

**476.53 Electric generating and transmission facilities.**

1. It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

2. The general assembly's intent with regard to the development of electric power generating and transmission facilities, as provided in [subsection 1](#), shall be implemented in a manner that is cost-effective and compatible with the environmental policies of the state, as expressed in [Title XI](#).

3. For purposes of [this section](#), unless the context otherwise requires, the terms "*cogeneration pilot project facility*", "*energy sales agreement*", "*qualified cogeneration pilot project facility*", and "*utility-owned cogeneration pilot project facility*" mean the same as defined in [section 15.269](#).\*

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

(1) Files an application pursuant to [section 476A.3](#) to construct in Iowa a baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or an alternate energy production facility as defined in [section 476.42](#).

(2) Leases or owns in Iowa, in whole or in part, a new baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or a new alternate energy production facility as defined in [section 476.42](#).

(3) Enters into an agreement for the purchase of the electric power output of a qualified cogeneration pilot project facility or constructs a utility-owned cogeneration pilot project facility pursuant to [section 15.269](#).\*

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

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

(1) The rate-regulated public utility has in effect a board-approved energy efficiency plan as required under [section 476.6](#), [subsection 16](#).

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

d. The applicable ratemaking principles shall be determined in a contested case proceeding, which proceeding may be combined with the proceeding for issuance of a certificate conducted pursuant to [chapter 476A](#).

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

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

(1) Withdrawing its application for a certificate pursuant to [chapter 476A](#).

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

g. Notwithstanding any provision of [this chapter](#) to the contrary, the ratemaking principles established by the order issued pursuant to paragraph “e” shall be binding with regard to the specific electric power generating facility or cogeneration pilot project facility in any subsequent rate proceeding.

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

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

b. The board shall issue its determination of the electric utility’s avoided cost within one hundred twenty days after the petition is filed.

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

d. The board shall not issue a decision under [this subsection](#) without providing notice and an opportunity for hearing.

e. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in [this subsection](#). There is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under [this section](#). The costs of the additional staff and services shall be assessed to the electric utility pursuant to the procedure in [sections 476.10](#) and [475A.6](#).

83 Acts, ch 127, §36, 50; 2001 Acts, 1st Ex, ch 4, §12, 36; 2002 Acts, 2nd Ex, ch 1003, §31, 35; 2003 Acts, ch 29, §5, 6; 2003 Acts, ch 159, §2 – 4; 2004 Acts, ch 1101, §67

Referred to in [§476.23](#), [476A.4](#), [476A.6](#), [476A.7](#)

\*Section 15.269, establishing the cogeneration pilot program, is repealed pursuant to its own terms effective July 1, 2007; utilities board proceedings pending on that date that are being conducted pursuant to this section shall be completed notwithstanding the repeal; 2003 Acts, ch 159, §1