

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

IN RE:  DISCONNECTION OF PUBLIC UTILITY WATER SERVICE FOR FAILURE TO PAY SEWER, WASTEWATER, OR STORM DRAINAGE BILL [199 IAC CHAPTER 21]	DOCKET NO. RMU-2014-0004
---	--------------------------

---

**ORDER PROPOSING AMENDMENTS  
TO IMPLEMENT IOWA CODE § 476.20(1)(b)**

(Issued January 15, 2015)

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), which was amended in 2014 to allow a public water utility to enter into an agreement with the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise to disconnect water service if a past-due 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 these proposed rules. Appointment of a Stakeholder Group was 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 (Iowa-American)<sup>1</sup> (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.

In the August 11, 2014, order, the Board requested that the Stakeholder Group address certain issues about the relationship between the Board's disconnection of water service rules in 199 IAC chapter 21 and disconnection of water service under the new statute. The issues described by the Board in the August 11, 2014, order are as follows:

a. Should a written agreement be required between Iowa-American Water Company and a city utility, city combined utility, city enterprise, or city combined enterprise that sets out the specific responsibilities for each party to the agreement? Should the written agreement include provisions that are consistent with the rules adopted by the Board to implement Iowa Code § 476.20(1)(b)?

b. Should 199 IAC 21.4(7) be amended to include the disconnection of service pursuant to Iowa Code § 476.20(1)(b) in the list of reasons that water service may be disconnected?

---

<sup>1</sup> Iowa-American is currently the only water utility in Iowa that will be affected by the new statute and rules.

c. Should disconnection of water service pursuant to Iowa Code § 476.20(1)(b) follow the same 12-day notice provisions of 199 IAC 21.4(7)"e"(2)?

d. If the customer disputes that a debt is owed for sewer or wastewater service, should the customer be allowed to pay any undisputed amounts to avoid disconnection for up to 45 days as provided in 199 IAC 21.4(7)"e"?

e. Does Iowa Code § 476.20(1)(b) provide the Board with jurisdiction over complaints filed regarding disconnections made pursuant to Iowa Code § 476.20(1)"b"?

f. How will the city utility, combined city utility, city enterprise, or combined city enterprise ensure that reconnection of water service is promptly restored as required in 199 IAC 21.4(8)?

g. Will a customer be required to pay a reconnection charge when water service is reconnected after payment of the debt to the city utility, combined city utility, city enterprise, or combined city enterprise?

h. Should 199 IAC 21.4(9)"c" be amended to create an exception for disconnections made pursuant to Iowa Code § 476.20(1)(b)?

On September 4, 2014, the Stakeholder Group held a meeting by teleconference. During the meeting, Don Tormey was elected Chair, Larry Johnson of the Governor's Office discussed the requirements of Executive Order 80, and distribution of information and a date for the next meeting were discussed. The Stakeholder Group decided that information would be distributed to the Stakeholder Group by electronic mail and Don Tormey would be the person responsible for collecting information from the Stakeholder Group and then disseminating information to the members of the Stakeholder Group and other interested persons. In addition, the Stakeholder Group decided to have a public meeting in one of the cities served

by Iowa-American. After the teleconference, a public meeting was scheduled for October 29, 2014, in Davenport, Iowa. Responses to the issues raised by the Board in the August 11, 2014, order were sent to Don Tormey by members of the Stakeholder Group and a summary of responses was provided to the Stakeholder Group prior to the public meeting.

The public meeting was held as scheduled. In addition to the Stakeholder Group members, several persons representing Clinton, Iowa, and Iowa-American attended the meeting and made comments concerning the recommendations discussed by the Stakeholder Group. A summary of the comments at the public meeting was sent to Stakeholder Group members after the meeting. Included in the summary were recommendations for proposed rules to implement Iowa Code § 476.20(1)(b).

The Stakeholder Group recommendations, with three alternatives for implementation of the new statute, were provided to the Board on December 9, 2014. Documents containing the summaries of responses and Stakeholder Group member positions regarding the Board's questions were attached to the recommendations provided to the Board. The three alternatives are described below.

Alternative One provides that a city would be required to enter into a written agreement for the disconnection of water service by the public water utility, Iowa-American, for a customer's overdue debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment service. The written

agreement would be required to include the customer protections adopted by the Board. The written agreement would not require Board approval. The focus of the customer protections in Alternative One would be to make sure that certain of the customer protections established in the Board's current rules for disconnection of regulated water service would be included in any written agreement entered into between Iowa-American and a city.

Alternative Two would require a written agreement between Iowa-American and a city; however, no specific customer protection requirements would be included in the rules. This alternative would require that the written agreement be approved by the Board. Approval by the Board of the written agreement would allow the Board to require appropriate customer protections in each written agreement and would allow for some flexibility in the written agreements. This alternative would require the Board to review the written agreement in a docket opened for that purpose.

Alternative Three was proposed by Iowa-American and includes provisions that Iowa-American has in similar agreements in other states. Alternative Three would make the city responsible for all communications with the customer regarding disconnection, indemnify Iowa-American for any damages, and allow the customer to be charged for Iowa-American's lost revenue.

The specific proposed amendments for each alternative is set out below:

### **Alternative One**

199 IAC 21.4(7) *Refusal or disconnection of service.*  
Service may be refused or disconnected only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and holidays, following mailing of notice by mail, telephone, or in person of disconnect in which to take necessary action before service is discontinued.

g. For failure to pay a debt owed to a city utility, city combined utility, city enterprise, or city combined enterprise if a debt is owed for sewer, wastewater, or storm drainage service. Disconnection of water service pursuant to this paragraph shall only be allowed if the city utility, city combined utility, city enterprise, or city combined enterprise have entered into a written agreement with the water utility that includes the following provisions:

(1) Allows the customer 12 days after the notice of disconnection of water service to pay the debt owed to the city utility, city combined utility, city enterprise, or city combined enterprise.

(2) Provides for prompt notice from the city to the water utility that the debt for sewer, wastewater, or storm drainage service has been paid. Once notified of the payment of the debt, the water utility shall reconnect water service as provided for in the water utility's tariff.

(3) Requires the city utility, city combined utility, city enterprise, or city combined enterprise to have completed the disconnection notification procedures established in tariffs or ordinances.

(4) Provides that the customer may be charged a fee for disconnection and reconnection of water service for failure of the customer to pay a debt owed to the city utility, city combined utility, city enterprise, or city combined enterprise for sewer, wastewater, or storm drainage service no greater than the rates established for reconnection and disconnection of water service in the water utility's tariffs approved by the utilities board.

### **Alternative Two**

199 IAC 21.4(7) *Refusal or disconnection of service.*  
Service may be refused or disconnected only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued.

g. For failure to pay a debt owed to a city utility, city combined utility, city enterprise, or city combined enterprise if a debt is owed for sewer, wastewater, or storm drainage service. Disconnection of water service pursuant to this paragraph shall only be allowed if the city utility, city combined utility, city enterprise, or city combined enterprise have entered into a written agreement with the water utility. Each agreement between a city utility, city combined utility, city enterprise, and city combined enterprise shall be approved by the Board before the provisions of the written agreement can be implemented.

### **Alternative Three**

199 IAC 21.4(7) *Refusal or disconnection of service.*  
Service may be refused or disconnected only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued.

g. For failure to pay a debt owed to a city utility, city combined utility, city enterprise, or city combined enterprise if a debt is owed for sewer, wastewater, or storm drainage service. Disconnection of water service pursuant to this paragraph shall only be allowed if the city utility, city combined utility, city enterprise, or city combined enterprise have entered into a written agreement with the water utility that includes at least the following provisions:

(1) Allows the customer 12 days after the notice of disconnection of water service to pay the debt owed to the city utility, city combined utility, city enterprise, or city combined enterprise.

(2) Provides for prompt notice from the city to the water utility that the debt for sewer, wastewater, or storm drainage service has been paid. Once notified of the payment of the debt, the water utility shall reconnect water service as provided for in the water utility's tariff.

(3) Requires the city utility, city combined utility, city enterprise, or city combined enterprise to have completed the disconnection notification procedures established in tariffs or ordinances.

(4) Provides that the customer may be charged city utility, city combined utility, city enterprise, or city combined enterprise may charge the customer a fee for disconnection and reconnection of water service for failure of the customer to pay a debt owed to the city utility, city combined utility, city enterprise, or city combined enterprise for sewer, wastewater, or storm drainage service no greater than the rates established for reconnection and disconnection of water service in the water utility's tariffs approved by the utilities board.

(5) Provides that the city utility, city combined utility, city enterprise, or city combined enterprise shall pay the water utility a fee for disconnection and reconnection of water service, and a fee for recoupment of lost revenues arising from disconnection of water service to the customer, in amounts agreed upon between the water utility and the city utility, city combined utility, city enterprise, or city combined enterprise.

(6) Provides that the city utility, city combined utility, city enterprise, or city combined enterprise shall indemnify the water utility for damages related to the discontinuance of water service.

(7) Provides that the utility, city combined utility, city enterprise, or city combined enterprise shall be responsible for all communications with customers related to the disconnection of water service.

## **BOARD ANALYSIS**

The Board considers Alternative One, with certain modifications, to be the most appropriate alternative to be proposed for adoption. Alternative One would require that the city and Iowa-American enter into a written agreement that would

include certain specific customer protections. The city and Iowa-American could then negotiate the other terms of a written agreement. The specific provisions that the Board proposes to adopt are set out below. These proposed amendments are also set out in the "Notice of Intended Action" which is attached to this order and incorporated in this order by reference. The "Notice of Intended Action" will be published in the Iowa Administrative Bulletin for comment and an oral presentation is scheduled.

The rules proposed by the Board include more specific language about how disconnection of water service can be accomplished for a customer who owes an overdue debt to a city for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. The proposed rules require the city to complete its notification of disconnection procedures before contacting Iowa-American to disconnect water service. Once notified by the city, Iowa-American would be required to give the customer a 12-day notice of disconnection similar to the notice required by 199 IAC 21.4(7) of the Board's rules.

The proposed rules require the city to promptly notify Iowa-American when the debt is satisfied and then Iowa-American would reconnect water service following procedures in Iowa-American's tariffs. The proposed rules do not establish a specific time period for the city to notify Iowa-American of the payment of the debt to allow for the different procedures followed by each city after a debt is satisfied; however, a city is expected to act expeditiously in notifying Iowa-American.

In addition, the proposed rules specifically state that there could not be a charge for lost revenue included in the written agreement. The Board does not consider payment for lost revenue to be an issue that should be addressed through a rule making. The Board tentatively concludes the issue of 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.

In addition to the customer protections proposed in 199 IAC 21.4(7)"g," the Board is proposing an amendment to 199 IAC 21.4(9)"c" to make it clear that disconnections of water service pursuant to Iowa Code § 476.20(1)(b) are exempt from the list of reasons that service may not be denied.

The proposed amendments that will be published in the Iowa Administrative Bulletin to implement Iowa Code § 476.20(1)(b) are as follows:

**199 IAC 21.4(7) *Refusal or disconnection of service.***  
Service may be refused or disconnected only for the reasons listed below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued.

g. 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 the following provisions:

(1) 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 shall be made by the public water utility which allows the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

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

(4) Provides 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 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. 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.

**199 IAC 21.4(9)"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)"g" is not considered a different type or class of public utility service for purposes of subrule 199—21.4(9).

**ORDERING CLAUSES**

**IT IS THEREFORE ORDERED:**

1. The Utilities Board proposes to adopt amendments to the water service rules in 199 IAC chapter 21 as described in the "Notice of Intended Action" attached to this order.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a "Notice of Intended Action" in the form attached to this order.

**UTILITIES BOARD**

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad  
Executive Secretary

/s/ Sheila K. Tipton

Dated at Des Moines, Iowa, this 15<sup>th</sup> day of January 2015.

## **UTILITIES DIVISION[199]**

### **Notice of Intended Action**

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on January 15, 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 Proposing Amendments To Water Service Rules To Implement Iowa Code § 476.20(1)(b)," in which the Board proposes amendments to the Board's water service rules to implement the new 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.

In compliance with Executive Order 80, on August 11, 2014, the Board issued an order appointing members of a Stakeholder Group to provide recommendations to the Board regarding proposed rules to implement Iowa Code § 476.20(1)(b). 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 members of the Stakeholder Group appointed by the Board are as follows: 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.

In the August 11, 2014, order, the Board listed several issues for the Stakeholder Group to address related to establishment of customer protections when a customer's water service may be disconnected pursuant to Iowa Code § 476.20(1)(b). Stakeholder Group members, as well as members of the public, responded to the questions.

On September 4, 2014, the Stakeholder Group held a meeting by teleconference. At the meeting, Don Tormey was elected Chair of the Stakeholder Group, Larry Johnson of the Governor's Office discussed the requirements of Executive Order 80, and distribution of information and a date for the next meeting were discussed. The Stakeholder Group decided that information would be distributed to the Stakeholder Group by electronic mail and Don Tormey would be the person responsible for collecting information from the Stakeholder Group and then disseminating information to the Stakeholder Group. The Stakeholder Group decided to have a public meeting in one of the cities served by Iowa-American. After the teleconference, a public meeting was scheduled for October 29, 2014, in Davenport, Iowa.

The public meeting was held as scheduled. In addition to Stakeholder Group members, several persons representing Clinton and Iowa-American Water Company attended the meeting and made comments concerning the recommendations discussed

by the Stakeholder Group. Based upon the comments from the members of the public and the members of the Stakeholder Group, recommendations that included three alternative rule proposals were provided to the Board on December 9, 2014. After reviewing the recommendations and considering the customer protections in the Board's water service rules in 199 IAC chapter 21, the Board is proposing the amendments described in this notice.

The order approving this "Notice of Intended Action" which addresses the recommendations of the Stakeholder Group can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0004.

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 February 24, 2015. 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>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written 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. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

The Board has scheduled an oral presentation to allow for further comments and for interested persons to respond to Board questions at 1 p.m. on March 12, 2015.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the ability of cities served by public water utilities regulated by the Board to recover for debts owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment in an amount in excess of \$4,000,000.

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

The following amendments are proposed:

Item 1. Adopt a new paragraph **199 IAC 21.4(7)"g"** as follows:

g. 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 the following provisions:

(1) 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 shall be made by the public water utility which allows the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

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

(4) Provides 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 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. 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 **199 IAC 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)"g" is not considered a different type or class of public utility service for purposes of subrule 199—21.4(9).

January 15, 2015

/s/ Elizabeth S. Jacobs

Elizabeth S. Jacobs

Chair