

UTILITIES DIVISION[199]

Notice of Intended Action

**Proposing rule making related to ratemaking principles proceeding
and providing an opportunity for public comment**

The Utilities Board hereby proposes to adopt new Chapter 41, “Ratemaking Principles Proceeding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.53 and 476.84.

Purpose and Summary

This rule making is intended to establish initial filing requirements which apply to applications by rate-regulated public utilities for advance ratemaking principles (ARPs) associated with the construction of certain electric power generating facilities or the acquisition of certain water, sanitary sewage, and storm water systems. The Board issued an order commencing rule making on December 26, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2019-0041.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 4, 2020. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

March 12, 2020
9 to 11 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 199—Chapter 41:

CHAPTER 41
RATEMAKING PRINCIPLES PROCEEDING

199—41.1(476) Definitions.

"Affiliate" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

"AFUDC" means allowance for funds used during construction.

"Alternate energy production facility" means any or all of the following:

1. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility.
2. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
3. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

A facility which is a qualifying facility under 18 CFR Part 292, Subpart B, is not precluded from being an alternate energy production facility under this chapter.

"Baseload generation" refers to generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

"Combined-cycle combustion turbine" means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

"CWIP" means construction work in progress.

"Emission allowance" means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

"Facility" means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3) "a." The term includes energy storage systems.

"kWh" means kilowatt-hour.

“*Opportunity sales*” means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

“*Repowering*” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

“*Utility*” means either a rate-regulated electric public utility selling to retail customers in Iowa or a rate-regulated public utility acquiring a water, sanitary sewage, or storm water utility.

199—41.2(476) Applicability and purpose.

41.2(1) Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

41.2(2) Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4). Rule 199—41.5(476) sets the initial filing requirements in a ratemaking principles proceeding related to the acquisition.

199—41.3(476) Application for predetermined ratemaking principles; contents. Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the board. An application may be for one facility or a combination of facilities necessary to meet the current and future resource needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available.

41.3(1) General information. An application shall include the following general information:

- a. The purpose of the proposed facility.
- b. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.
- c. For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers and parks within the site impact area(s).
- d. A general description of the proposed facility, including a description of the principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility which is proposed to be available for use by each participant; the number and type of generating units; the primary fuel source for each such unit; the total hours of operation anticipated seasonally and annually and output during these hours; the expected capacity factors; a description of the general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility; and a schedule for the facility’s construction and utilization, including the projected date

when a significant site alteration is proposed to begin and the projected in-service date of the facility. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available shall be considered a single unit.

e. A general description of all raw materials, including fuel, used by the proposed facility in producing electricity and of all wastes created in the production process. In addition to describing the wastes created in the production process, the applicant shall determine annual expected emissions from the facility and provide a plan for acquiring allowances sufficient to offset these emissions. The applicant shall describe all transportation facilities currently operating that will be available to serve the proposed facility, and any additional transportation facilities needed to deliver raw materials and to remove wastes.

f. An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

g. A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.

h. An analysis of the existing transmission system's capability to reliably support the proposed additional generation interconnection to the system. The analysis must also show that the proposed interconnection to the transmission system is consistent with standard utility practices and that the proposed interconnection does not degrade the adequacy, reliability, or operating flexibility of the existing transmission system in the area.

i. Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, the utility shall identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general contractor.

j. Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, the utility shall identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

41.3(2) *Economic evaluation of proposed facility.* An application shall include an overall economic evaluation of the facility using conventional capital evaluation techniques and the proposed ratemaking principles. The analysis shall include a comparison to other feasible sources of supply using a range of alternative assumptions and scenarios. All assumptions used in the analysis shall be disclosed. At a minimum, the evaluation shall include:

a. Net present value calculations. An application shall include annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, the utility shall also provide annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, the utility shall also provide the estimated effect the proposed facility will have on these calculations. In making these calculations, the utility shall detail the following cost assumptions:

(1) Installed cost. The utility shall provide an itemized statement of the total costs to construct the proposed facility. Such costs shall include, but not be limited to, the cost of all electric power generating units; all electric supply lines within the facility site boundary; all electric supply lines beyond the facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with said facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The costs of all electric power generating units shall include all costs of transmission and gas interconnection (if applicable). Facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt construction costs shall be adjusted by the

expected rate of inflation from the time the construction costs are calculated to the time the facility is scheduled for operation.

(2) Fixed expenses. For each year of the facility's expected life from the time of application to the end of the facility's expected life, the utility shall file expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the facility's expected life from the scheduled time of operation to the end of the facility's expected life, the utility shall file expected variable operation and maintenance costs including the cost of fuel and emission allowances. These costs shall be reported in absolute terms and on a kWh basis assuming expected annual capacity factors for the facility.

b. Cost of capital. The utility shall provide its projected costs of capital for the proposed facility for each year of the facility's expected life from the time of application to the end of the facility's expected life. All assumptions used in the projections shall be provided, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

c. Cash flows. The utility shall provide the estimated maximum, minimum and expected cash inflows and outflows associated with the facility in each year from the date of the application throughout the facility's expected life.

41.3(3) Risk mitigation factors. At a minimum, the following information regarding contractual risk mitigation factors shall be included in an application:

a. Construction risk mitigation factors. The utility shall provide a general description of the contractual standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased by the utility, the utility shall identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

b. Operational risk mitigation factors. The utility shall provide a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

41.3(4) Noncost factors. The utility shall include in its application a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.

b. Environmental impact to the state and community where the facility is proposed to be located.

c. Electric supply reliability and security in the state.

d. Fuel diversity and use of nontraditional supply sources such as alternate energy and conservation.

e. Efficiency and control technologies.

41.3(5) Filing requirements for proposed ratemaking principles. Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

a. *Cost of equity.* Proposals for establishing the cost of equity shall be supported with analyses which demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

b. *Depreciable life.* Proposals for establishing the depreciable life of the facility shall be supported by board precedent for the depreciable lives of similar facilities, the manufacturer's opinion

of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

c. Jurisdictional allocations. Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies.

41.3(6) Additional application requirements for leasing arrangements. The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

a. Identification of the method used in selecting the affiliate or independent third party to build the facility (i.e., competitive solicitation, sole source, etc.).

b. A copy of the lease agreement.

c. A detailed description of the lease agreement, including but not limited to the following:

(1) Commitment of capacity from the proposed facility to the utility under the lease agreement.

(2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.

(3) Identification of the party responsible for operating, dispatching, and maintaining the facility.

(4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.

(5) Identification of the party responsible for contracting capacity from the proposed facility.

(6) Identification of the party benefitting from revenues received through contracted capacity and opportunity sales.

d. If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate's corporate structure and the utility's ownership stake in the affiliate, if any.

e. If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.

f. If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

199—41.4(476) Coincident filing. The utility shall have the option of filing its application for ratemaking principles, as required by this chapter, coincident with the utility's application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility. A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall file an application for approval of the acquisition with the board. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates shall be determined as part of the board's review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements.

41.5(1) General information. An application shall include the following general information:

a. A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.

b. The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.

c. A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the board's procedural rules in 199—Chapter 7.

41.5(2) Acquisition information. An application shall include the following information related to the acquisition:

- a. The final reports of both appraisals prepared pursuant to Iowa Code section 388.2A(2)“a”(2).
- b. Final fair market value of the system as identified in Iowa Code section 388.2A(2)“b.”
- c. The final price for the system as negotiated pursuant to Iowa Code section 388.2A(2)“c.”
- d. An inventory of the acquired system’s real and personal property as identified in Iowa Code section 388.2A(2)“d.”
- e. A financial information sheet prepared pursuant to Iowa Code section 388.2A(2)“e.”
- f. An affirmation that the acquiring utility and the acquired system have complied with the applicable components of Iowa Code section 388.2A.
- g. The proposed acquisition contract.

41.5(3) Impact of acquisition. An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

- a. If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.
- b. Any anticipated staffing changes due to the proposed acquisition.
- c. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.
- d. A description of the anticipated effects of the acquisition, including a cost-benefit analysis which describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.
- e. An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.
- f. Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.
- g. Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.
- h. The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.
- i. A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility’s ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

41.5(4) Ratemaking principles. Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

- a. *Cost of equity.* The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.
- b. *Ratepayer allocations.* Proposals for allocating the cost of the acquired system to customers of the acquired system and the utility’s existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.
- c. *Initial depreciable value.* Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the fair market value of the system as determined consistent with Iowa Code section 388.2A(2)“b.” The utility shall also provide the accumulated depreciation balances for the assets.
- d. *Depreciable life.* Proposals for establishing rates which will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility’s last general rate case.

199—41.6(476) Waiver. A utility may seek a waiver of any requirement of this chapter. The request for a waiver shall include the utility's reasons for believing the requirement is not applicable or necessary. A request for a waiver shall also comply with rule 199—1.3(17A,474,476).

These rules are intended to implement Iowa Code sections 476.53 and 476.84.