

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ELECTRONIC FILING [199 IAC 1, 6, 7, 10, 11, 13, 14]	DOCKET NO. RMU-08-2
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ORDER COMMENCING RULE MAKING

(Issued March 21, 2008)

Pursuant to Iowa Code §§ 17A.4 and 476.2, the Utilities Board (Board) proposes to adopt the amendments described in the "Notice of Intended Action" attached hereto and incorporated by reference. The proposed amendments reflect the Board's adoption of an electronic filing requirement. The amendments add new chapter 199 IAC 14, which specifies that electronic filing is generally mandatory, identifies exceptions to the requirement, and establishes procedures for electronic filing and service of documents. The amendments also make other changes to various Board rules to reflect the implementation of electronic filing.

BACKGROUND

On February 23, 2005, in Docket No. NOI-05-1, the Board initiated an inquiry considering electronic filing. After studying different electronic filing systems used by courts and regulatory agencies in other states and gathering information from stakeholders, the Board issued a request for proposals for a Web-based system for electronic submission, management, and Internet publication of filings and orders. On June 27, 2007, the Board executed a contract with a vendor for the design and

development of an electronic filing system. Design and development of the system continue, but the Board intends to implement the system in late summer of 2008. Thus, in order to have rules in place at that time, the Board is initiating this rule making.

The electronic filing system will be used to submit filings for Board consideration. As the repository of most documents filed with the Board and orders issued by the Board, the system will also make non-confidential documents and orders available on the Board's Web site for public searching and download.

On January 30, 2008, Board staff conducted a presentation to inform stakeholders about the electronic filing system as it had been designed to date. Information about that presentation, including a tentative electronic filing system screen review illustrating the various steps associated with filing and searching for documents stored in the system, is available on the Board's Web site by linking to the Docket No. NOI-05-1 page at

http://www.state.ia.us/government/com/util/industry_topics/noi051/noi051.html.

Persons submitting comments on the proposed amendments are encouraged to review those materials as they consider the proposed rules. The Board will continue to use the Docket No. NOI-05-1 page to post information relevant to this project, including notice of training sessions as they are scheduled.

Pilot projects for the purpose of testing the system are expected to begin in the summer of 2008. Any instructions for electronic filing of information in dockets selected to serve as pilots will be specified by Board order issued in the appropriate

docket. The proposed amendments make several references to the Board's standards for electronic information, currently available on the Board's Web site or from the Board's Records and Information Center. Those standards will be updated as necessary to reflect any changes necessary to accommodate the electronic filing system.

DISCUSSION OF PROPOSED AMENDMENTS

The purpose of this discussion is to give a high-level view of certain features of the electronic filing system and to explain how the electronic filing requirement will apply. Most of the proposed amendments in Items 1 through 16 will revise the Board's existing paper-based rules to reflect electronic filing. In addition to changes related to electronic filing, the Board proposes in Item 8 to rescind subrule 7.10(4), which requires an affidavit to accompany prefiled testimony and exhibits.

Item 17 contains the proposed new chapter 14. Proposed rule 14.2 explains that electronic filing will be mandatory for most filings as of the date determined by the Board and publicized by the Board on its Web site. Electronic filing will be mandatory unless one of the proposed exceptions applies. Proposed rule 14.2 states that the procedural rules in 199 IAC chapter 7 will apply to proceedings in which the electronic filing requirement is in effect, but that any provision in chapter 7 or any other rule requiring paper filings or a certain number of paper copies is overridden by the new electronic filing rules in chapter 14.

Proposed rule 14.3 contains definitions of terms used in chapter 14.

Proposed rule 14.4 identifies six exceptions to the electronic filing requirement, most of which are based on the fact that some individuals may not have ready access to the technology necessary to participate in electronic filing. The exceptions are as follows:

(1) Proposed subrule 14.4(1) contemplates that some filers may ask the Board for permission to continue to submit paper filings, either on a short-term or long-term basis, for reasons not yet known.

(2) Proposed subrule 14.4(2) explains that the electronic filing requirement will apply only to proceedings initiated after the effective date of the requirement. The proposal to apply the requirement on a going-forward basis only is intended to maintain the record in any particular proceeding in a single medium. The Board anticipates that it will be easier to search for information in a docket if it is in either the Board's paper files or electronic files, but not mixed between the two.

(3) Proposed subrule 14.4(3) explains informal consumer complaints will not be part of the electronic filing system. If an informal matter results in formal proceedings, the informal consumer complaint file will be made available on the Board's Web site, to the extent reasonable.

(4) Proposed subrule 14.4(4) provides an exception for objections to and other comments related to applications for electric transmission line franchises, pipeline permits, or hazardous liquid pipeline permits. Written objections and comments related to these applications can be filed using the

electronic filing system, but electronic submission of an objection will not be mandatory.

(5) Proposed subrule 14.4(5) contains a broad exception for individuals in any proceeding in which comments from the public are permitted. An example of the type of filing covered by this exception would be written objections from ratepayers affected by a proposed utility rate increase.

(6) Proposed subrule 14.4(6) explains that the electronic filing system cannot be used for payment of fees that must accompany a filing.

Proposed rule 14.5 identifies electronic filing procedures and formats and distinguishes between a guest user and registered user. As designed to date, the electronic filing process begins with a filer uploading a document or collection of documents into the electronic filing system. After a brief review, Board staff will either accept or reject the filing. If the filing is accepted, the document will be published on the Board's Web site (unless it is confidential). A "Notice of Electronic Filing" containing a link to the published document will be sent to the filer and, under the proposed rules, to parties on the service list identified as able to receive electronic service. (Although the proposed amendments address electronic service, the Board has not yet determined whether it will be feasible to offer that function in this initial version of the electronic filing system.)

Proposed rule 14.8 explains that some paper copies will be required in addition to, or in lieu of, certain electronic filings. Because it may not be reasonable to print usable copies of maps, drawings, or other oversized documents that are

electronically filed, subrule 14.8(1) provides that paper copies of these documents will be required in addition to any electronic version filed. Further, subrule 14.8(2) requires that until December 31, 2008, filers shall provide the Board with one paper copy of each document electronically filed. This will provide a back-up while the new system is being implemented.

In proposed rule 14.9, the Board explains that an electronic filing can be made at any time the system is available. The "Notice of Electronic Filing" generated upon publication will record the date the document was filed. This date will be the official filing date.

Proposed rule 14.9 provides that a document must be uploaded by 3:30 p.m. Central Time on a business day to be considered filed on that day. Documents uploaded after 3:30 p.m. on any day, if they are accepted, may be considered filed on the next business day. The Board proposes the 3:30 p.m. cut-off time to make sure that its staff has sufficient time to review a filing to verify that the correct information has been provided with the filing to ensure that it will be placed in the correct docket in the electronic system, thereby making the filing available to all interested parties as quickly as possible. Although filings in the paper-based system are accepted up until 4:30 p.m. in the Records and Information Center, the 3:30 p.m. deadline is still an improvement for all filers. Presently, out-of-town filers must prepare filings for delivery well in advance of the filing deadline; likewise, in-town filers must allow time to print, copy, and hand-deliver documents to the Records and Information Center by 4:30 p.m. Thus, the 3:30 deadline should not be a hardship.

The Board invites comment on the features of the electronic filing system which have been specifically discussed in this order and all other aspects of the proposed electronic filing requirement. The Board encourages parties to examine the proposed amendments for more details about the electronic filing system.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-08-2 is commenced for purposes of receiving comments on the proposed amendments in the notice attached hereto and incorporated by reference in this order.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 21st day of March, 2008.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4 and 476.2, the Utilities Board (Board) gives notice that on March 21, 2008, the Board issued an order in Docket No. RMU-08-2, In re: Electronic Filing [199 IAC chapters 1, 6, 7, 10, 11, 13, 14], "Order Commencing Rule Making."

The proposed amendments add new Chapter 14, which establishes an electronic filing requirement, identifies exceptions to that requirement, and specifies procedures for using the Board's electronic filing system. The amendments also make changes to other Board rules to reflect the electronic filing requirement. The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 29, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendment will be held at 10 a.m. on May 12, 2008, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

The amendments are intended to implement Iowa Code sections 17A.4 and 476.2.

The following amendments are proposed.

Item 1. Amend subrule 1.8(2) as follows:

1.8(2) Office hours. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. Time provisions for electronic filing are found at 199—14.9(17A,476).

Item 2. Amend subrule 1.8(4) as follows:

1.8(4) Cross reference to rules regarding electronic filing, placement of docket numbers on filings, service of documents, and required number of copies. The board's rules regarding electronic filing are found at 199—Chapter 14. The board's rules regarding paper filings are found at 199—Chapter 7, including ~~The~~ the board's rule regarding placement of docket numbers on filings is at 199—subrule 7.4(3); ~~The~~ the board's rule regarding service of documents is at 199—subrule 7.4(6); and ~~The~~ the board's rule regarding required number of copies of documents filed on paper is at 199—subrule 7.4(4).

Item 3. Amend subrule 6.5(2) as follows:

6.5(2) The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark, the date personal service is made, or the date received and accepted in the board's records and information center. The request shall be in writing and must be delivered by United States Postal Service, other delivery service, ~~or personal service,~~ or through the board's electronic filing system pursuant to 199—Chapter 14. The request shall include the file number (C-XX-XXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.

Item 4. Amend subrule 7.1(1) as follows:

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter

14. The rules in this chapter regarding filing, service, and number of copies required apply to paper filings. Where electronic filing is required, documents shall be filed and served according to 199—Chapter 14.

Item 5. Amend rule 199—7.4(17A,474,476) as follows:

199—7.4(17A,474,476) General information.

7.4(1) Orders. All orders will be issued and placed in the board's records and information center. Orders shall be deemed effective upon issuance unless otherwise provided in the order. Parties and members of the public may view orders in the board's records and information center and may also view orders ~~(other than orders granting confidential treatment)~~ and a daily summary of filings on the board's Web site located at www.state.ia.us/iub.

7.4(2) Communications.

a. Electronic communications. Pleadings and other documents required to be electronically filed with the board shall be filed within the time limit, if any, for such filing, in accordance with the board's electronic filing rules at 199—Chapter 14. Unless otherwise specifically provided, all electronic communications and documents are officially filed upon publication on the board's Web site, as provided in 199—14.9(17A,476). Persons electronically filing a document with the board must comply with the service requirements in 199—14.16(17A,476).

a.b. All paper communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other ~~papers~~ documents required to be filed on paper with the board shall be filed within the time limit, if any, for such

filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board.

~~b.c.~~ The board may ~~accept~~ order that filings be submitted electronically ~~from time to time in proceedings in which the electronic filing requirement in 199—14.2(17A,476) does not apply.~~ Such filings shall be made pursuant to instructions that will be in 199—Chapter 14 and the board's published standards for electronic information or as delineated in the board order or other official statement authorizing requiring those filings. ~~See rule 7.7(17A,476) for requirements for electronic information filed with the board.~~

7.4(3) No change proposed.

7.4(4) Number of copies for paper filings.

a. An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies.

A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)

C = Complaints filed pursuant to 199—6.2(476) (original)

CCF = Customer Contribution Fund (original + 1 copy)

E = Electric Franchise or Certificate (original + 3 copies)

EAC = Energy Adjustment Clause (original + 3 copies)

EDR = Electric Delivery Reliability (original + 3 copies)

ES = Extended Area Services (original + 2 copies)

GCU = Generating Certificate Utility (original + 20 copies)

H = Accident (original + 1 copy)

HLP = Hazardous Liquid Pipeline (original + 2 copies)

NIA = Negotiated Interconnection Agreement (original + 3 copies)

P = Pipeline Permit (original + 2 copies)

PGA = Purchased Gas Adjustment (original + 3 copies)

R = Reports-Outages (original + 1 copy)

RFU = Refund Filing Utility (original + 4 copies)

RN = Rate Notification (original + 3 copies)

TF = Tariff Filing (original + 4 copies)

b. Unless otherwise ordered or specified in this rule, parties must either file an original and ten copies or make an electronic filing pursuant to 199—Chapter 14 of all filings including, but not limited to, pleadings and answers (rule 7.9(17A, 476)), prefiled testimony and exhibits (rule 7.10(17A,476)), motions (rule 7.12(17A,476)), petitions to intervene and responses (rule 7.13(17A,476)), proposals for settlement and responses (rule 7.18(17A,476)), stipulations (rule 7.19(17A, 476)), withdrawals (rule 7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 7.24(17A,476)), interlocutory appeals (rule 7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 7.26(17A,476)), applications for rehearing and responses (rule 7.27(17A,476)), and requests for stay and responses (rule 7.28(17A,476)).

7.4(5) Defective filings. No change proposed.

7.4(6) Service of documents.

a. Method of service.

(1) Paper service. In situations where service of a paper document is permitted or required, and ~~Unless~~ unless otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first-class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first-class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served.

(2) Electronic service. The board's rule regarding electronic service is at 199—14.16(17A,476).

b. Date of service.

(1) Paper service. Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person,

or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2).

(2) Electronic service. The board's rule regarding the date of electronic service is at 199—14.16(17A,476).

c. Parties entitled to service.

(1) Paper service. A party or other person filing a notice, motion, pleading, or other paper document in any proceeding shall contemporaneously serve the document on all other parties.

(2) Electronic service. The board's rule regarding electronic service is at 199—14.16(17A,476).

(3) Service of documents containing confidential information. Parties shall serve documents containing confidential information pursuant to a confidentiality agreement executed by the parties, if any. If the parties are unable to agree on a confidentiality agreement, they may ask the board or presiding officer to issue an appropriate order.

(4) Service on consumer advocate. A party formally filing any paper document or any other material on paper with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0063.

d. Service upon attorneys. No change proposed.

7.4(7) Written appearance. No change proposed.

7.4(8) Representation by attorney at law. No change proposed.

7.4(9) Cross reference to public documents, ~~and~~ confidential filings, and electronic filings. The board's rule regarding public documents and confidential filings is at 199—1.9(22). The board's rule regarding electronic filing of documents containing confidential material is at 199—14.12(17A,476).

7.4(10) Expedited proceedings. No change proposed.

Item 6. Rescind rule 199—7.7(17A,476) and adopt in lieu thereof the following new rule:

199—7.7(17A,476) Electronic information. Filing of electronic information shall comply with the board's rules on electronic filing at 199—Chapter 14 and the board's published standards for electronic information, available on the board's Web site or from the board's records and information center.

Item 7. Amend rule 199—7.8(17A,476) as follows:

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be by first-class mail or by electronic notice through the electronic filing system, unless otherwise ordered.

Item 8. Amend rule 199—7.10(17A,476) as follows:

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) No change proposed.

7.10(2) No change proposed.

7.10(3) No change proposed.

~~7.10(4)~~ Prefiled testimony and exhibits must be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit."

~~7.10(5)~~(4) Prefiled testimony and exhibits submitted on paper shall include, where applicable:

a. All supporting workpapers.

(1) Unless otherwise ordered by the board or presiding officer, electronic workpapers in native electronic formats that comply with the board's standards for electronic information standards in rule 7.7(17A,476) available on the board's Web site or from the board's records and information center shall be provided. Noncompliant electronic workpapers shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

(2) All other workpapers and hard-copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.

(3) Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers

(e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.

(4) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the ~~standards in rule 7.7(17A,476)~~ board's standards for electronic information available on the board's Web site or in the board's records and information center. Noncompliant electronic computer-generated exhibits shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

e. Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:

- (1) Electronic workpapers - two copies and two hard-copy printouts.
- (2) Other workpapers - five copies.
- (3) Specific studies or financial literature - two copies.
- (4) Computer-generated exhibits - two copies.

7.10(5) Any prefiled testimony, including workpapers and exhibits, that is subject to the electronic filing requirement shall comply with the board's standards for electronic information available on the board's Web site or in the

board's records and information center and the electronic filing rules in 199—
Chapter 14.

7.10(6) No change proposed.

Item 9. Amend rule 199—7.12(17A,476) as follows:

199—7.12(17A,476) Motions. Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. Motions filed on paper shall substantially comply with the form prescribed in 199—subrule 2.2(14). ~~Motions and~~ shall be filed and served pursuant to rule 7.4(17A,476). Motions filed electronically shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed according to 199—Chapter 14. Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within 7 days of the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at 199—subrules 7.15(4) and 7.15(5).

Item 10. Amend subrule 7.16(1) as follows:

7.16(1) Issuance.

a. An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the

requesting party. In the absence of good cause for permitting later action, a request for a subpoena must be received at least seven days before the scheduled hearing. The board will issue subpoenas only on paper, not through the electronic filing system.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. Subpoenas cannot be served electronically through the electronic filing system.

Item 11. Amend subrule 7.23(8) as follows:

7.23(8) Briefs.

a. No change proposed.

b. Unless otherwise electronically filed and served pursuant to 199—Chapter 14 or otherwise ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).

c. No change proposed.

d. No change proposed.

e. Briefs shall comply with the following requirements.

(1) The size of pages shall be 8½ by 11 inches.

(2) All printed matter must appear in at least 11-point type.

(3) There shall be margins of at least one inch on the top, bottom, right, and left sides of the sheet.

(4) The body of the brief shall be double-spaced.

(5) Footnotes may be single-spaced but shall not exceed one-half page in length.

(6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

(7) Briefs filed electronically shall comply with the requirements in this paragraph and the standards for electronic information available on the board's Web site or in the board's records and information center.

Item 12. Amend rule 199—7.26(17A,476) as follows:

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. ~~A copy~~ Notice of the presiding officer's proposed decision and order in a contested case shall be sent through the electronic filing system or by first-class mail if any paper filing requirements apply to the proceeding, on the date the order is issued, to the last known address of each party. The decision shall normally include "Proposed Decision and Order" in the title and shall normally inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

7.26(2) Appeal from proposed decision. No change proposed.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. ~~The~~ If the electronic filing requirement applies to the proceeding in which the appeal is taken, the notice of appeal shall be electronically filed unless the appellant has received permission from the board to submit paper filings. If the electronic filing requirement does not apply, the

appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.

199—7.26(4) – 7.26(27) No change proposed.

Item 13. Amend subrule 7.29(2) as follows:

7.29(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the board's discretion, to justify the determination of an immediate danger and the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by the most reasonably available method, which may include one or more of the following methods: notice through the electronic filing system; personal delivery; certified mail; first-class mail; fax; or E-mail. To the degree practical, the board shall select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the board shall make reasonable efforts to contact the persons who are required to comply with the order by telephone, in person, or otherwise.

Item 14. Amend subrule 10.2(1) as follows:

10.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two

copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—

Chapter 14. Required exhibits shall be in the following form:

Item 15. Amend subrule 11.2(1) as follows:

11.2(1) Forms of petition for a new or amended franchise. A petition for a new or amended franchise filed with the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. Where the electronic filing requirement applies, the petition and exhibits shall be electronically filed pursuant to 199—Chapter 14.

Item 16. Amend subrule 13.2(1) as follows:

13.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—

Chapter 14. Required exhibits shall be in the following form:

Item 17. Adopt the following new chapter:

CHAPTER 14 ELECTRONIC FILING

199—14.1(17A,476) Purpose. The purpose of these rules is to establish an electronic filing requirement, to identify exceptions to the electronic filing

requirement, and to specify procedures regarding electronic filing and service of documents filed with or issued by the board.

199—14.2(17A,476) Scope and applicability of electronic filing requirement.

As of the date determined by the board, electronic filing is mandatory, unless specifically excepted by these rules. The board will publish on its Web site the effective date of the electronic filing requirement. When the electronic filing requirement is effective, all persons filing documents with the board shall file those documents electronically, subject to the exceptions in this chapter. The board will accept filings electronically pursuant to the rules in this chapter and the board's published standards for electronic information, available on the board's Web site (www.state.ia.us/iub) or from the board's records and information center, or as delineated in the board order or other official statement requiring those filings. The provisions of this chapter override any rule regarding filing and service of paper documents contained in 199—Chapter 7. In all circumstances in which the electronic filing requirement applies, the provisions of this chapter override any other board rule regarding number of copies, filing requirements, and service of papers. All other Chapter 7 rules otherwise apply to proceedings, investigations, and other hearings conducted by the board or a presiding officer which are subject to the electronic filing requirement. The board may suspend the electronic filing requirement by further notice as necessary.

199—14.3(17A,476) Definitions. Except where otherwise specifically defined by law:

"Accepted for filing" ordinarily means a filing will be published on the board's Web site. Certain documents will be accepted for filing without being published

on the board's Web site. A filing that has been accepted for filing can be rejected at a later date if found not to comply with a board rule or order.

"Electronic filing" means the process of transmitting a document or collection of documents via the Internet to the board's electronic filing system for the purpose of submitting the document for board consideration.

"Electronic filing system" means the system used by the board's records and information center to accept and publish documents filed electronically and which allows the public and parties to view most documents filed with or issued by the board on the board's Web site.

"Guest user" means a person who uses the electronic filing system no more than twice a year to submit filings for the board's consideration.

"Registered user" means a person who has complied with the board's requirements at 199—14.6(17A,476) to obtain a user ID and password in order to submit filings for the board's consideration through board's electronic filing system.

"Publish" means to make a document available for public viewing or download by posting it on the board's Web site.

199—14.4(17A,476) Exceptions; numbers of paper copies required. The following types of filings are not subject to the electronic filing requirement:

14.4(1) Filings made by any person who has been excused from the requirement by board order granting a request for permission to file paper documents. The board order granting permission to file paper documents shall specify the required number of paper copies of a document that must be filed.

14.4(2) Filings made in proceedings initiated before the effective date of the electronic filing requirement shall comply with all board rules regarding paper filings and number of copies provided, unless the board orders otherwise.

14.4(3) Informal consumer complaints. Consumers filing informal complaints pursuant to 199—6.2(476) are not required to electronically file complaints against utilities. Consumers may submit complaints electronically by using the online complaint form available on the board's Web site or by E-mail, or on paper by mail or facsimile. Informal consumer complaint files are available for public inspection in the board's records and information center. An informal complaint file will be made available on the board's Web site, to the extent reasonable, only if formal complaint proceedings are granted pursuant to 199—6.5(476).

14.4(4) Written objections to applications for electric transmission line franchises, pipeline permits, or hazardous liquid pipeline permits. Objectors are not required to electronically file written objections. Written objections in these cases may be submitted electronically through the electronic filing system pursuant to these rules, by using the objection form available on the board's Web site, or by E-mail; or may be submitted by letter or facsimile. Written objections will ordinarily be published on the board's Web site.

14.4(5) Comments from individuals in any other proceeding in which comments from the public are permitted. Individuals may submit comments electronically through the electronic filing system pursuant to these rules, by using any applicable online comment form available on the board's Web site, or by E-mail; or may submit comments by letter or facsimile. Comments from individuals will ordinarily be published on the electronic filing system.

14.4(6) Payment of required fees. Any payment required at the time of filing a document must be delivered to the board's records and information center in person or by first-class mail or other delivery service. The filing will not be deemed complete and accepted until the required payment is received.

199—14.5(17A,476) Electronic filing procedures and required formats.

Electronic documents shall be filed according to the following procedures and required formats:

14.5(1) Persons who make infrequent filings with the board (i.e., no more than two times each year) may file as a guest user. Persons who make regular filings with the board shall register to obtain a user ID and password pursuant to registration procedures specified in 199—subrule 14.6. The board may require an infrequent filer to become a registered user.

14.5(2) Electronic filings shall be made by uploading a document or collection of documents into the electronic filing system. E-mailing a document to the board does not constitute filing the document.

14.5(3) A filer must provide all required information when electronically filing a document.

14.5(4) Electronically filed documents shall be named in a way that accurately describes the contents of each document.

14.5(5) All documents shall be formatted in accordance with applicable rules governing formatting of paper documents.

14.5(6) All documents shall be formatted in accordance with the board's standards for electronic information, which are available on the board's Web site or from the board's records and information center.

14.5(7) Any text-based document which has been scanned for electronic filing must be full-text searchable.

14.5(8) Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references.

14.5(9) Hyperlinks and other navigational aids may be included in an electronically filed document. Each hyperlink must contain a text reference to the target of the link. Although hyperlinks may be included in a document as an aid to the reader, the material referred to by the hyperlinks is not considered part of the official record or filing unless the material itself is filed. Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

14.5(10) The electronic filing system will display a "Filing Complete" notice when the upload of the filing is completed. If a "Filing Complete" notice does not appear, it is the filer's responsibility to contact the board's records and information center during regular business hours to determine the status of the filing.

14.5(11) After reviewing the filing, the board's records and information center will either accept or reject the filing. If the filing is accepted, the document (if not confidential) will be published on the board's Web site and an electronic file stamp indicating the docket number(s) and date of filing will be added to the published document. A "Notice of Electronic Filing" containing a link to the published document will be sent by E-mail to the filer and to all parties identified on the service list as able to receive electronic service. Where a document is accompanied by a request for confidential treatment, the link will be to the public

version of the document. Where a filing consists only of a confidential document, such as a response to a board survey or other inquiry, which the board has deemed confidential pursuant to an order requiring the response, the document will not be published on the board's Web site. Acceptance of a document for filing is not a final determination that the document complies with all board requirements and is not a waiver of such requirements. If a filing is rejected, a "Notice of Rejection" explaining why the filing has been rejected will be sent by E-mail to the filer or the filer will be contacted by other appropriate means.

14.5(12) Errors. If a filer discovers an error in the electronic filing or publishing of a document, the filer shall contact the board's records and information center as soon as possible. The records and information center will review the situation and advise the filing party how the error will be addressed by the records and information center and what further action by the filer, if any, is required. Ordinarily, any modifications to a published document will require a revised filing with the board. If errors in the filing or publishing of a document are discovered by the board's records and information center, board staff will ordinarily notify the filer of the error and advise the filer of what further action, if any, is required to address the error. If the error is a minor one, the records and information center may either correct or disregard the error.

14.5(13) Electronic documents and the hearing process. If any prefiled testimony or exhibit electronically filed before the hearing is altered or corrected at the hearing in any way and admitted into evidence, the sponsoring party must electronically file the altered document at the earliest opportunity, but no later than three business days after the material is admitted into evidence. If any

paper documents which have not been electronically filed before the hearing are admitted into evidence as exhibits at the hearing, the sponsoring party must electronically file the exhibits at the earliest opportunity, but no later than three business days after the material is admitted into evidence.

199—14.6(17A,476) Registration. To become a registered user, a person must complete a registration form available on the board's Web site and obtain a user ID and password. If a user believes the security of an existing password has been compromised, the user must change the password immediately.

199—14.7(17A,476) Electronic file. The official agency record in any proceeding is the electronic file maintained by the board's executive secretary. The board's executive secretary is responsible for maintaining an official electronic file in the board's electronic filing system for all documents filed electronically, receiving filings into the electronic filing system by electronic transmission, and scanning documents into the system that are not filed electronically, if feasible. The executive secretary may certify documents by digital signature and seal.

199—14.8(17A,476) Paper copies required.

14.8(1) Any map, plan and profile drawing, or any oversized document that is required to be filed with the board shall be electronically filed as a .pdf (Portable Document Format) file or a TIFF (Tag Image File Format) file, if the filer has access to an electronic version of the map, and in paper form. Two paper copies of each map, drawing, or other document filed pursuant to this rule shall also be filed. However, if the map, drawing, or other document is not electronically filed,

then the number of paper copies specified in subrule 7.4(4) or other applicable rule shall be filed.

14.8(2) Until December 31, 2008, filers shall provide the board with one paper copy of each document, other than maps or other documents for which supplemental paper copies are provided pursuant to subrule 14.8(1), filed electronically, unless more copies are required by board order. The paper copy may be provided by personal delivery or by first-class mail and shall be delivered or deposited in the mail within 24 hours of electronic filing. The electronic document stored in the electronic filing system and published on the board's Web site will function as the official filing.

199—14.9(17A,476) When electronic filings can be made; official filing date. Unless otherwise ordered, an electronic filing can be made at any time outside of any maintenance periods during which the system will not be available. The "Notice of Electronic Filing" generated when the document is published will record the date of the filing of the document. This date will be the official filing date of the document regardless of when the filer actually submitted the document to the electronic filing system. Documents uploaded into the electronic filing system by 3:30 p.m. Central Time on a business day, if accepted for publication, will be considered filed on that day. Documents uploaded into the electronic filing system after 3:30 p.m. Central Time on a business day or at any time on a non-business day, may, if accepted, be considered filed on the next business day. Filings which require a payment will be considered filed on the date the board receives the payment.

199—14.10(17A,476) Notice of system unavailability. When the electronic filing system will not be available due to scheduled maintenance, a notice of the date, time, and expected duration of the unavailability will be posted on the board's Web site. When the electronic filing system is unexpectedly unable to receive filings during regular business hours continuously or intermittently for more than two hours, registered users will be notified of the problem by E-mail, if possible, and the public will be notified by the posting of a notice of the problem on the board's Web site, if possible.

199—14.11(17A,476) Technical difficulties. It is the responsibility of the filer to ensure that a document is timely filed to comply with jurisdictional deadlines. A technical failure of the electronic filing system, the filer's own computer equipment, or any other part of the filing system will not excuse the filer from compliance with a jurisdictional filing deadline. If a filer is not able to meet a non-jurisdictional deadline because of a technical failure, the filer must, by the earliest available conventional or electronic means, file the document and seek appropriate relief from the board.

199—14.12(17A,476) Documents containing confidential material. Confidential documents will not be published on the board's Web site. When filing a document containing confidential information, a person shall file one version of the document with the confidential information redacted according to the board's standards for electronic information and one version of the document containing the confidential information. The two versions of the document shall be named according to the following convention: "Document Title – Confidential" and "Document Title – Public." It is the sole responsibility of the person

submitting a public version of the electronic document to take appropriate measures to ensure that any embedded information for which confidential treatment is sought is non-viewable, non-searchable, and non-reversible. Each page of the confidential version of the document shall be marked in a way that identifies it as belonging to the confidential version of the document. The confidential material itself shall be highlighted or otherwise distinguished on the page to identify what specific information is confidential. A filing containing a document the filer asserts contains confidential information shall also include a separate document containing the request for confidential treatment pursuant to 199—subrule 1.9(6).

199—14.13(17A,476) Signatures.

14.13(1) Filings by registered users. The use of a user ID and password in accordance with the registration procedures specified in rule 14.6(17A,476) constitute the filer's signature. Filers shall use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings must also include a signature block containing the signer's name, title, address, E-mail address, and telephone number. All electronic filings are presumed to have been made by the person whose user ID and password have been used to make the electronic filing.

14.13(2) Filings by guest users. The personal information required to submit a filing as a guest user constitutes the filer's signature. Filers shall use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings must also include a signature block containing the signer's name, title, address, E-mail address, and telephone number.

14.13(3) Documents with handwritten signatures. Any document bearing a handwritten signature must be scanned and filed electronically. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.14(17A,476) Original documents. When a board rule requires the filing of an original document, such as an invoice or other document, not prepared by the filer or the party on whose behalf the document is filed, the filer shall scan the original document and file the scanned document in the electronic filing system or request advance board approval of other arrangements. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.15(17A,476) Transcripts. Transcripts will be published on the board's Web site when they are available electronically and in a manner consistent with the terms of the contract with the court reporting service.

199—14.16(17A,476) Electronic service.

14.16(1) Service on parties able to receive electronic service. Unless otherwise provided by board rule or order, whenever a document is filed electronically, a "Notice of Electronic Filing" will be generated and sent to the filer and to representatives of the other parties who are able to receive electronic service and who are on the official service list. This notice will constitute valid service of electronically filed documents and board orders on parties accepting electronic service. The notice will include a service list providing names, addresses, and E-mail addresses of the persons who were sent the notice. No additional proof or certificate of service is required in matters in which all parties

are able to receive electronic service. It is the responsibility of the filer to review the notice to ensure all parties have been provided notice. All parties are responsible for assuring that their E-mail accounts are monitored regularly and that E-mail notices sent to the account are opened in a timely manner.

14.16(2) Service on parties for whom electronic service is not available. The service list in each proceeding will be available on the board's Web site. The list will identify the representatives for each party and will also indicate the parties for whom electronic service is not available. Filers must serve a paper copy of any electronically filed document on all persons entitled to service for whom electronic service is not available, unless the parties agree to other arrangements. The date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. A party serving a paper copy of any electronically filed document on a person for whom electronic service is not available shall file a certificate of service stating the manner in which service on such person was accomplished in a form consistent with the requirements of 199—subrule 2.2(16).

14.16(3) Service of board-generated documents. Orders issued by the board will be electronically filed. The electronic filing system will electronically transmit notice of posting of orders to all parties on the service list able to receive electronic service. This notice will constitute valid service of the order. The board's records and information center will mail paper copies of orders to parties who are not able to receive electronic service and to others as ordered. The

records and information center will include a copy of the notice with the paper copy of the document.

14.16(4) Exceptions. Electronic service shall not be used to serve a document which (1) the filer asserts contains confidential material; or (2) initiates a proceeding, such as a complaint or application, except for orders opening inquiries, investigations, or rule making proceedings, or other similar proceedings where the board has an official electronic service list on file.

14.16(5) Changes to service list. Filers wishing to change information on the service list shall file a notice of change of contact information. Other changes to the service list, such as a withdrawal of appearance or substitution of counsel, must be requested by means of an appropriate filing.

March 21, 2008

/s/ John R. Norris

John R. Norris
Chairman