
IOWA UTILITIES BOARD
Customer Service Section

Docket No.: RMU-2014-0004
Utility: Disconnection of Public Utility
Water Service for Failure to
Pay Sewer, Wastewater, or
Storm Drainage Bill
[199 IAC chapter 21]

File Date/Due Date: February 4, 2015-
August 3, 2015

Memo Date: March 18, 2015

TO: The Board

FROM: Don Tormey, Cecil Wright

SUBJECT: Recommendation to Adopt Proposed Rules to Implement Iowa
Code § 476.20(1)(b)

I. Background

On August 11, 2014, the Utilities Board (Board) issued an order appointing members of a Stakeholder Group to provide recommendations regarding proposed rules to implement Iowa Code § 476.20(1)(b) passed by the Iowa General Assembly in the 2014 Legislative Session and signed by the Governor. The legislation amends Iowa Code § 476.20(1) by adding a new paragraph 476.20(1)(b) that allows a public water utility to enter into an agreement with a city utility, city enterprise, combined city utility, or combined city enterprise to disconnect water service if a debt is owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. The new legislation requires the Board to adopt rules to implement the new provisions.

The Governor's Office requested that the Board utilize the procedures established in Executive Order 80 in developing proposed rules to implement the new statute and appointment of the Stakeholder Group is required by the Executive Order. Notice of the formation of the Stakeholder Group was published in the Iowa Administrative Bulletin at IAB Vol. XXXVII, No. 1 (7/9/14) p. 25. The notice stated that persons interested in being appointed to the Stakeholder Group should contact the Board.

In the August 11, 2014, order the Board appointed the following members of the Stakeholder Group:

Julie Smith, Iowa Association of Municipal Utilities
Jeffrey K. Rosencrants, Iowa-American Water Company (Ken Jones replaced Rosencrants as the Iowa-American member.)
John Long, Consumer Advocate Division of the Department of Justice
Jim Odean, city of Davenport, Iowa
Jessica Kinser, city of Clinton, Iowa
Kristine Stone, city of Bettendorf, Iowa
Don Tormey, Iowa Utilities Board

On December 9, 2014, Board staff circulated a gold memorandum to the Board with a summary of the actions taken by the Stakeholder Group as part of the Executive Order 80 process, a summary of the alternative recommendations provided to the Board by the Stakeholder Group, and a recommendation for rules to implement Iowa Code § 476.20(1)(b). On January 15, 2015, the Board issued an order that directed the filing of a "Notice of Intended Action" with the Code Editor with proposed rules. The "Notice of Intended Action" was published in the Iowa Administrative Bulletin on February 4, 2015, as IAB Vol. XXXVII, No. 16 (2/4/15) p. 1417, ARC 1848C.

On February 24, 2015, comments were filed by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. OCA supports the proposed amendments. No other comments were filed.

The "Notice of Intended Action" as published in the Iowa Administrative Bulletin (IAB) on February 4, 2015 is attached. The Code Editor made some editorial changes to the proposed amendments. The proposed amendments that are published in the IAB are the official version of the proposed amendments that will be considered for adoption.

The oral presentation was held on March 11, 2015, as scheduled. OCA and Iowa-American Water Company (Iowa-American) appeared. OCA had no comments. Iowa-American stated its support for being allowed to recover lost revenue in a general rate case proceeding from any disconnections that might occur from agreements with the cities under these rules.

II. Legal Standards

Iowa Code § 476.20(1)(b).

(1)(b). A public utility described in Section 476.1, subsection 3, paragraph "c", may enter into an agreement with the governing body of a city utility, combined city utility, city enterprise, or combined city enterprise to

discontinue water service to a property or premises if an account owed the city utility, city enterprise, or combined city utility or city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment provided to that customer's property or premises becomes delinquent pursuant to section 384.84, subsection 3. An agreement entered into under this paragraph shall not negate any obligations of a city utility, combined city utility, city enterprise, or combined city enterprise under section 384.84.

(2). A public utility that has entered into an agreement under this paragraph shall not be liable for damages related to the discontinuance of water service under this paragraph. The customer shall be responsible for all costs associated with discontinuing and reestablishing water service disconnected pursuant to this paragraph.

(3). The board shall adopt rules for the discontinuance of water service under this paragraph. A public utility shall only discontinue water service under this paragraph in accordance with the rules adopted pursuant to this subparagraph.

III. Staff Recommendations

Since there were no adverse comments about the proposed rules, staff recommends the Board adopt the amendments to 199 IAC 21.4 as proposed, except for some non-substantive revisions to the language added to the opening paragraph in 199 IAC 21.4(7).

The amendments to be adopted are shown in the attached "Adopted and Filed" notice that is incorporated by reference in this memorandum. In addition, staff recommends the Board repeat in the order adopting these amendments the statement from the January 15, 2015, order that "[T]he board tentatively concludes that the issue of the lost revenue for disconnection of water service pursuant to Iowa Code § 476.20(1)(b) is an issue that should be addressed in a general rate proceeding where the Board can review the overall effect of any lost revenue on Iowa-American's revenue requirement."

IV. Recommendation

Staff recommends that the Board direct General Counsel to prepare an order adopting the proposed amendments to 199 IAC 21.4 as shown in the "Adopted and Filed" notice attached to this memorandum and incorporated

herein by reference. The order should also direct the Executive Secretary to submit the "Adopted and Filed" notice to the Iowa Code Editor for publication in the Iowa Administrative Bulletin.

RECOMMENDATION APPROVED

IOWA UTILITIES BOARD

/s/ Elizabeth S. Jacobs *3-18-15*
_____ Date

/s/ Nick Wagner *3/18/15*
_____ Date

/s/ Sheila K. Tipton *3/18/2015*
_____ Date

/cw

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on March 24, 2015, the Board issued an order in Docket No. RMU-2014-0004, In re: Disconnection of Public Water Utility Service For Failure To Pay Sewer, Wastewater, or Storm Drainage Bill [199 IAC Chapter 21], “Order Adopting Amendments,” in which the Board adopts amendments to the Board's water service rules to implement the statutory provisions in Iowa Code § 476.20(1)(b) that allow a public water utility to enter into an agreement with a city utility, city enterprise, combined city utility, or combined city enterprise to disconnect water service if an overdue debt is owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment.

The Board followed the procedures in Executive Order 80 prior to publication of proposed amendments in the Iowa Administrative Bulletin. In accordance with Executive Order 80, the Board appointed a Stakeholder Group to provide recommendations on amendments to implement the statutory provisions. The members of the Stakeholder Group were: Julie Smith, Iowa Association of Municipal Utilities; Jeffrey K. Rosencrants, Iowa-American Water Company (Ken Jones replaced Rosencrants as the Iowa-American member.); John Long, Consumer Advocate Division of the Department of Justice; Jim Odean, city of Davenport, Iowa; Jessica Kinser, city of Clinton, Iowa; Kristine Stone, city of Bettendorf, Iowa; and Don Tormey, Iowa Utilities Board.

On December 9, 2014, the Stakeholder Group submitted three alternative recommendations to the Board. Based upon the Stakeholder Group recommendations, the Board issued an order on January 15, 2015, proposing amendments to its water service rules and approving a “Notice of Intended Action” to be submitted for publication in the Iowa Administrative Bulletin. The "Notice of Intended Action" with the proposed amendments was published in the Iowa Administrative Bulletin at IAB Vol. XXXVII, No. 16 (2/4/15) p. 1417, ARC 1848C.

Comments were received supporting the proposed amendments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. No other comments were received.

On March 12, 2015, the Board conducted an oral presentation to provide for additional public comment about the proposed amendments. Consumer Advocate and Iowa-American Water Company (Iowa-American) appeared at the oral presentation. Consumer Advocate had no additional comments. Iowa-American stated its support for recovery of any lost revenue that might occur from disconnection of water service based upon agreements with the cities in a general rate proceeding.

The order approving this “Adopted and Filed” notice can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0004. The Board has adopted some non-substantive revisions to the language added to 199—21.4(7).

After analysis and review of this rule making, the Board tentatively concludes that the adopted amendments will have a beneficial effect on the ability of cities served by public water utilities regulated by the Board to recover debts owed for wastewater

service or services of sewer systems, storm water drainage systems, or sewage treatment.

The amendments implement Iowa Code sections 17A.4 and 476.20(1)(b).

The amendments will become effective May 20, 2015.

The following amendments are adopted:

Item 1. Amend subrule 21.4(7) as follows:

21.4(7) Refusal or disconnection of service. Service may be refused or discontinued only for the reasons listed in paragraphs “a” through “f” below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person’s right to file a complaint about the utility’s decision with the board.

- a. Without notice in the event of an emergency.
- b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.
- c. For violation of or noncompliance with the utility’s rules on file with the board.
- d. For failure of the customer to permit the utility reasonable access to its equipment.
- e. For nonpayment of bill provided that the utility has: (1) Made a reasonable attempt to effect collection; and (2) Given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed

portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

~~f. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.~~

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph shall only be allowed if the governing body of a city utility, city enterprise, combined city utility, or city combined enterprise has entered into a written agreement with the public water utility that includes provisions:

(1) Requiring that notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services for sewer systems, storm water drainage systems, or sewage treatment be made by the public water utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the public water utility that the debt for wastewater service or services for sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the

debt, the public water utility shall reconnect water service to the customer as provided for in the public water utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the public water utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise .

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the public water utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services for sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the water utility's tariffs approved by the utilities board, and that recovery of lost revenue by the public water utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

Item 2. Amend paragraph **21.4(9)"c"** as follows:

c. Failure to pay for a different type or class of public utility service. Disconnection of water service pursuant to the provisions of 199—21.4(7)"f" is not considered a different type or class of public utility service for purposes of subrule 199—21.4(9).

March 24, 2015

/s/ Elizabeth S. Jacobs

Elizabeth S. Jacobs
Chair