

**UTILITIES DIVISION[199]**

**Notice of Intended Action**

**Proposing rulemaking related to rulemaking  
and providing an opportunity for public comment**

The Utilities Board hereby proposes to rescind Chapter 3, “Rule Making,” and to adopt a new Chapter 3, “Rulemaking,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.4, 474.5 and 476.2.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 17A.4, 17A.5, 17A.6 and 17A.7 and Executive Order 10.

*Purpose and Summary*

The Board commenced this rulemaking under the provisions of Executive Order 10. Chapter 3 is intended to assist members of the public who wish to initiate or participate in a Board rulemaking proceeding by describing and detailing the rules governing such participation. The Board is proposing to rescind the existing Chapter 3 and repromulgate a new version of Chapter 3 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

Prior to submission of the Notice of Intended Action, the Board held a technical conference with stakeholders, which included a discussion regarding the proposed Chapter 3. The technical conference was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills); MidAmerican Energy Company (MidAmerican); and Iowa-American Water (IAW). The Board also accepted written comments, which were filed by the Iowa Communications Alliance, OCA, Black Hills, MidAmerican, IAW, and ITC Midwest, LLC.

Based on the written and oral comments received, the Board modified proposed Chapter 3 to produce the version of the chapter in this Notice.

The Board issued an order on August 1, 2023, commencing this rulemaking. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under RMU-2023-0003.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 3.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 27, 2024. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 27, 2024 10 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
March 5, 2024 10 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
RULEMAKING

**199—3.1(17A,474,476) Purpose and scope.**

**3.1(1) Scope.** These rules govern the practice and procedure in all rulemaking proceedings of the board.

**3.1(2) Rules of construction.** If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

**199—3.2(17A,474,476) Initial stakeholder input.** In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rulemaking by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

**199—3.3(17A,474,476) Petition for adoption of rules.**

**3.3(1) *Petitions.*** Any interested person may petition the board for the adoption, amendment, or repeal of a rule pursuant to Iowa Code section 17A.7.

**3.3(2) *Stakeholder comments.*** Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

**199—3.4(17A,474,476) Commencement of proceedings.** Rulemaking proceedings are commenced upon written order of the board.

**199—3.5(17A,474,476) Rulemaking oral presentation.**

**3.5(1) *Requests.*** If an oral presentation is not scheduled by the board, any interested person may file a request for an oral presentation.

**3.5(2) *Written appearance.*** Any interested person may participate in rulemaking oral presentations in person or by counsel.

**3.5(3) *Oral presentations.*** Participants in rulemaking oral presentations may submit exhibits and present oral statements of position, which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Oral statements are not made under oath and are not subject to cross-examination.

**3.5(4) *Comments and limitations.*** The board may, in its discretion, permit reply comments and request the filing of written comments subsequent to the adjournment of the oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

**199—3.6(17A,474) Review of rules.** To facilitate the five-year review provisions of Iowa Code section 17A.7(1), the board will review a portion of its chapters each fiscal year over each five-year period under the following schedule:

**3.6(1)** In fiscal year 2018 and every fifth year thereafter, the board will review Chapters 1 through 9 of its rules.

**3.6(2)** In fiscal year 2019 and every fifth year thereafter, the board will review Chapters 10 through 18 of its rules.

**3.6(3)** In fiscal year 2020 and every fifth year thereafter, the board will review Chapters 19 through 27 of its rules.

**3.6(4)** In fiscal year 2021 and every fifth year thereafter, the board will review Chapters 28 through 36 of its rules.

**3.6(5)** In fiscal year 2022 and every fifth year thereafter, the board will review Chapters 37 through 45 of its rules.

**3.6(6)** If the board adopts additional chapters in its rules, such chapters will be reviewed every fifth fiscal year from the fiscal year in which they are made effective.

These rules are intended to implement Iowa Code sections 17A.4 through 17A.7, 474.5, and 476.2.