

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVIEW OF IOWA ELECTRICAL SAFETY CODE RULES [199 IAC CHAPTER 25]	DOCKET NO. RMU-2016-0009
--	--------------------------

ORDER COMMENCING RULE MAKING

(Issued November 1, 2016)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.2, the Utilities Board (Board) proposes to amend its rules establishing the Iowa Electrical Safety Code at 199 Iowa Administrative Code chapter 25. The specific amendments to the Board's rules are set out in the "Notice of Intended Action" attached to this order and incorporated by reference.

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code § 17A.7(2). After preliminary review, the Board identified several possible revisions to its chapter 25 rules for consideration, which were set forth in an "Order Requesting Stakeholder Comment on Potential Rule Changes" issued August 5, 2016. Attached to that order was a draft "Notice of Intended Action." The potential revisions described by the Board included non-substantive editorial changes and several other amendments intended to clarify existing rules.

The Board received initial and reply comments from several stakeholders. MidAmerican Energy Company (MidAmerican), the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, ITC Midwest LLC (ITC Midwest),

and Interstate Power and Light Company (IPL) support the changes proposed by the Board.

In its initial comments, IPL suggests that the Board consider additional changes to rule 25.4, which addresses correction of problems found during inspections and pole attachment procedures. IPL proposes the following changes to subrule 25.4(1) to allow the filing with the Board of corrective action plans addressing non-hazardous conditions:

25.4(1) Corrective action shall be taken within a reasonable period of time ~~on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections.~~ Hazardous conditions shall be corrected promptly. All other items, such as safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections, shall be addressed in a plan submitted in accordance with 199 IAC 25.3. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

IPL also proposes that the Board strike subparagraph 25.4(2)(c)(3), which provides that the notice and approval requirements in subparagraph 25.4(2)(c)(1) do not apply to the practice of overlashing, which involves tying additional cables to existing cables attached to a pole. Subparagraph 25.4(2)(c)(3) provides the following:

(3) Overlashing of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Pole occupants shall provide notice to pole owners of proposed overlashing at least 7 days prior to installation of the overlashing, unless the pole occupant and pole owner have negotiated a different notification requirement.

According to IPL, the Federal Communications Commission (FCC) recognizes that overlashing must be done according to the same safety, reliability, and engineering standards that apply to all pole attachments.¹ IPL supports the practice of overlashing because it optimizes the use of pole attachments, but states that overlashing without prior notice does not allow the pole owner to ensure that safety, reliability, and engineering standards are met. IPL contends that overlashing can affect loading and engineering of utility poles by adding pounds of tension, causing a cable to sag, affecting compliance with requirements regarding the clearance between cables and electrical wires, and causing contact between cables, electrical wires, and objects such as trees and buildings. IPL urges the Board to defer to the FCC.

In reply comments, MidAmerican indicates it does not object to IPL's proposed changes to subrule 25.4(1) if the Board determines that the proposed language clarifies the subrule.

OCA objects to IPL's proposed change to subrule 25.4(1). According to OCA, the current subrule requires a utility to address the problems listed in the subrule within a reasonable period of time. OCA objects to IPL's proposal because it would eliminate a needed point of reference and because the Board's ability to require timely correction of the problems listed in the subrule should not depend on what the utility has included in its inspection and maintenance plan.

¹ IPL cites the FCC's order at 16 FCC Rcd 12103, adopted May 25, 2001.

OCA also objects to IPL's proposal to strike subparagraph 25.4(2)(c)(3). OCA explains that the Board adopted the exception less than three years ago in Docket No. RMU-2012-0002 and IPL does not offer a persuasive reason for why the Board should change the rule. OCA contends that IPL's proposed change is not needed for safety, is contrary to federal policy, and could create difficulties for small businesses. OCA disagrees with IPL's characterization of the FCC's position on overloading. According to OCA, the FCC has a policy against unreasonable restrictions on overloading. OCA states that the FCC's position is that third-party overloading is subject to the same safety, reliability, and engineering requirements that apply to overloading one's own pole attachment and that a host attaching entity or a third-party overloader does not need additional approval from the utility other than the approval needed for the host attachment.

In its reply comments, MidAmerican points out that overloading can also involve pole occupants tying communication conductors to existing strands of cable, a practice that allows pole occupants to replace deteriorated cables or to expand capacity of facilities and reduces disruption and expense. MidAmerican agrees with IPL's concerns about overloading being in compliance with safety rules. MidAmerican states that overloading can create a potential for line contact and clearance safety violations, can cause poles to lean inward from added weight, and also can affect system reliability. MidAmerican contends that the pole owner must be able to study the effects of additional tension and weight to ensure compliance with the National Electrical Safety Code (NESC) construction guidelines.

MidAmerican disagrees with IPL's suggestion that the Board defer to the FCC, suggesting instead that the Board has the expertise to ensure compliance with the NESC safety standards through the Board's chapter 25 rules. MidAmerican points to the Board's discussion of overlashing practices in the pole attachment rule-making proceeding, in which the Board concluded that prior approval was not required, but some notice for service drops and overlashing should be provided to the pole owner. MidAmerican agrees with that finding, which the company says is supported by FCC decisions.

Instead of striking the subparagraph as proposed by IPL, MidAmerican suggests that the Board should retain the provision and add language that would balance the interest of optimizing pole use with the Board's concern about safety. MidAmerican proposes the following revision to subparagraph 25.4(2)(c)(3):

(3) Overlashing of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2) "c"(1). Pole occupants shall provide notice to pole owners of proposed overlashing at least 7 15 days prior to installation of the overlashing, ~~unless the pole occupant and pole owner have negotiated a different notification requirement.~~

(i) The notice shall include the size, weight per foot, and number of wires or cables to be overlashed so that the owner can determine any impact of the overlashing on its poles or other occupants' attachments or for reasons of (a) safety, (b) reliability, or (c) generally applicable engineering purposes. The pole occupant may proceed with the overlashing described in the notice unless the pole owner provides a written response, within ten business days of receiving the occupant's notice, prohibiting the overlashing as proposed.

(ii) The pole owner may refuse to permit the overlashing described in the notice only if, in the pole owner's reasonable judgment, the overlashing would have a significant adverse impact on the poles or other occupants' attachments. The refusal must describe the nature and extent of that impact, include all relevant information supporting

the pole owner's determination, and identify the make-ready work that the pole owner has determined would be required prior to allowing the proposed overlash. The parties must negotiate in good faith to resolve the issues raised in the pole owner's refusal.

(iii) The pole occupant must correct any safety violations caused by its existing attachments before overlash additional wires or cables on those attachments.

Nothing in this subrule shall preclude the pole owner and pole occupant from negotiating additional notification requirements.

According to MidAmerican, its proposal clarifies the obligations of the pole owner and the pole occupant and outlines a reasonable notice process which will give detail about the work and allow the pole owner more time to determine whether the overlash project would raise safety concerns and whether any make ready work would be needed to change the size of the pole. MidAmerican also states that its proposed language enhances efficiency by requiring the pole occupant to correct existing safety violations before overlash the wires.

In its reply comments, ITC concurs with MidAmerican's proposed language but states that the word "notice" [*sic*] should be stricken from the last sentence of the proposal. ITC contends that parties should be able to negotiate any additional agreements, not just those related to notice.

The Board has reviewed the comments from stakeholders responding to the potential changes the Board identified in the draft notice and the comments regarding IPL's proposals. In the attached "Notice of Intended Action," the Board will propose to adopt the changes it identified in the "Order Seeking Stakeholder Comment on Potential Rule Changes."

At this time, the Board will not propose to adopt the revision to subrule 25.4(1) suggested by IPL. The Board tentatively concludes that instead of clarifying the current rule, IPL's proposed revision could cause confusion by eliminating the list of items for which corrective action must be taken within a reasonable time and providing that those items should be addressed in the utility's inspection and maintenance plans. As noted by OCA, the proposed revision would eliminate the necessary point of reference from the sentence.

Nor will the Board include in the "Notice of Intended Action" IPL's proposed revision striking subparagraph 25.4(2)(c)(3). The Board adopted the current version of subparagraph 25.4(2)(c)(3) in 2013 in Docket No. RMU-2012-0002, *In re: Pole Attachments Rule Making*, after consideration of stakeholder input regarding the overlashing issue. IPL now raises questions about the safety of allowing overlashing without prior approval but does not provide specific examples of how safety has been compromised under the current version of the rule.

MidAmerican's proposal would retain the current exception but extend the prior notice required from 7 to 15 days and add a detailed list of items that must be included in the notice given by pole occupants to pole owners and an option for the pole owner to refuse to allow the overlashing. The Board is concerned that MidAmerican's proposal could amount to a prior approval requirement. The Board will not include MidAmerican's proposed revision to subparagraph 25.4(2)(c)(3) in the attached "Notice of Intended Action."

While the Board tentatively concludes that subparagraph 25.4(2)(c)(3) should not be amended at this time, further comments on this issue are welcome, including any responses to MidAmerican's proposal to retain, but revise, the current language.

The Board proposes to adopt changes to 199 IAC chapter 25 in accordance with the "Notice of Intended Action" attached to this order. The changes proposed are those that the Board identified in the August 5, 2016, "Order Requesting Stakeholder Comment on Potential Rule Changes."

The "Notice of Intended Action" also includes one proposed change that was not discussed in the August 5 order. Subrule 25.2(1) presently refers to the 2012 version of the NESC. Recently, in Docket No. RMU-2016-0001, the Board adopted updates and corrections to its natural gas and electric safety standards in chapters 10, 11, 19, 20, and 25. Since those revisions were proposed, the 2017 version of the NESC became available. In the attached Notice, the Board proposes to revise subrule 25.2(1) by referring to the 2017 NESC. The Board seeks comment on the adoption of the 2017 NESC and whether any revisions to the list of modifications to the NESC set forth in subrule 25.2(2) are necessary.

The Board also seeks comment on whether revisions to rule 25.4 are necessary to accommodate the transition in wireless infrastructure from 4G to 5G Long Term Evolution technologies or other developments in communications technology and related infrastructure. For example, comments may address whether these developments implicate the Board's interest in the safety of pole attachments, whether pole attachments associated with new technologies will require different

configuration and placement on utility poles, and whether such changes fit within the current rules.

The proposed substantive changes are summarized as follows:

SUMMARY OF PROPOSED CHANGES

1. Amend subrule 25.2(1)

This proposed revision strikes the reference to the 2012 version of the American National Standards Institute (ANSI) C2-2012 “National Electrical Safety Code” and replaces it with a reference to the 2017 version.

2. Amend subrule 25.2(2)

This proposed revision strikes the references to the ANSI National Electrical Safety Code in the introductory paragraph to subrule 25.2(2) and replaces them with the more commonly recognized citation to the National Electrical Safety Code (NESC).

3. Amend paragraph 25.2(3)(a)

This proposed revision amends paragraph 25.2(3)(a) to add the phrase “or participate in” to signify that joint annual public information campaigns regarding the hazards of and standards for constructing grain bins near power lines are permissible. The Board proposes this change to clarify that the rule does not require each utility to conduct its own campaign.

4. Amend subrule 25.3(2)

To clarify which inspection plan a utility must include in its annual report, the Board proposes to revise subrule 25.3(2) to specify that a utility must include in its

annual report a certificate of compliance with each area of the inspection and maintenance plan required by subrule 25.3(1).

5. Amend subrule 25.3(4)

To clarify recordkeeping requirements, the Board proposes to revise subrule 25.3(4) to provide that records demonstrating compliance with inspection and vegetation management plans shall be kept until two years after the next periodic inspection or vegetation management action in the inspection and maintenance plan cycle is completed, or until all repairs are completed, whichever period is longer.

6. Amend subrules 25.5(3) and 25.5(4)

The proposed revision to subrule 25.5(3) is intended to encourage owners or operators of electrical facilities to use e-mail to report accidents. The proposed revision amends subrule 25.5(3) to provide that reporting accidents by telephone is acceptable if e-mail service is not available. Accordingly, the proposed revision to subrule 25.5(4) strikes the word "telephone" from the description of the content of written incident reports.

The specific amendments being proposed are set out in the "Notice of Intended Action" attached to this order and incorporated herein by reference. The official version of these amendments will be published in the Iowa Administrative Bulletin on November 23, 2016, and may contain editorial edits that are not shown in the attached "Notice of Intended Action."

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule-making proceeding identified as Docket No. RMU-2016-0009 is commenced for the purpose of receiving comments regarding the proposed amendments in the "Notice of Intended Action" attached hereto and incorporated by reference in this order.

2. The attached "Notice of Intended Action" shall be submitted for publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 1st day of November 2016.

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 November 1, 2016, the Board issued an order in Docket No.

RMU-2016-0009, In re: Iowa Electrical Safety Code [199 IAC Chapter 25] "Order Commencing Rule Making," proposing to update and streamline chapter 25 of the Board's rules. To develop the proposed amendments, the Board sought early input from stakeholders. On August 5, 2016, the Board issued an "Order Seeking Stakeholder Comment on Potential Rule Changes" in which the Board identified several potential revisions to chapter 25 that would update and clarify the rules. Generally, the stakeholder responses agreed with the Board's potential changes. Two stakeholders proposed further changes to the rules regarding pole attachments which are discussed in the Board's "Order Commencing Rule Making."

The order approving this "Notice of Intended Action" can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0009.

After analysis and review, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa.

Pursuant to Iowa Code sections 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 December 13, 2016. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can

be found on the EFS Web site at <http://efs.iowa.gov>. Filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. Paper comments may be filed with approval of the Board.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 1 p.m. on January 24, 2017, 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 Board at (515)725-7334 at least five days 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 **25.2(1)** as follows:

25.2(1) *National Electrical Safety Code.* The American National Standards Institute (ANSI) C2-2012~~2017~~, "National Electrical Safety Code" (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, "Rules for Operation of Electric Supply and Communications Lines and Equipment," which is not adopted by the board.

ITEM 2. Amend subrule **25.2(2)**, introductory paragraph as follows:

25.2(2) *Modifications and qualifications to ANSI C2the NEESC.* The standards set forth in ~~ANSI C2~~the NEESC are modified or qualified as follows:

ITEM 3. Amend **paragraph 25.2(2)(d)** as follows:

d. Rule ~~217C.1~~217C1 is changed to read:

"The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be

provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

ITEM 4. Amend **paragraph 25.2(2)(f)** as follows:

f. There is added to the first paragraph of Rule ~~440.A.4110A1~~, after the sentence stating, "Entrances not under observation of an authorized attendant shall be kept locked," the following sentences:

ITEM 5. Amend **paragraph 25.2(3)(a)** as follows:

25.2(3) *Grain bins.*

a. Electric utilities shall conduct or participate in annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the "Errata to 2012 Edition National Electrical Safety Code" Correction Sheet issued February 6, 2012.

ITEM 6. Amend **subrule 25.3(2)** as follows:

25.3(2) *Annual report.* Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection and maintenance plan required by 199—25.3(1) or a detailed statement on areas of noncompliance.

ITEM 7. Amend **subrule 25.3(4)** as follows:

25.3(4) Records. Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action in the inspection and maintenance plan cycle is completed or until all necessary repairs and maintenance are completed, whichever is longer.

ITEM 8. Amend **subrule 25.5(3)** as follows:

25.5(3) The board shall be notified immediately, or as soon as practical thereafter, by e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, ~~in appropriate~~ circumstances if e-mail service is not available, by calling (515)745-2332. The person contacting the board shall leave a telephone number of a person who can provide the following information:

- a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.

- e. Initial estimate of damages.
- f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.
- g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

ITEM 9. Amend **subrule 25.5(4)** as follows

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for ~~telephone~~-notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

November 1, 2016

/s/ Geri D. Huser
Geri D. Huser
Chair