

#### **476.44 Exceptions.**

1. The board shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following:

*a.* Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

*b.* Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. An electric utility subject to this division, except a utility that elects rate regulation pursuant to section 476.1A, shall not be required to own or purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to own or purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

83 Acts, ch 182, § 5; 90 Acts, ch 1252, § 38; 92 Acts, ch 1163, § 97; 92 Acts, ch 1166, § 1; 2003 Acts, ch 29, §3, 6