

199—40.1(476) General information.

40.1(1) Definitions. The following words and terms when used in these rules will have the meaning indicated below:

“*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.

“*Arm’s-length transaction*” means a standard of conduct under which unrelated parties, each acting in its own best interest, would carry out a particular transaction. Applied to related parties, a transaction is at arm’s length if the transaction could have been made on the same terms to a disinterested third party in a bargained transaction where each party has substantially the same bargaining power.

“*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.

“*RFP*” means request for proposals.

“*Supply-side resource*” means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and nonutilities. Supply-side resources include modifications to existing generating facilities.

“*Utility*” as defined in this chapter refers to a rate-regulated electric public utility selling to retail customers in Iowa.

40.1(2) Applicability and purpose. The rules apply to any rate-regulated electric public utility choosing to establish a competitive bidding process under Iowa Code Supplement section 476.53(3)“c”(2). The rules establish minimum requirements for bidding processes used to purchase supply. Under these rules, bids compete not only with other bids but also with the utility’s own build or lease options. Utilities maintain the right to secure or free up electric capacity and energy through means other than a competitive bidding process.

40.1(3) General guidelines for resource acquisition. The utility, as part of any solicitation under its competitive bidding process, will provide estimates of the cost the utility would incur in building or leasing the desired resource consistent with the requirements of 199 IAC 40.3(476).

40.1(4) Waivers. The utility may file for a waiver of any or all of these bidding process requirements. In making a decision regarding the granting of a waiver, the board shall consider, among other things, whether the utility is investor-owned, the timing of the solicitation, requirements of other regulatory bodies having jurisdiction over the utility, and whether or not an affiliate of the utility is considering bidding on the project.