
LEGAL UPDATE

Legal Services Division



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

ADMINISTRATIVE RULES REVIEW COMMITTEE MEETING — JUNE 8, 2021

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

IOWA UTILITIES BOARD, Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure, 5/19/21 IAB, ARC 5629C, ADOPTED.

Background. This rulemaking rewrites the board's rules on rate cases for regulated electric utilities. The rulemaking includes new procedures for rate cases based on a future test year, as authorized by 2018 Iowa Acts, Senate File 2311. The rulemaking also includes procedures for subsequent proceedings by the board to review whether costs and revenues approved by the board for a future test year are consistent with actual costs and revenues.

Commentary. Committee members urged agencies not to circumvent the legislative process by adopting the substance of bills that have not been enacted by the General Assembly in rules, but noted that was not the case for this rulemaking. Members stated that after examination of the rules and underlying legislation and discussion with the board, the rules seemed to be consistent with the legislation.

Ms. Paula Dierenfeld, speaking on behalf of the Iowa Business and Energy Coalition (IBEC), reviewed the process the board and stakeholders had undergone since 2018 as the rulemaking was written. She described the future test year as a significant change in the way utilities seek rate increases from the board. She stated the historic test year, the only available method for rate increases prior to 2018, is easier for customers to review and challenge, as opposed to a future test year based on future estimated costs. She described the subsequent proceeding as the one consumer protection IBEC was able to have included in SF 2311. She expressed support for the rulemaking and stated it adds additional consumer protections and is supported by SF 2311. She described the protections as a prohibition on multiple test years, which Alliant Energy had attempted, and which the board rejected, after SF 2311 was enacted, and a prohibition on using a new future test year until a subsequent proceeding on a prior future test year is complete, which she said would cause chaos for most affected parties. She stated future test year rate proceedings are more complex and costly than historic test year rate proceedings.

Mr. Chaz Allen, speaking on behalf of the Iowa Utility Association, expressed concern with the rulemaking, which he asserted exceeds the authority of the statute and may ultimately make future test years unusable. He stated the language in the rulemaking on subsequent proceedings requiring submission of detailed class information may effectively create a second rate case, allowing for reconsideration of issues from the original rate review, which would lead to customer confusion and possible litigation. He stated the prohibition on using a new future test year until the subsequent proceeding on the prior future test year is concluded would increase uncertainty and risk and affect the

ability of utilities to recover their costs. He encouraged the General Assembly to review and improve the statute relating to subsequent proceedings.

Ms. Jennifer Easler, the Consumer Advocate, stated that the rulemaking is a fair compromise and expressed concern about the possibility of it being delayed. She stated the rulemaking establishes appropriate standards for future test years to ensure the information submitted by utilities is detailed enough to provide confidence that the approved rates are just and reasonable. She stated the subsequent proceeding is the one check available on the future test year to ensure that the project costs are reasonably consistent with actual costs. She noted the statute and the rulemaking give the board authority to adjust rates accordingly if that is not the case. She asserted the requirement for submission of detailed class information in subsequent proceedings is appropriate.

Mr. Bob Rafferty, speaking on behalf of Iowa American Water Company, thanked the board for making changes to the initial language of the rulemaking, but asserted the current language on subsequent proceedings exceeds the board's authority and has the potential to create another rate case, which would be expensive. He stated he was not requesting any action from the committee, but indicated he would discuss the matter with legislators in the future.

Action. No action taken.

Next Meeting. The next committee meeting will be held in Room 103, Statehouse, on Tuesday, July 13, 2021, beginning at 9:00 a.m. Instructions for participation by videoconference can be found at the Committee's internet site below.

LSA Staff Contacts: Jack Ewing, 515.281.6048 or Jack.Ewing@legis.iowa.gov;
Kate O'Connor, 515.281.6329 or Kate.OConnor@legis.iowa.gov

Internet Site: www.legis.iowa.gov/committees/committee?groupID=705

Doc ID 1222910