utilities Board
DATE: December 16, 2016
RE: 1370 XD – Iowa Utilities Board Policy Legislation

1. **Confidentiality of Cybersecurity and Critical Infrastructure Information**

Background:

Iowa Code chapter 22 provides, in general, that all records of a government agency such as the Iowa Utilities Board (IUB) are public records that can be examined and copied by any person. In the past, in order to avoid the potential release of critical infrastructure or cybersecurity information belonging to the utilities the Board regulates, the Board has declined to accept that information in document form. This approach has the potential to interfere with the conduct of the Board's duties if it is ever necessary to obtain and analyze this type of information.

Proposal:

The proposed language adds an exception to Iowa Code chapter 22. The exception would apply to the IUB and the Department of Homeland Security and Emergency Management (HSEMD). It would cover infrastructure information and records, including cyber security information, the disclosure of which could expose or create vulnerability to critical systems for purposes relating to the safeguarding of telecommunications, electric, water, sanitary sewage, storm water drainage, energy, hazardous liquid, natural gas systems, or other critical infrastructure. Further, the proposal would strike language that currently requires the Director of HSEMD to make available for examination a list of critical assets as used in the critical asset protection plan. The IUB has worked together with HSEMD on this proposal.

2. **Temporary Utility Rates**

Background:

Currently, Iowa Code allows rate-regulated utilities to collect different rates on a temporary basis, subject to refund, while a rate review proceeding is pending. The current statute provides two options under which this occurs.

Under the first, the utility may ask the Board to approve temporary rates based upon previously-established regulatory principles; the Board must rule on that request within 90 days. Under this option, if the final rates include rate design changes that result in over-collection from some customer classes and under-collection from others, the utility is not typically required to make refunds on a class-by-class basis.

The second option allows the utility to implement temporary rates without Board review or approval within 10 days after the rate case is filed. Under this option, if the Board later determines that the temporary rates were not based on previously-established regulatory principles, the Board must consider requiring refunds based upon the overpayments made by each individual customer class, rate zone, or customer group.

In recent rate cases, the utilities have tended to use the second option, which allows the utility to begin collecting temporary rates sooner and allows the Board and the other parties to avoid devoting resources to temporary rate issues, while retaining the right to review the temporary rates at a later date.

Proposal:

The proposal would strike the language allowing utilities to implement Board-approved temporary rates within 90 days of filing, leaving the alternative of automatic implementation of temporary rates 10 days after filing as the only option.

3. Hearing Examiner / Presiding Officer for Electric Transmission Franchise Informational Meetings

Background:

Iowa Code requires a Board member, Board counsel, “or a hearing examiner designated by the board” to “serve as the presiding officer” at each informational meeting on an electric transmission franchise petition.

“Hearing examiner” is an undefined phrase that appears in only three other Code chapters. In these three provisions, a “hearing examiner” is evidently a person designated by an agency to conduct a hearing.

Other provisions within Iowa Code pertaining to the IUB and its interactions with intrastate gas pipelines and hazardous liquid pipelines prescribes an informational meeting, with a “presiding officer” who must be a Board member “or a person designated by the board.”

Proposal:

Replace the reference to “hearing examiner,” an undefined term, with “presiding officer,” which is defined within Iowa Code in 17A.