UTILITIES DIVISION[199]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 15
"Cogeneration and Small Power Production"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.58

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.1, 476.8, 476.41, and 476.45; Section 210 of the Public Utility Regulatory Policies Act of 1978; and 18 CFR Part 292

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

May 16, 2024 9 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The intended benefit of the proposed chapter is to promote the safe and adequate service to the public through the effective regulation of cogeneration and small power production and to provide for the means of implementing tax credits as provided under Iowa law.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Because the proposed rules provide procedures for electric utilities, the costs are paid by said electric utilities.

- Classes of persons that will benefit from the proposed rulemaking:

All persons benefit from adequate regulation of utilities, and the provisions providing for the application of tax benefits and cost recovery programs will benefit consumers by reducing electric utility costs.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There are some additional costs, mainly administrative costs, to utilities in following tariff procedures, application guidelines, and setting certain standard rates for purchases by qualifying facilities.

- Qualitative description of impact:

The rules implemented in the chapter allow for electric utility costs from cogeneration and small power production to be effectively and efficiently reduced, which benefits all Iowans.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal costs of operation for inspections that are part of the Board's review procedures.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The proposed changes to the rules modernize the rules by reducing outdated and unnecessary language, which will promote efficiency and reduce burdens on electric utilities and the Board in the future.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The proposed rules are the least costly and least intrusive method for achieving the purpose of the rules.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternatives to the proposed rulemaking were seriously considered by the Board.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The proposed rulemaking was the least restrictive method of achieving the purpose and benefits of the rules.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 15 and adopt the following **new** chapter in lieu thereof:

UTILITIES AND
TRANSPORTATION DIVISIONS

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

199—15.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), in effect on October 24, 1992, 16 U.S.C. 2601, et seq., have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

"AEP facility" means: (1) an electric production facility that derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning; (2) a hydroelectric facility at a dam; (3) 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; or (4) transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

"Alternate energy purchase (AEP) program" means a utility program that allows customers to contribute voluntarily to the development of alternate energy in Iowa.

"Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both that, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

"Backup power" means electric energy or capacity supplied by an electric utility to qualifying facilities and AEP facilities to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

"Distributed generation facility" means a qualifying facility, an AEP facility, or an energy storage facility.

"Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with qualifying facilities and AEP facilities, to the extent the costs are in excess of the corresponding costs that the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

"Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

"Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of qualifying facilities and AEP facilities.

"Purchase" means the purchase of electric energy or capacity or both from qualifying facilities and AEP facilities by an electric utility.

"Qualifying facility" means a cogeneration facility or a small power production facility that is a qualifying facility under 18 CFR Part 292, Subpart B, in effect April 5, 2021.

"Sale" means the sale of electric energy or capacity or both by an electric utility to qualifying facilities and AEP facilities.

"Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by qualifying facilities and AEP facilities in addition to that which the facility generates itself.

"System emergency" means a condition on a utility's system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

199—15.2(476) Scope. These rules do not:

15.2(1) Limit the authority of any electric utility, any qualifying facility, or any AEP facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions that would otherwise be required by these rules; or

15.2(2) Affect the validity of any contract entered into between an electric utility and a qualifying facility or AEP facility for any purchase.

199—15.3(476) Information to board. In addition to the information required to be supplied to the board under 18 CFR 292.302, in effect April 9, 1980, all rate-regulated electric utilities will maintain records of contracts executed for the purchase, sale, or resale of energy or capacity, which will be made available to the board upon request.

199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities.

15.4(1) *Obligation to purchase from qualifying facilities.* Each electric utility shall purchase any energy and capacity that is made available from a qualifying facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.4(4).

15.4(2) *Obligation to sell to qualifying facilities.* Each electric utility shall sell to any qualifying facility any energy and capacity requested by the qualifying facility.

15.4(3) *Obligation to interconnect.* Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with 199—Chapter 45. However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act, in effect December 4, 2015.

15.4(4) *Transmission to other electric utilities.* If a qualifying facility agrees, an electric utility that would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subrule as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

15.4(5) *Parallel operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities.

15.5(1) *Rates for purchases.* Rates for purchases shall:

a. Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

b. Not discriminate against qualifying cogeneration and small power production facilities.

15.5(2) *Relationship to avoided costs.* For purposes of this subrule, "new capacity" means any purchase from a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subrule 15.5(6); except that a rate for purchases other than from new capacity may be less than the avoided cost if the board determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

15.5(3) *Standard rates for purchases.* Electric utilities will file and maintain with the board tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts (kW) or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kW or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility's avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the board for an allowance of the capacity credit. The petition shall be handled by the board as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

15.5(4) *Other purchases.* Rates for purchases from qualifying facilities with a design capacity of greater than 100 kW shall be determined in contested case proceedings before the board unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

15.5(5) *Purchases "as available" or pursuant to a legally enforceable obligation.* Each qualifying facility shall have the option either:

a. To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

b. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: the avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

15.5(6) *Factors affecting rates for purchases.* In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

a. The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.

b. The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.

c. The time of day or season during which capacity or energy is available, including:

(1) The ability of the utility to dispatch the qualifying facility;

(2) The expected or demonstrated reliability of the qualifying facility;

(3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

(4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including the qualifying facility's ability to separate its load from its generation; and

(6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

15.5(7) *Periods during which purchases are not required.* An electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those that the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that the electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. An electric utility that fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the board.

199—15.6(476) Rates for sales to qualifying facilities and AEP facilities by rate-regulated utilities. Rates for sales to qualifying facilities and AEP facilities shall be just, reasonable and in the public interest, and shall not discriminate against qualifying facilities and AEP facilities in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities and AEP facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of qualifying facilities and AEP facilities can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.7(476) Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities.

15.7(1) Upon request of qualifying facilities and AEP facilities, each electric utility shall provide supplementary, backup, maintenance, and interruptible power. Rates for such service will comply with subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

15.7(2) The board may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

a. Impair the electric utility's ability to render adequate service to its customers, or

b. Place an undue burden on the electric utility.

199—15.8(476) System emergencies. For purposes of this rule, "electric utility" means a rate-regulated electric utility. Qualifying facilities and AEP facilities shall provide energy or capacity to an electric utility during a system emergency only to the extent:

15.8(1) Provided by agreement between the qualifying facility or AEP facility and the electric utility; or

15.8(2) Ordered under Section 202(c) of the Federal Power Act, in effect December 4, 2015. During any system emergency, an electric utility may immediately discontinue:

a. Purchases from qualifying facilities and AEP facilities if purchases would contribute to the emergency; and

b. Sales to qualifying facilities and AEP facilities, provided that the discontinuance is on a nondiscriminatory basis.

199—15.9(476) Standards for interconnection, safety, and operating reliability. For purposes of this rule, "electric utility" or "utility" means both rate-regulated and non-rate-regulated electric utilities.

15.9(1) *Acceptable standards.* The interconnection of distributed generation facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, IEEE Standard 1547, in effect April 6, 2018. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-2014; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems, published February 22, 2008.

b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

c. National Electrical Code, ANSI/NFPA 70-2014.

15.9(2) *Interconnection facilities.*

a. A distributed generation facility placed in service after July 1, 2015, is required to have a disconnection device that is installed, owned, and maintained by the owner of the distributed generation facility and is easily visible and adjacent to an interconnection customer's electric meter at the facility. Disconnection devices are considered easily visible and adjacent: for a home or business, up to 10 feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade; or for large areas with multiple buildings that require electric service, up to 30 feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade. The disconnection device shall be labeled with a permanently attached sign with clearly visible letters that gives procedures/directions for disconnecting the distributed generation facility.

(1) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, adds generation capacity to its existing system that does not require upgrades to the electric meter or electrical service, a disconnection device is not required unless required by the electric utility's tariff. The customer must notify the electric utility before the generation capacity is added to the existing system.

(2) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, upgrades or changes its electric service, the new or modified electric service must meet all current utility electric service rule requirements.

b. For all distributed generation installations, the customer shall provide and place a permanent placard no more than 10 feet away from the electric meter. The placard must: be visible from the electric meter, clearly identify the presence and location of the disconnection device for the distributed generation facilities on the property, be made of material that is suitable for the environment, and be designed to last for the duration of the anticipated operating life of the distributed generation facility. If no disconnection device is present, the placard shall state "no disconnection device."

If the distributed generation facility is not installed near the electric meter, an additional placard must be placed at the electric meter to provide specific information regarding the distributed generation facility and the disconnection device.

c. The interconnection includes overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

d. Distributed generation facilities with a design capacity of 100 kW or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

e. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

15.9(3) *Access.* If a disconnection device is required, the operator of the distributed generation facility, the utility, and emergency personnel shall have access to the disconnection device at all times. For distributed generation facilities installed prior to July 1, 2015, an interconnection customer may elect to provide the utility with access to a disconnection device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the disconnection device. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to utility operating personnel for accessing the disconnection device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

15.9(4) *Inspections and testing.* The operator of the distributed generation facility shall adopt a program of inspection and testing of the generator, its appurtenances, and the interconnection facilities in order to determine necessity for replacement and repair. Such a program shall include all periodic tests and maintenance prescribed by the manufacturer. If the periodic testing of interconnection-related protective functions is not specified by the manufacturer, periodic testing shall occur at least once every five years. All interconnection-related protective functions shall be periodically tested, and a system that depends upon a battery for trip power shall be checked and logged. The operator shall maintain test reports and shall make them available upon request by the electric utility. Representatives of the utility shall have access at all reasonable hours

to the interconnection equipment specified in subrule 15.10(3) for inspection and testing with reasonable prior notice to the applicant.

15.9(5) *Emergency disconnection.* In the event that an electric utility or its customers experience problems caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the distributed generation facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

15.9(6) *Notification.* When the distributed generation facility is placed in service, owners of interconnected distributed generation facilities are required to notify local fire departments via U.S. mail of the location of distributed generation facilities and the associated disconnection device(s). The owner is required to provide any information related to the distributed generation facility as reasonably required by that local fire department including but not limited to:

a. A site map showing property address; service point from utility company; distributed generation facility and disconnect location(s); location of rapid shutdown and battery disconnect(s), if applicable; property owner's or owner's representative's emergency contact information; utility company's emergency telephone number; and size of the distributed generation facility.

b. Information to access the disconnection device.

c. A statement from the owner verifying that the distributed generation facility was installed in accordance with the current state-adopted National Electrical Code.

15.9(7) *Disconnections.* If an interconnection customer fails to comply with this rule, the electric utility may disconnect the applicant's distributed generation facility until the facility complies. The disconnection process shall be specified in individual electric utility tariffs or in the interconnection agreement. If separate disconnection of only the distributed generation facility is not feasible or safe, the customer's electric service may be disconnected as provided in 199—Chapter 20.

15.9(8) *Reconnections.* If a customer's distributed generation facility or electric service is disconnected due to noncompliance with this rule, the customer shall be responsible for payment of any costs associated with reconnection once the facility is in compliance with the rules.

199—15.10(476) Additional rate-regulated utility obligations regarding AEP facilities.

15.10(1) *Obligation to purchase from AEP facilities.* Each utility shall purchase, pursuant to contract, its share of at least 105 megawatts (MW) of AEP generating capacity and associated energy production. The utility's share of 105 MW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 Federal Energy Regulatory Commission (FERC) Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105 MW is determined to be as follows:

	Percentage Share of Iowa Peak	Utility Share of 105 MW
Interstate Power and Light	47.43%	49.8 MW
MidAmerican Energy	52.57%	55.2 MW

15.10(2) *Annual reporting requirement.* Each utility shall file an annual report listing nameplate MW capacity and associated monthly megawatt-hour (MWH) purchased from AEP facilities.

15.10(3) *Net metering.* Each utility shall offer to operate in parallel through either net metering (with a single meter monitoring only the net amount of electricity sold or purchased) or inflow-outflow billing with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the tariffed rate.

199—15.11(476) Alternate energy purchase programs. This rule shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers. This rule only applies to utilities that elect rate regulation pursuant to Iowa Code section 476.1A where specifically stated.

15.11(1) *Obligation to offer programs.*

a. All utilities will file plans with the board for alternative energy purchase programs pursuant to Iowa Code section 476.47.

b. Each rate-regulated electric utility shall demonstrate on an annual basis that it produces or purchases sufficient energy from program AEP facilities located in Iowa to meet the needs of its Iowa program. These Iowa-based AEP facilities shall not include AEP facilities for which the utility has sought cost recovery under the board's "electric energy automatic adjustment" rule in 199—Chapter 20 prior to July 1, 2001.

15.11(2) *Customer notification.*

a. Notifications for the implementation or modification of AEP programs pursuant to Iowa Code section 476.47(3) will include the following, as applicable:

(1) A description of the availability and purpose of the program or program modification, clarifying that customer contributions will not involve the direct sale of alternate energy to individual customers;

(2) The effective date of the program or program modification;

(3) Customer classes eligible for participation;

(4) Forms and levels of customer contribution available to program participants;

(5) A utility telephone number for answering customers' questions about the program; and

(6) Customer instructions that explain how to participate in the program.

b. In addition to the notification requirements under paragraph 15.11(2)*"a,"* each rate-regulated electric utility shall:

(1) Include fuel report information described under subrule 15.11(5); and

(2) Submit the proposed notification to the board for approval at least 30 days prior to the proposed date of issuance of the notification.

15.11(3) *Program plan filing requirements for rate-regulated utilities.* Rate-regulated electric utilities shall file with the board a plan for the utility's alternate energy purchase program. Initial program plans and any subsequent modifications will be subject to board approval. The initial program plan filing shall include:

a. The program tariff;

b. The program effective date;

c. A sample of the customer notification, including a description of the method of distribution;

d. Customer classes eligible for participation and the schedule for extending participation to all customer classes;

e. Identification of each AEP facility used for the program, including:

(1) Fuel type;

(2) Nameplate capacity;

(3) Estimated annual kilowatt-hour (kWh) output;

(4) Estimated in-service date;

(5) Ownership, including any utility affiliation;

(6) A copy of any contract for utility purchases from the facility;

(7) A description of the method or procedure used to select the facility;

(8) Facility location; and

(9) If the facility is located outside of Iowa, an explanation of how the facility qualifies under Iowa Code section 476.47(4);

f. The forms and levels of customer contribution available to program participants, including but not limited to:

(1) kWh rate premiums applied to percentages of participant kWh usage, with an explanation of how the kWh rate premiums are derived; or

(2) kWh rate premiums applied to fixed kWh blocks of participant usage, with an explanation of how the kWh rate premiums are derived; or

(3) Fixed contributions, with an explanation of how the fixed amounts are derived;

g. The maximum allowable time lag between the beginning of customer contributions and the in-service date for identified AEP facilities, and the procedures for suspending customer contributions if the maximum time lag is exceeded;

h. The intended treatment of program participants under the board's "electric energy automatic adjustment" rule in 199—Chapter 20;

i. An accounting plan for identifying and tracking participant contributions and program costs, including:

(1) Identification of incremental program costs not otherwise recovered through the utility's rates, including but not limited to program start-up and administration costs, program marketing costs, and program energy and capacity costs associated with identified AEP facilities;

(2) Methods for quantifying, assigning, and allocating costs of the program and for segregating those costs in the utility's accounts; and

j. A marketing and customer information plan, including schedules and copies of all marketing and information materials, as available.

15.11(4) *Annual reporting requirements for rate-regulated utilities.* Each rate-regulated electric utility shall file with the board a report of program activity for the previous calendar year. The annual report shall include:

a. Program information, including:

(1) The number of program participants, by customer class;

(2) Participant contribution revenues, by customer class, by form and level of contribution, and by associated participant kWh sales;

(3) Program electricity generated from each program AEP facility and the associated costs; and

(4) Other program costs, by cost type.

b. An annual reconciliation of participant contributions and program costs.

(1) Program costs are incremental costs associated with the utility's alternate energy purchase program not otherwise recovered through the utility's base tariff rates, and electricity costs dedicated to the program and separated from the utility's energy automatic adjustment clause as defined in the board's "electric energy automatic adjustment" rule in 199—Chapter 20.

(2) The excess of participant contributions over program costs is an annual program surplus, and the excess of program costs over participant contributions is an annual program deficit.

(3) Annual program surpluses and deficits are cumulative over successive years.

(4) A program deficit may be recovered through the utility's energy automatic adjustment clause as defined in the board's "electric energy automatic adjustment" rule in 199—Chapter 20.

(5) Any program surplus shall be used to offset prior years' program deficits previously recovered through the energy automatic adjustment clause, and the offset amount shall be credited through the utility's energy automatic adjustment clause.

c. Identification of any other AEP or renewable energy requirements being met with program AEP facilities and identification of any revenues derived from the separate sale of the renewable energy attributes of program AEP facilities.

d. Documentation that shows the energy produced by the utility's program AEP facilities in Iowa (whether contracted, leased, or owned), not including AEP facilities for which the utility has sought cost recovery under the board's "electric energy automatic adjustment" rule in 199—Chapter 20 prior to July 1, 2001, is sufficient to meet the requirement of the utility's Iowa AEP program.

e. A description of program marketing and customer information activities, including schedules and copies of all marketing and information materials related to the program.

f. Program modifications and uses for any program surplus that are under consideration, including procurement or assignment of additional electricity from AEP facilities.

g. A copy of the utility's annual fuel report to customers under subrule 15.11(5).

15.11(5) *Annual fuel reporting requirements for rate-regulated utilities.*

a. Each rate-regulated electric utility shall annually report to all of its Iowa customers the rate-regulated electric utility's percentage mix of fuel and energy inputs used to produce electricity. The report shall, to the extent practical, specify percentages of electricity produced by coal, nuclear energy, natural gas, oil, AEP electricity produced for the utility's AEP program, non-program AEP electricity, and resources purchased from other companies. The percentages for AEP electricity shall further specify percentages of electricity produced by wind, solar, hydropower, biomass, and other technologies.

b. The report shall include an estimate of sulfur dioxide (SO_2), nitrogen oxide (NO_x), and carbon dioxide (CO_2) emissions for each known fuel and energy input type. The emission estimate shall be expressed in pounds per 1000 kWh.

15.11(6) *Tariff filing requirements for non-rate-regulated utilities.*

a. Utilities that are not subject to rate regulation or that elect rate regulation pursuant to Iowa Code section 476.1A will include the following information in tariffs filed pursuant to Iowa Code section 476.47(2)*"b"*:

(1) The program tariff;

(2) The program effective date;

(3) A sample of the customer notification, including a description of the method of distribution;

(4) Customer classes eligible for participation;

(5) Identification of any specific AEP facilities to be included in the program and the criteria listed under paragraph 15.11(3)*"e."*

(6) Forms and levels of customer contribution available to program participants.

b. Joint filings. An electric utility that is not subject to rate regulation by the board or that elects rate regulation pursuant to Iowa Code section 476.1A may file its tariff jointly with other non-rate-regulated utilities or through an agent. A joint tariff filing shall contain the information required by paragraph 15.11(6)*"a,"* separately identified for each utility participating in the joint tariff. The information for each utility may be provided by reference to an attached document or to a section of the joint tariff filing.

199—15.12(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C. Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code section 476C.3 is subject to this rule.

15.12(1) *Filing.* Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the board an application that contains substantially all of the following:

a. Information regarding the applicant, including the legal name, address, telephone number, and, as applicable, facsimile transmission number and email address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The "legal status of each owner" refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code section 476.48(1)*"c"* and as described in rule 199—15.14(476), or, alternatively, the ownership requirements as described in Iowa Code section 476C.1(6)*"b."*

c. A statement attesting that each owner meeting the eligibility requirements of Iowa Code section 476C.1(6)*"b"* does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)*"b"* with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)*"b"* with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a qualified facility as defined in Iowa Code section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code section 476C.1(7). For applications filed on or after July 1, 2011, the facility's combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a MW if all or part of the facility's renewable energy production is used for the owners' on-site consumption, and no more than 60 MW if the facility is not a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility was placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2018, for eligibility under Iowa Code chapter 476C; and

(5) For eligibility under Iowa Code chapter 476C, demonstration that the facility's combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent as defined in Iowa Code section 476C.1(7), divided by the number of separate owners who meet the requirements of Iowa Code chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or use all the renewable energy through a combination of sale and consumption. For purposes of the signed statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

h. If the owners intend to sell renewable energy produced by the facility, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement

from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

i. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

15.12(2) *Review.* Upon receipt of a complete application, the board will review the application to make a preliminary determination regarding whether the facility is an eligible renewable energy facility.

15.12(3) *Loss of eligibility status.*

a. Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status.

b. If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the board determines that the facility was not operational within 42 months of board approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.12(3)*"a"* and *"b,"* the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the board. Upon the board's receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the applicant may reapply to the board for new eligibility.

15.12(4) *Allocation of capacity among eligible applicants.* In the event the board receives applications for tax credits that, in total, exceed the statutory limits found in Iowa Code section 476C.3(4), the board will rule on the applications in the order the applications are received, based upon the date of receipt. Because the board does not track the time of day that filings are made with the board, if the board receives more than one application on a particular date such that the combined capacity of the applications exceeds applicable statutory limits, the board will allocate the final eligibility determinations proportionally among all applications received on that date. Alternatively, the board may withhold this allocation unless a petition for allocation is filed with the board by one of the applicants who filed an application on that particular date. Applicants who opt in must comply with subrule 15.12(3) after receiving eligibility under the allocation or lose their eligibility status. Applicants who do not opt in will maintain their original application date.

15.12(5) *Waiting lists for excess applications.* The board will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under subrule 15.12(2). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under subrule 15.12(4), the board will review the applications on the waiting lists based on each application's priorities, before reviewing new applications. Applications will be removed from the waiting lists after the applications are either approved or denied. Each applicant on a waiting list shall annually provide the board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code chapter 476C.

199—15.13(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C. The renewable energy tax credits equal 1.5 cents per kWh of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or $4.50 per 1 million British thermal units (Btu) of methane gas or other biogas used to generate electricity, or $4.50 per 1 million Btu of heat for a commercial purpose, generated by eligible renewable energy facilities under rule 199—15.12(476C), which is sold or used for on-site consumption by the owners. For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

For the first tax year for which tax credits can be claimed, the kWh, standard cubic feet, or Btu generated by and purchased from an eligible facility may exceed 12 months' production.

15.13(1) *Application process for renewable energy tax credits.* A renewable energy facility must be approved as eligible by the board under rule 199—15.12(476C) in order to qualify for renewable energy tax credits. Tax credit applications must be filed with the board no later than 30 days after the close of the tax year for which the credits are to be applied. The tax credit applications must be filed in the GovConnectIowa system at tax.iowa.gov/govconnectiowa.

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits related to renewable energy that is sold, as designated under paragraph 15.12(1)*"h."* Only facility owners shall be eligible to apply for tax credits related to renewable energy used for on-site consumption. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, the following information must be provided:

(1) A copy of the original application for facility eligibility under rule 199—15.12(476C), plus any subsequent amendments to the application.

(2) A copy of the board's determination approving the facility as eligible for tax credits under rule 199—15.12(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under Iowa Code chapter 476B.

(4) For any renewable energy sold, a copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under paragraph 15.12(1)*"h."*

(5) For any renewable energy sold, the owners must provide a statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person. For any renewable energy used for on-site consumption, the owners must provide a signed statement attesting under penalty of perjury that the claimed amount of electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and not sold.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2018).

(7) The total number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) For any renewable energy sold, invoices or other information that documents the number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year. For any renewable energy used for on-site consumption, the number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility during the tax year and not sold.

(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under rule 199—15.12(476C).

(10) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(11) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, effective August 16, 2022. This identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(12) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, Division II or III, the applicant shall provide the partners, members, shareholders, or beneficiaries of the entity. The applicants shall include the name, address, tax identification number, and pro-rata share of earnings from the entity for each of the partners, members, shareholders, or beneficiaries of the entity. The renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, effective August 16, 2022, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company to receive the renewable energy tax credits issued under Iowa Code chapter 476C and the percentage allocable to each. Such an entity

may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, Division V, or under Iowa Code chapter 423, 432, or 437A.

b. The board will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the board will provide staff analysis and opinion regarding:

(1) The completeness of the application.

(2) The facility's eligibility status under rule 199—15.12(476C).

(3) Whether the reported kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the facility and sold or used by the owners for on-site consumption during the tax year seem accurate and eligible for renewable energy tax credits.

15.13(2) *Review process and computation of renewable energy tax credits.* The department of revenue will review the applications and opinions forwarded by the board, calculate the tax credits, and issue renewable energy tax credit certificates to the facility owners or designated purchaser, in accordance with department of revenue requirements and procedures under the department of revenue's rules for "renewable energy tax credit" in 701—Chapter 304, "renewable energy tax credit" in 701—Chapter 501, and "renewable energy tax credit" in 701—Chapter 601.

199—15.14(476) Small wind innovation zones.

15.14(1) *Definitions.* For purposes of this rule:

"Model interconnection agreement" means the applicable standard interconnection agreement under 199—Chapter 45.

"Model ordinance" means the model ordinance developed pursuant to Iowa Code section 476.48(3), which when adopted will be posted on the websites of the Iowa League of Cities at www.iowaleague.org and the Iowa State Association of Counties at www.iowacounties.org.

15.14(2) *Application for small wind innovation zone designation.* A political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council, may apply to the board for designation as a small wind innovation zone under Iowa Code section 476.48. The application must include the following information:

a. The name, location, description, and legal boundary of the political subdivision seeking designation as a small wind innovation zone;

b. Contact information for the applicant filing on behalf of the political subdivision, including legal name, address, telephone number, and, as applicable, facsimile transmission number and email address;

c. If the political subdivision is other than a local government:

(1) Identification of the local government (or governments) that encompasses the political subdivision;

(2) Confirmation that all identified local governments have either adopted or are about to adopt the model ordinance, including copies of model ordinances adopted by the local governments or copies of pending amendments to existing zoning ordinances intended to comply with the model ordinance; and

(3) Dates the model ordinances were adopted or anticipated dates of adoption of pending amendments to existing zoning ordinances intended to comply with the model ordinance;

d. If the political subdivision is a local government:

(1) A copy of the model ordinance adopted by the local government or copy of a pending amendment to an existing zoning ordinance intended to comply with the model ordinance; and

(2) Date the model ordinance was adopted or anticipated date of adoption of the pending amendment to an existing zoning ordinance intended to comply with the model ordinance;

e. Identification of the electric utilities that provide service within the political subdivision; and

f. Documentation from each electric utility that provides service within the political subdivision confirming that the electric utility is serving the political subdivision and that the utility is either:

(1) A utility subject to the provisions of 199—Chapter 45; or

(2) A utility not subject to the provisions of 199—Chapter 45, but which nonetheless agrees to use the standard forms, procedures, and standard interconnection agreements of 199—Chapter 45 for small wind energy systems in its service territory within the political subdivision; or

(3) A utility that is not subject to the provisions of 199—Chapter 45 and has not adopted them.

NOTE: Electric utilities shall provide political subdivisions the documentation required in paragraph 15.14(2)*"f."*

15.14(3) *Motion for modification of a model interconnection agreement in a small wind innovation zone.* An electric utility that uses the standard interconnection agreements in 199—Chapter 45 and the owner of a small wind energy system in a small wind innovation zone may jointly seek to modify the electric utility's and the owner's version of the model interconnection agreement by jointly filing a motion for board approval. The motion must include the following information:

a. The name, location, and description of the political subdivision designated as a small wind innovation zone;

b. The interconnecting electric utility;

c. Information regarding the owner of the small wind energy system, including legal name, address, telephone number, and, as applicable, facsimile transmission number and email address;

d. Description of the small wind energy system, including location and nameplate generating capacity;

e. A copy of the modified interconnection agreement clearly identifying the proposed modifications;

f. A description of the reasons and circumstances that require the modifications; and

g. Signed statements from the electric utility and the owner of the small wind energy system attesting that the proposed modifications to the interconnection agreement are mutually agreeable.

15.14(4) *Annual reporting requirement.* Utilities that have one or more small wind innovation zones in its service territory shall file an annual report for the previous calendar year listing the nameplate kW capacity of each small wind energy system that was interconnected (or previously interconnected) with the utility and produced electricity in each of the small wind innovation zones served by the utility.

These rules are intended to implement Iowa Code sections 476.1, 476.8, and 476.41 to 476.45; Section 210 of the Public Utility Regulatory Policies Act of 1978; and 18 CFR Part 292.