

## IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ENTERPRISE PRODUCTS OPERATING LLC Petitioner(s)  VS.  IOWA UTILITIES BOARD Respondent(s)	05771 CVCV065780  ORDER ON MOTION TO STRIKE OR RECAST
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Before the Court is a Motion to Strike or Recast the Petition filed by the Respondent Iowa Utilities Board. The Motion was resisted. After considering the arguments of the parties, the Court rules as follows.

The Iowa Utilities Board argues that Enterprise failed to timely seek injunctive relief within the 14-day period specified by Iowa Code section 17A.19. As a consequence, the information in Exhibit A is now considered public, rendering the issue of its confidential treatment moot. The Board argues that Enterprise has not appealed the Board's final order on confidentiality and not clearly delineating how it is adversely affected or specifying the grounds for relief. The Board argues that that notice pleading is inapplicable to appellate review proceedings, emphasizing stringent requirements. The Board contends that due to Enterprise's missed deadline, the mootness of the confidential status, and the lack of an appeal, the Court should strike Enterprise's request for relief from the petition or alternatively, require Enterprise to amend the Petition to exclude references to the confidential treatment issue.

In response, Enterprise argues that the Board relies on administrative rules, and the Iowa Code takes precedence over such rules. Enterprise contends that it filed a timely motion for rehearing and reconsideration within the 30-day window specified by the Iowa Code. Enterprise underscores the superiority of the Iowa Code over the Board's administrative order and regulations. It cites legal precedent to assert that administrative rules must be reasonable and consistent with legislative enactments. Furthermore, Enterprise contends that there is no statutory provision imposing a 14-day deadline under Iowa's Open Records Act, but rather a 30-day period for seeking judicial relief after a motion for rehearing is denied. Enterprise concludes by asserting that it has availed itself of its statutory right to judicial review in a timely manner and calls for this Court to strike down of the Board's original order, including language related to the potential release of confidential information.

On this issue, Enterprise is correct. Enterprise did comply with the law that afforded it thirty (30) days to seek judicial review of the Board's denial of Petitioner's request for a rehearing and reconsideration. See Iowa Code section 17A.19(3). In other words, Enterprise complied with legal authority superior to the Board's administrative order and agency regulation. Compare Iowa Admin. Code r. 199-1.9(6)(d), with, Iowa Code section 17A.19(3). See also *Clarion Ready Mixed Concrete v. IA Tax Comm'n*, 107 N.W.2d 558, 567-68 (Iowa 1961)(The function of a government agency "is an administrative one, it may enact reasonable rules and regulations necessary in carrying out legislative enactments. But it may not make law, or by rule change the legal meaning of the common law or the statutes.")

Enterprise availed itself of its statutory right of judicial review in a timely manner. When doing so, it expressly requested that the Board's original Order be struck down in its entirety, including the language regarding the potential release of confidential information.

As such, the Board's Motion to Strike or Recast is DENIED in total.

IT IS SO ORDERED.



State of Iowa Courts

**Case Number**  
CVCV065780

**Case Title**  
ENTERPRISE PRODUCTS OPERATING VS IOWA UTILITIES  
BOARD  
OTHER ORDER

**Type:**

So Ordered

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Scott J. Beattie, District Court Judge,  
Fifth Judicial District of Iowa

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