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House File 2399

HOUSE FILE _____
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 2100)

(As Amended and Passed by the House March 2, 2010)

A BILL FOR

1 An Act requiring certain rate-regulated public utilities to
2 undertake analyses of and preparation for the possible
3 construction of low carbon emitting nuclear generating
4 facilities in this state, permitting all rate-regulated
5 public utilities to make significant alterations to an
6 existing generating facility, and including effective date
7 provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 1 Section 1. Section 476.6, Code Supplement 2009, is amended
1 2 by adding the following new subsection:

1 3 NEW SUBSECTION. 22. a. It is the intent of the general
1 4 assembly to require certain rate-regulated public utilities
1 5 to undertake analyses of and preparations for the possible
1 6 construction of nuclear generating facilities in this state
1 7 that would be beneficial in a carbon-constrained environment.

1 8 b. A rate-regulated electric utility that was subject to
1 9 a revenue sharing settlement agreement with regard to its
1 10 electric base rates as of January 1, 2010, shall recover,
1 11 through a rider and pursuant to a tariff filing made on or
1 12 before December 31, 2013, the reasonable and prudent costs of
1 13 its analyses of and preparations for the possible construction
1 14 of facilities of the type referenced in paragraph "a". Cost
1 15 recovery shall be accomplished by instituting a revenue
1 16 increase applied in the same percentage amount to each customer
1 17 class and not designed to recover, on an annual basis, more
1 18 than five-tenths percent of the electric utility's calendar
1 19 year 2009 revenues attributable to billed base rates in this
1 20 state. At the conclusion of the cost recovery period, which
1 21 shall extend no more than thirty-six months in total, the board
1 22 shall conduct a contested case proceeding pursuant to chapter
1 23 17A to evaluate the reasonableness and prudence of the cost
1 24 recovery. The utility shall file such information with the

1 25 board as the board deems appropriate, including the filing
1 26 of an annual report identifying and explaining expenditures
1 27 identified in the rider as items for cost recovery, and
1 28 any other information required by the board. If the board
1 29 determines that the utility has imprudently incurred costs, or
1 30 has incurred costs that are less than the amount recovered, the
1 31 board shall order the utility to modify the rider to adjust the
1 32 amount recoverable.

1 33 c. Costs that may be recovered through the rider described
1 34 in paragraph "b" shall be consistent with the United States
1 35 nuclear regulatory guide, section 4.7, general site suitability
2 1 criteria for nuclear power stations, revision two, April 1998,
2 2 including costs related to the study and use of sites for
2 3 nuclear generation.

2 4 Sec. 2. Section 476.53, Code 2009, is amended to read as
2 5 follows:

2 6 476.53 Electric generating and transmission facilities.

2 7 1. It is the intent of the general assembly to attract
2 8 the development of electric power generating and transmission
2 9 facilities within the state in sufficient quantity to ensure
2 10 reliable electric service to Iowa consumers and provide
2 11 economic benefits to the state. It is also the intent of the
2 12 general assembly to encourage rate-regulated public utilities
2 13 to consider altering existing electric generating facilities,
2 14 where reasonable, to manage carbon emission intensity in
2 15 order to facilitate the transition to a carbon-constrained
2 16 environment.

2 17 2. a. The general assembly's intent with regard to the
2 18 development of electric power generating and transmission
2 19 facilities, or the significant alteration of an existing
2 20 generating facility as provided in subsection 1, shall be
2 21 implemented in a manner that is cost-effective and compatible
2 22 with the environmental policies of the state, as expressed in
2 23 Title XI.

2 24 b. The general assembly's intent with regard to the
2 25 reliability of electric service to Iowa consumers, as provided
2 26 in subsection 1, shall be implemented by considering the
2 27 diversity of the types of fuel used to generate electricity,
2 28 the availability and reliability of fuel supplies, and the
2 29 impact of the volatility of fuel costs.

2 30 3. ~~For purposes of this section, unless the context~~
~~2 31 otherwise requires, the terms "cogeneration pilot project~~
~~2 32 facility", "energy sales agreement", "qualified cogeneration~~
~~2 33 pilot project facility", and "utility-owned cogeneration pilot~~
~~2 34 project facility" mean the same as defined in section 15.269.~~

2 35 4. 3. a. The board shall specify in advance, by order
3 1 issued after a contested case proceeding, the ratemaking
3 2 principles that will apply when the costs of the electric
3 3 power generating facility, or alternate energy production
3 4 facility, cogeneration pilot project facility, or energy sales
~~3 5 agreement~~ are included in regulated electric rates whenever a
3 6 rate-regulated public utility does any of the following:

3 7 (1) Files an application pursuant to section 476A.3 to
3 8 construct in Iowa a baseload electric generating facility
3 9 with a nameplate generating capacity equal to or greater than
3 10 three hundred megawatts or a combined-cycle electric power
3 11 generating facility, or an alternative energy production
3 12 facility as defined in section 476.42, or to significantly
3 13 alter an existing generating facility. For purposes of
3 14 this subparagraph, a significant alteration of an existing
3 15 generating facility must, in order to qualify for establishment
3 16 of ratemaking principles, fall into one of the following
3 17 categories:

3 18 (a) Conversion of a coal fueled facility into a gas fueled
3 19 facility.

3 20 (b) Addition of carbon capture and storage facilities at a
3 21 coal fueled facility.

3 22 (c) Addition of gas fueled capability to a coal fueled
3 23 facility, in order to convert the facility to one that will
3 24 rely primarily on gas for future generation.

3 25 (d) Addition of a biomass fueled capability to a coal fueled
3 26 facility.

3 27 With respect to a significant alteration of an existing
3 28 generating facility, an original facility shall not be required
3 29 to be either a baseload or a combined-cycle facility. Only
3 30 the incremental investment undertaken by a utility under
3 31 subparagraph divisions (a), (b), (c), or (d) shall be eligible
3 32 to apply the ratemaking principles established by the order
3 33 issued pursuant to paragraph "e". Facilities for which advanced
3 34 ratemaking principles are obtained pursuant to this section
3 35 shall not be subject to a subsequent board review pursuant to
4 1 section 476.6, subsection 21 to the extent that the investment
4 2 has been considered by the board under this section. To the
4 3 extent an eligible utility has been authorized to make capital
4 4 investments subject to section 476.6, subsection 21, such
4 5 investments shall not be eligible for ratemaking principles
4 6 pursuant to this section.

4 7 (2) Leases or owns in Iowa, in whole or in part, a new
4 8 baseload electric power generating facility with a nameplate
4 9 generating capacity equal to or greater than three hundred
4 10 megawatts or a combined-cycle electric power generating
4 11 facility, or a new alternate energy production facility as
4 12 defined in section 476.42.

~~4 13 (3) Enters into an agreement for the purchase of the
4 14 electric power output of a qualified cogeneration pilot project
4 15 facility or constructs a utility-owned cogeneration pilot
4 16 project facility pursuant to section 15.269.~~

4 17 b. In determining the applicable ratemaking principles,
4 18 the board shall not be limited to traditional ratemaking
4 19 principles or traditional cost recovery mechanisms. Among the
4 20 principles and mechanisms the board may consider, the board
4 21 has the authority to approve ratemaking principles proposed by
4 22 a rate-regulated public utility that provide for reasonable
4 23 restrictions upon the ability of the public utility to seek
4 24 a general increase in electric rates under section 476.6 for
4 25 at least three years after the generating facility begins
4 26 providing service to Iowa customers.

4 27 c. In determining the applicable ratemaking principles, the
4 28 board shall make the following findings:

4 29 (1) The rate-regulated public utility has in effect a
4 30 board-approved energy efficiency plan as required under section
4 31 476.6, subsection 16.

4 32 (2) The rate-regulated public utility has demonstrated to
4 33 the board that the public utility has considered other sources
4 34 for long-term electric supply and that the facility, ~~or lease,~~
~~4 35 or cogeneration pilot project facility~~ is reasonable when
5 1 compared to other feasible alternative sources of supply. The
5 2 rate-regulated public utility may satisfy the requirements of
5 3 this subparagraph through a competitive bidding process, under
5 4 rules adopted by the board, that demonstrate the facility,
~~5 5 energy sales agreement,~~ or lease is a reasonable alternative to
5 6 meet its electric supply needs.

5 7 d. The applicable ratemaking principles shall be determined
5 8 in a contested case proceeding, which proceeding may be
5 9 combined with the proceeding for issuance of a certificate
5 10 conducted pursuant to chapter 476A.

5 11 e. The order setting forth the applicable ratemaking
5 12 principles shall be issued prior to the commencement of
5 13 construction or lease of the facility, ~~or execution of an~~
~~5 14 energy sales agreement related to the cogeneration pilot~~

~~5 15 project facility.~~

5 16 f. Following issuance of the order, the rate-regulated
5 17 public utility shall have the option of proceeding according to
5 18 either of the following:

5 19 (1) Withdrawing its application for a certificate pursuant
5 20 to chapter 476A.

5 21 (2) Proceeding with the construction or lease of the
5 22 facility ~~or implementation of an energy sales agreement related~~
~~5 23 to a cogeneration pilot project facility.~~

5 24 g. Notwithstanding any provision of this chapter to the
5 25 contrary, the ratemaking principles established by the order
5 26 issued pursuant to paragraph "e" shall be binding with regard to
5 27 the specific electric power generating facility ~~or cogeneration~~
~~5 28 pilot project facility~~ in any subsequent rate proceeding.

5 29 ~~5. 4.~~ The utilities board and the consumer advocate
5 30 may employ additional temporary staff, or may contract
5 31 for professional services with persons who are not state
5 32 employees, as the board and the consumer advocate deem
5 33 necessary to perform required functions as provided in this
5 34 section, including but not limited to review of power purchase
5 35 contracts, review of emission plans and budgets, and review
6 1 of ratemaking principles proposed for construction or lease
6 2 of a new generating facility ~~or a cogeneration pilot project~~
~~6 3 facility.~~ Beginning July 1, 2002, there is appropriated out
6 4 of any funds in the state treasury not otherwise appropriated,
6 5 such sums as may be necessary to enable the board and the
6 6 consumer advocate to hire additional staff and contract for
6 7 services under this section. The costs of the additional staff
6 8 and services shall be assessed to the utilities pursuant to the
6 9 procedure in section 476.10 and section 475A.6.

6 10 ~~6. a.~~ A ~~qualified cogeneration pilot project facility~~
~~6 11 may file a petition with the board for a determination of the~~
~~6 12 avoided cost of an electric utility as provided in the federal~~
~~6 13 Public Utility Regulatory Policies Act of 1978 and related~~
~~6 14 federal regulations, if such a determination has not been made~~
~~6 15 within the last twenty-four months or if there is reason to~~
~~6 16 believe the avoided cost has changed.~~

6 17 ~~b.~~ The board shall issue its determination of the electric
~~6 18 utility's avoided cost within one hundred twenty days after the~~
~~6 19 petition is filed.~~

6 20 ~~c.~~ The board, for good cause shown, may extend the deadline
~~6 21 for issuing the decision for an additional period not to exceed~~
~~6 22 one hundred twenty days.~~

6 23 ~~d.~~ The board shall not issue a decision under this
~~6 24 subsection without providing notice and an opportunity for~~
~~6 25 hearing.~~

6 26 ~~e.~~ The utilities board and the consumer advocate may employ
~~6 27 additional temporary staff, or may contract for professional~~
~~6 28 services with persons who are not state employees, as the~~
~~6 29 board and the consumer advocate deem necessary to perform~~
~~6 30 required functions as provided in this subsection. There~~
~~6 31 is appropriated out of any funds in the state treasury not~~
~~6 32 otherwise appropriated, such sums as may be necessary to enable~~
~~6 33 the board and the consumer advocate to hire additional staff~~
~~6 34 and contract for services under this section. The costs of the~~
~~6 35 additional staff and services shall be assessed to the electric~~
~~7 1 utility pursuant to the procedure in sections 476.10 and~~
~~7 2 475A.6.~~

7 3 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
7 4 immediate importance, takes effect upon enactment.

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