

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REPEAL OF EXEMPTION FOR REORGANIZATION FILING [199 IAC 32.2(4)]	DOCKET NO. RMU-04-1
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ORDER RESCINDING SUBRULE 199 IAC 32.2(4)

(Issued April 30, 2004)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, 476.76, and 476.77 (2003), the Utilities Board is rescinding 199 IAC 32.2(4) as attached hereto and incorporated herein by reference. On February 18, 2004, the Board issued an order initiating Docket No. RMU-04-1, In re: Repeal of Exemption for Reorganization Filing [199 IAC 32.2(4)], "Order Commencing Rule Making," to consider subrule 32.2(4) which provides an exemption to the filing requirements of Iowa Code § 476.77 for certain reorganizations by regulated public utilities. The primary beneficiary of the exemption has been UtiliCorp United Inc., the predecessor of Aquila, Inc.

The Board adopted the exemption in subrule 32.2(4) to limit Board review of reorganizations involving acquisitions outside the United States where the public utility's Iowa revenues were not more than 10 percent of its gross utility revenues (as long as the public utility maintained investment grade credit ratings). Recently, the Board determined in Docket No. SPU-03-7, In re: Aquila, Inc., d/b/a Aquila Networks, that these types of reorganizations might affect public utility assets and should, therefore, be more closely scrutinized. The Board decided that rescinding subrule

32.2(4) might be appropriate in order to allow closer scrutiny of public utility reorganizations.

A "Notice of Intended Action" was published in IAB Vol. XXVI, No. 19 (3/17/04) p. 1528, as ARC 3225B. Comments concerning the proposed rescission were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and MidAmerican Energy Company (MidAmerican). Consumer Advocate indicated its support for rescinding the subrule. MidAmerican indicated it was monitoring the proceeding, but did not take a substantive position.

Based on the comments received, the Board finds that subrule 32.2(4) should be rescinded.

IT IS THEREFORE ORDERED:

1. Subrule 199 IAC 32.2(4) is rescinded.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 30th day of April, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.76, and 476.77 (2003), the Utilities Board (Board) issued an order on April 30, 2004, in Docket No. RMU-04-1, In re: Repeal of Exemption for Reorganization Filing [199 IAC 32.2(4)], "Order Rescinding Subrule 199 IAC 32.2(4)." The Board is rescinding subrule 32.2(4), which provided an exemption to the filing requirements of Iowa Code section 476.77 for certain reorganizations by regulated public utilities.

Notice of Intended Action was published in IAB Vol. XXVI, No. 19 (3/17/04) p. 1528, as ARC 3225B. Comments concerning the proposed rescission were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and MidAmerican Energy Company (MidAmerican). Consumer Advocate indicated its support for the proposal and MidAmerican indicated it was monitoring the proceeding. The Board's order rescinding subrule 32.2(4) can be found on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Record Center, 350 Maple Center, Des Moines, IA 50319-0069.

The rescission is intended to implement Iowa Code sections 17A.4, 476.1, 476.76 and 476.77.

The rescission will become effective on June 30, 2004.

Rescind **subrule 32.2(4)**.

April 30, 2004

/s/ Diane Munns

Diane Munns
Chairman