

**IOWA UTILITIES BOARD
FISCAL YEAR 2002 REGULATORY PLAN
Prepared pursuant to
EXECUTIVE ORDER NINE
August 1, 2001**

Current Regulatory Objectives and Priorities

The objectives and priorities of the Iowa Utilities Board (Board) derive from its statutory duty to "regulate the rates and services of public utilities..." established in Iowa Code § 476.1. This broad grant of authority is refined by specific directives throughout chapters 474 (establishes the Board), 476 (primary rate and service regulatory authority), 476A (electricity generator certification), 477C (dual party relay and equipment distribution), 478 (electric transmission line franchises), 479 (intrastate pipeline and underground gas storage permits), 479A (interstate natural gas pipeline inspection as federal agent, damages, and land restoration), and 479B (hazardous liquid pipeline and storage permits). A summary of the Board's primary general objective is found in § 476.8. The Board must assure that public utilities within its rate regulatory jurisdiction charge Iowa customers just and reasonable rates and that all public utilities within the Board's jurisdiction provide reasonably adequate service and facilities.

The Iowa legislature in 1995 established six new objectives concerning telecommunications regulation. Section 476.95 provides: 1) communication services throughout the state should come from a variety of providers; 2) to the extent reasonable and lawful the Board shall act to further the development of competition; 3) to encourage competition, the Board should move prices to cost and remove subsidies for incumbent local exchange carriers; 4) regulatory flexibility is appropriate in a competitive environment; 5) the Board should respond with speed and flexibility to telecommunications changes; and 6) economic development can be fostered by advanced telecommunications. These procompetitive policy objectives were furthered by the passage of the Telecommunications Act of 1996, 47 U.S.C. § 251 *et seq.* That federal statute provided an extensive role for the Board in opening the local exchange market to competition.

Under 47 U.S.C. § 271, the Board will consult with the Federal Communications Commission concerning Qwest Corporation's compliance with a 14-point checklist to demonstrate it has opened up its Iowa local exchange service market to competition. When Qwest can demonstrate compliance in Iowa, the FCC will allow it to provide interLATA long distance service on calls originating in Iowa. The Board has participated actively in three multi-state proceedings and in FY 2002 will continue to devote significant agency resources to the fact finding required under § 271. Opening up the local exchange and long distance markets to competition is an important statutory objective for the Board.

There has not been a similar deregulation of the electric industry by the Iowa legislature. However, with the enactment of 2001 Iowa Acts, H.F. 577, the legislature clearly established significant regulatory changes. Most importantly, the Board must conduct contested case proceedings to establish ratemaking principles for certain new Iowa generating facilities to be leased or owned by rate-regulated public utilities. In addition, the Board must review and approve multiyear plans and budgets for rate-regulated utilities to regulate emissions from coal-fired plants. The plant-siting decision criteria in chapter 476A were loosened by the act, but the Board will continue to issue certificates to certain new plants. Also, the act requires electric utilities to offer alternate energy purchase programs to customers pursuant to Board-approved plans. An underlying statutory objective is to attract the development of electric power generating and transmission facilities within the state to ensure reliable electric service and provide economic benefits to the state. Iowa Acts, H.F. 577, § 12. The Board must harmonize that objective with its traditional duty to assure just and reasonable rates. Outside H.F. 577, the Board also has statutory duties relating to the purchase or wheeling by utilities of electricity from alternate energy production facilities. Iowa Code §§ 476.42-476.46.

With regard to regulation of natural gas service, the Board is currently implementing rules to certify competitive natural gas providers pursuant to § 476.87. In addition, the Board is reviewing draft tariffs filed by the rate regulated providers with the objective of extending to small volume customers possible choices of providers as has been available for many years to large volume natural gas customers. Another Board objective is to provide a regulatory environment where gas utilities can develop procurement policies that mitigate the extreme volatility in the short-term markets, which caused much hardship to customers in the winter of 2000-2001.

The Board has statutory duties relating to energy efficiency programs for to both electricity and natural gas. Iowa Code §§ 476.6(17), (19), and (21). The Board objectives in this area are: (1) obtain accurate reports on energy efficiency programs from consumer-owned utilities, without unduly burdening these smaller utilities; (2) conduct a review of investor-owned utilities' proposed energy efficiency plans offering a range of cost-effective programs for all customer classes and determine performance standards for those plans, in consultation with the Department of Natural Resources; (3) assure that each investor-owned utility carries out its approved energy efficiency plan; (4) provide for timely and equitable recovery of the costs of energy efficiency programs incurred by investor-owned utilities; (5) assure that peak-load energy conservation programs are offered by investor-owned utilities to their customers; and (6) ensure that all utility-owned outdoor lighting in Iowa meets efficiency standards established by the Board.

Any discussion of Board objectives is incomplete without inclusion of our efforts to resolve customer complaints under Iowa Code § 476.3(1). The agency

devotes a significant amount of resources to providing customers timely, just, and lawful resolution of the 5,000 to 6,000 oral and written complaints that come to the agency annually. The Board is in a unique position to provide customers with an effective opportunity to resolve issues with the utilities, who are often in a superior position because the services they provide are necessities.

These objectives relate directly to the Governor's agenda. Iowa cannot be a leader in the "new economy," as envisioned by the Governor, without the telecommunications infrastructure and the necessary energy to make change possible. Reasonably adequate service at just and reasonable rates involves changing concepts and the Board is striving under its statutory mandates to make utility service in Iowa an engine for positive economic change. In addition, the Board's objectives regarding energy efficiency and alternate energy sources are important factors in achieving the Governor's goals of increasing environmentally sustainable business practices and using energy efficiently.

Satisfying these objectives allows the Board and its staff to carry out the Board's mission statement, which provides for:

Performance excellence in regulation, where we assure Iowans receive:

- The best value in utility services
- Safe and reliable utility services
- Fair treatment
- The information and services they need.

This description of the Board's objectives and priorities has necessarily hit only the high points. Every day, the Board and its staff make scores of individual decisions in areas such as resolution of customer complaints, review of tariff changes for more than 200 utilities, informal advice to the public as to application of Board rules, pipeline and electric transmission line inspections, and review of information affecting the public interest filed by the utilities with the Board. Our objective is to do all of these daily tasks in a sound, helpful, and timely manner, consistent with our mission statement.

Significant Rule Makings FY 2002:



1. **Title of Regulatory Action** Estimation and Proration of Natural Gas Bills
Docket No. RMU-01-1

Rule Chapter(s) that may be involved

199 IAC ch. 19

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

Estimated natural gas bills are to be calculated using actual degree-day and customer premises consumption history data. Customers may provide meter readings by telephone, e-mail, or U.S. mail.

Periodic changes to purchased gas adjustment rate factors are to be prorated to become effective with usage on or after the date of change.

These changes require the utilities to exercise more precision in each of these billing areas. There may be cost to some utilities in this required methodology, but the cost is outweighed by the benefits resulting from bills that more closely reflect the service to each customer.

Legal Basis

(Include whether action is required by statute or court order)

These are discretionary policy changes within the Board's general rule making authority pursuant to Iowa Code § 476.2.

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

The rules were proposed in response to billing problems that surfaced during natural gas price spikes last winter. It is expected that the estimated bills will be more accurate for the individual customer under the rule changes. The proration requirement will provide a methodology to be used by all utilities and also will be a methodology more acceptable to customers.

Other Affected/Interested Rule Making Authorities

Department of Human Rights may have some interest in billing rules. They did not participate in the docket.

Potential Public Groups Impacted

All natural gas customers, as well as advocacy groups for the poor, elderly, or disabled may have some interest in billing rules.

Schedule:
(Actions & month/year)

The Board expects to adopt these rules in late July or early August 2001.

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Note: The Board expects that additional rulemakings in FY 2002 will result from the analysis of current customer billing issues in an inquiry identified as Docket No. NOI-01-1. The subject matter and scope of these rulemakings is not yet determined, although it is expected that they will be initiated prior to the next heating season..



2. Title of Regulatory Action

Electric Generating Plant Siting
Docket No. RMU-01-7

Rule Chapter(s) that may be involved

199 IAC ch. 24

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

This proposed rulemaking will modify plant-siting rules, 199 IAC chapter 24, to reflect the significant changes to this subject matter in 2001 Iowa Acts, H.F. 577. The new statute removed several decision criteria for use in the Board's certification review. The showing required for a certificate is now limited to: 1) consistency with the state's energy and economic development policy with no adverse effects on service adequacy and reliability, 2) construction, maintenance, and operation consistent with reasonable land use and environmental policies, and 3) willingness to construct, maintain, and operate pursuant to the provisions of the certificate and chapter 476A.

Legal Basis

(Include whether action is required by statute or court order)

Iowa Code § 476A.12 requires rules to implement chapter 476A and the amendments to the chapter therefore effectively require amendments to the rules.

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

The statute was modified in response to utility claims that the existing siting statute and rules were burdensome and over broad in a changed energy environment. Potential generation shortages appear to have replaced the generation surpluses of the 1980s and 1990s. Chapter 476A was changed to make the standards to receive a siting certificate from the Board less difficult to satisfy, thereby encouraging plant siting inside Iowa. The rules will be drafted and applied in that same spirit.

Other Affected/Interested Rule Making Authorities

Department of Natural Resources may play an active role in the environmental aspects of certification proceedings.

Potential Public Groups Impacted

Electric utilities, ratepayer groups, environmental groups, and alternate energy producers may be impacted by these rules.

Schedule:
(Actions & month/year)

The rulemaking will likely be initiated in late July or early August 2001. Public comments will be due in September and an oral presentation held in October. Depending on the public comments, the rules may be adopted before the end of 2001.

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3. Title of Regulatory Action

Competitive Bidding Procedures

Rule Chapter(s) that may be involved

New chapter, 199 IAC ch. 40

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

The 2001 legislation provided a fundamental ratemaking change. A utility that proposes to own or lease certain new generation facilities in Iowa may initiate a contested case proceeding for the Board to determine the regulatory principles that will apply during the life of the utility. To receive the determination, the utility must demonstrate it has considered other sources for long-term energy supply and the facility or lease is reasonable. The utility can satisfy this requirement by following a competitive bidding process under Board rules. The Board is currently drafting rules to establish the procedures for this competitive bidding process.

Legal Basis

(Include whether action is required by statute or court order)

Chapter 476.53 as amended requires these rules.

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or

This rulemaking is a result of a statutory directive.
the environment)

**Other
Affected/Interested
Rule Making
Authorities**

Because the contested case to set regulatory principles involves choices of fuel and alternate energy, the Department of Natural Resources may be interested.

**Potential Public
Groups
Impacted**

Electric utilities, companies interested in building merchant plants, and user groups may be impacted by the rules.

**Schedule:
(Actions &
month/year)**

The Board will initiate this rulemaking in late July or early August 2001. The utilities may need the guidance of this rulemaking as soon as possible.

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4. Title of Regulatory Action Regulatory Principles for Electric Generating and Transmission Facilities

Rule Chapter(s) that may be involved

New chapter, 199 IAC ch. 41

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

The statutory changes that require the Board to establish regulatory principles for the rate treatment of new generation facilities is discussed in item 3 above. As this is a new regulatory approach in Iowa, the Board believes it will be desirable to establish minimum filing requirements by rule to provide guidance to the utilities as to the information the Board will need to determine if their proposals are reasonable.

Legal Basis

(Include whether action is required by statute or court order)

These rules are not required by the new statute, but are within the Board's general rulemaking authority under § 476.2.

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

The rules will allow the parties to understand the nature of the proceedings as they prepare their cases. The rules will establish procedural uniformity into these potentially diverse contested cases.

Other Affected/Interested Rule Making Authorities

None we are aware of.

Potential Public Groups Impacted

Electric utilities and customers may be impacted by the rules.

Schedule:
(Actions & month/year)

This rulemaking will be initiated by September or October 2001. Once again, it is important to notice this rulemaking as soon as possible, because the utilities are doing preliminary work on new generating facilities in Iowa at this time.

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5. Title of Regulatory Action Utility Crossings of Rail Road Rights-of-Way

Rule Chapter(s) that may be involved

New chapter, 199 IAC ch. 42

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

The new statute governing utility crossings of railroad rights-of-way requires the Board to promulgate rules prescribing the terms and conditions for a crossing. The statute contains a list of nine areas where, at a minimum, rules are required.

Legal Basis

(Include whether action is required by statute or court order)

Iowa Code § 476.27 (S.F. 515)

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

The legislative process leading to the statute was very contentious between the railroads and the utilities. Certain areas were left for the Board to fill in the details, because circumstances may change over time and it is easier to amend the rules than to amend the statute when the parties have a history of conflict.

Other Affected/Interested Rule Making Authorities

The statute explicitly requires the Board to consult with the Department of Transportation regarding these rules.

Potential Public Groups Impacted

These rules will impact the utilities and also the railroads who are not otherwise under Board jurisdiction.

Schedule:
(Actions & month/year)

Because of the immediate need for the H.F. 577 rulemakings and the requirement of consultation with the DOT, the right-of-way rulemaking is not likely to be initiated until September or October. It is expected that there will be a round of written comments, followed by an oral presentation in a workshop format to allow give and take between the railroad and utility interests. Depending on whether renoticing is necessary, this rulemaking may be completed by the first quarter of 2002

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6. Title of Regulatory Action Alternate Energy Purchase Programs

Rule Chapter(s) that may be involved

199 IAC ch. 15

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

Legislation adopted in 2001 (HF 577) requires Iowa electric utilities, by 2004, to offer programs that allow their customers to contribute voluntarily to the development of alternate energy in Iowa. Utilities must file tariffs to implement the programs according to Board rules. The Board will adopt new rules that set forth criteria and procedures for utilities' alternate energy purchase programs.

Legal Basis

(Include whether action is required by statute or court order)

Rules are required to implement new Iowa Code Section 476.47 (HF 577).

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

This rulemaking is a result of a statutory directive.

**Other
Affected/Interested
Rule Making
Authorities**

Because the issues involve choices of fuel and alternate energy, the Department of Natural Resources may be interested.

**Potential Public
Groups
Impacted**

Electric utilities, and groups interested in the development of alternate energy in Iowa.

**Schedule:
(Actions &
month/year)**

The rulemaking will likely be initiated by January 2002. Depending on public comments, the rules may be adopted before the end of 2002. New Iowa Code Section 476.47 requires electric utilities to begin offering alternate energy purchase programs to customers by January 2004.

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7. Title of Regulatory Action Electric Delivery System Reliability

**Rule Chapter(s) that may be
involved**

199 IAC Chs. 20 and 25

Description of Contemplated Regulatory Action

The Board currently is conducting an inquiry (Docket No. NOI-00-4) into whether reliability rules are necessary to ensure that emerging competition and other changes in the electric industry do not diminish the quality of service Iowans have come to expect from their electric utilities. This inquiry is focused on electric delivery system reliability and is concerned with such issues as duration and frequency of outages, power quality, and public safety. The inquiry is using meetings with interested participants, meetings with regulatory staff and utilities in other states, filed comments to a series of questions, review of industry practices, and analysis to judge the reasonableness of various types of rules and regulatory oversight to ensure reliability.

Legal Basis

Iowa Code § 476.1 gives the Board authority to regulate the services of public utilities and § 476.8 requires utilities to provide reasonably adequate service and facilities. These rules are a discretionary exercise of the Board's general authority under § 476.2 and not explicitly required by statute.

Need for Regulatory Action

The purpose of new or enhanced rules would be to establish standards and reporting requirements to provide consumers, the board, and electric utilities with a uniform methodology for monitoring reliability and ensuring quality of electric service and safety within an electric utility's operating area.

**Other
Affected/Interested
Rule Making Authorities**

None

**Potential Public
Groups
Impacted**

Electric utilities, user groups and customers may be impacted by the rules.

Schedule:
(Actions &
month/year)

The Board will consider the specific findings of the inquiry by November 2001 and expects to initiate a formal rulemaking in December 2001 using a standard public notice proceeding.

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8. Title of Regulatory Action

Board Assessment Procedures

**Rule Chapter(s) that may be
involved**

199 IAC ch. 17

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

The legislature in 2001 significantly modified Iowa Code § 476.10, which provides the mechanism for the Board and the Consumer Advocate to assess the costs of their operations to the persons appearing before the Board. The amendments expanded the Board's discretion to direct bill any participants in proceedings before the Board, eliminated caps on the amount that can be assessed to a person, and significantly changed the way in which the remainder assessment is calculated. A rulemaking is necessary to conform the assessment rules to the new statute.

Legal Basis

(Include whether action is required by statute or court order)

Rules are not required, but it is desirable to conform the existing rules to Iowa Code § 476.10 (S.F. 279)

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

This rulemaking will conform Board rules to the new statute.

Other Affected/Interested Rule Making Authorities

None that we are aware of.

Potential Public Groups Impacted

The utilities and other participants in Board proceedings who may have to pay direct assessments will be impacted.

Schedule:
(Actions & month/year)

We hope to initiate this rulemaking by December 2001 and the rules should be effective before the end of FY 2002.

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In addition to the rulemakings listed above, the agency currently is reviewing all of its rules pursuant to Executive Order Eight. We know that a significant number of rules will be added, deleted, or modified to make Board rules more reflective of current conditions. We expect to submit the assessment report by November 1, 2001, and the implementation of the rulemakings will depend on approval of the assessment report by the Governor's office.

Significant Contested Cases FY 2002

While the emphasis of this regulatory plan is on rule makings, the Board anticipates several significant contested cases will occur during the fiscal year. Currently pending is a rate case, Docket No. RPU-01-4, involving Iowa's only rate-regulated water utility, Iowa American Water Company. The Board is considering a nonunanimous settlement agreement that has been filed in the MidAmerican Energy Company electricity rate case, Docket Nos. RPU-01-3 and RPU-01-5. An electricity rate case for IES Utilities Inc. and Interstate Power Company in early 2002, after the rate freeze connected with the Alliant merger expires, is a distinct possibility. In telecommunications, the Board will continue to deal with complaint dockets and other issues arising from the introduction of competition into the local exchange market.

Other Significant Proceedings FY 2002

Perhaps the most significant docket for the fiscal year involving other agency action is Docket No. INU-00-2, Qwest's filing to prove that it has satisfied the § 271 checklist showing that it is entitled to enter the long distance market because it has opened up its local exchanges to competition. This will be a major focus of Board activity at least through the end of 2001.

In the energy area, the Board continues to be a participant in determining the structure of regional institutions responsible for energy transmission.

August 1, 2001

/s/ Allan T. Thoms

Allan T. Thoms
Chairperson