

476.53 Electric generating and transmission facilities.

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

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

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

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

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

- (a) Conversion of a coal fueled facility into a gas fueled facility.
- (b) Addition of carbon capture and storage facilities at a coal fueled facility.
- (c) Addition of gas fueled capability to a coal fueled facility, in order to convert the facility to one that will rely primarily on gas for future generation.
- (d) Addition of a biomass fueled capability to a coal fueled facility.

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

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

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

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

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

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

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

e. The order setting forth the applicable ratemaking principles shall be issued prior to the commencement of construction or lease of the facility.

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

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

(2) Proceeding with the construction or lease of the facility.

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

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

83 Acts, ch 127, §36, 50; 2001 Acts, 1st Ex, ch 4, §12, 36; 2002 Acts, 2nd Ex, ch 1003, §31, 35; 2003 Acts, ch 29, §5, 6; 2003 Acts, ch 159, §2 – 4; 2004 Acts, ch 1101, §67; 2010 Acts, ch 1176, §2, 3; 2010 Acts, ch 1193, §55, 69, 80