

199—26.16(476) Rate regulation election—electric cooperative corporations and associations.

26.16(1) Application of rules. Electric cooperative corporations and associations shall not be subject to the jurisdiction of the commission except as provided in Iowa Code section 476.1A and this chapter.

a. Procedure for election by members. Upon petition of not less than 10 percent of the members of an electric cooperative or upon its own motion, the board of directors of an electric cooperative shall order a referendum election to be held to determine whether the electric cooperative shall be subject to the jurisdiction of the commission. A petition for election shall be completed within 60 days of commencement.

(1) Any member of an electric cooperative desiring a referendum election shall sign a petition for election addressed to the board of directors of an electric cooperative, in substantially the following form:

PETITION FOR ELECTION

TO: (Board of Directors of subject electric cooperative)

The undersigned members request you call an election to submit to the members the following proposition:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the Iowa Utilities Commission?

Signature

Address

Date

(2) Where signatures are made on more than one sheet, each sheet of the petition shall reproduce above the signatures the same matter as is on the first sheet. Each petitioner shall sign the petitioner's name in the petitioner's own handwriting and shall write the petitioner's address and the date on which the petitioner signed.

(3) The petition shall be filed with the board of directors of the electric cooperative and an election shall be held not less than 60 days nor more than 90 days from the date on which the petition was filed.

(4) On the election date, the board of directors of the electric cooperative shall mail by first-class mail to each member of the electric cooperative a ballot containing the following language:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the Iowa Utilities Commission? Yes/No.

(5) The ballot shall also contain a self-addressed envelope to return the ballot to the secretary of the board of directors of the electric cooperative. The ballot shall be dated when received by the secretary. The ballot must be received by the secretary not more than 30 days after it was mailed to the members. The election procedure shall require a signature form for verification, but shall not allow the signature to be traced to the vote of a particular member.

(6) The issue in the election shall be decided by a majority of the members voting, whose ballots are received by the secretary. Fifty-one percent of the membership shall constitute a quorum for the election. The secretary shall certify the results of the election and file the results with the commission within 30 days of the election.

b. Procedure for election by commission. Upon the resolution of a majority of the board of directors of an electric cooperative, the board of directors may elect to be subject to the jurisdiction of the utilities commission. The secretary of the board of directors of the electric cooperative shall file a certified copy of the resolution with the board of directors within 30 days of the adoption of the resolution.

c. Effective date. Upon the resolution of a majority of the board of directors of an electric cooperative or when a majority of the members voting vote to place the cooperative under the jurisdiction of the commission, the utilities commission shall determine an effective date of its jurisdiction, which shall be not more than 90 days from the election. On and after the effective date of jurisdiction, the cooperative shall be subject to regulation by the utilities commission.

d. Prohibited acts. Funds of an electric cooperative shall not be used to support or oppose the issue presented in the election. Nothing shall prohibit a letter of explanation and direction from being enclosed with the ballot.

e. Procedure for exemption. After the cooperative has been under the jurisdiction of the commission for two years, the members or the board of directors of the electric cooperative may elect to remove the cooperative from under the jurisdiction of the commission as allowed by Iowa Code section 476.1A(4). If the membership elected to have the cooperative's rates regulated by the commission, only the membership may elect to exempt the cooperative from the rate regulation authority of the commission.

f. Frequency of election. An electric cooperative shall not conduct more than one election pursuant to this subrule within a two-year period.

26.16(2) Rate increase requirements—rural electric cooperatives. The commission's consideration of the fair and reasonable level of rates necessary for rural electric cooperatives that have elected to be subject to rate regulation by the commission shall include the following:

a. Minimum filing requirements. An electric cooperative subject to rate regulation proposing changes in tariffs or rates which relate to a general increase in revenue shall prepare and file with its proposed tariff evidence in the form of testimony and exhibits.

b. Factors relating to value. A statement showing the original cost of the items of plant and facilities, for the beginning and end of the last available calendar year, and any other factors relating to the value of the items of plant and facilities the utility deems pertinent to the commission's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

c. Comparative operating data. Information covering the test year.

(1) Operating revenue and expenses by primary account.

(2) Balance sheet at beginning and end of test year.

d. Test year and pro forma income statements. Information setting forth revenues, expenses, net operating income of the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates. The format of the information to be filed is available on the commission's website at iuc.iowa.gov.

e. After investigation of the historic test year results and pro forma adjustments thereto, the commission shall determine the extent to which the applicant has met the following conditions:

(1) Revenues are sufficient for a times interest earned ratio between 1.5 and 3.0 for coverage of interest on outstanding utility short-term and long-term debt; or

(2) Revenues are sufficient for a debt service coverage ratio between 1.25 and 2.5 on utility long-term debt; or

(3) Utility operating margins are sufficient for a ratio between 1.5 and 2.5 of utility operating margins to interest on utility short-term and long-term debt; or

(4) Utility operating margins are sufficient for a ratio between 1.25 and 1.75 of utility operating margins plus utility depreciation, all divided by utility long-term interest plus principal; and

(5) Utility operating margins are sufficient to return utility patronage capital credits accumulated from utility operating margins, with a retention of such credits of no more than 20 years allowed, subject to modification where compelling circumstances require time period adjustments.

f. In addition to the information in subrule 26.12(2), evidence of the necessity for the requested rate relief may include, but need not be limited to, utility operating margins which will enable the cooperative to attain and maintain a reasonable ratio of utility long-term debt to retained utility operating margins. The cooperative's authorized construction program and an official policy statement of the cooperative's board of directors on a desired ratio will be considered factors in the determination of the reasonableness of any such ratio.

g. The commission's initial decision will become final 15 days following its date of issuance; however, if filed within that 15-day period, allegations of error by the cooperative or any intervenor as to the commission's findings of fact, together with a statement of readiness to present testimony, will serve to hold final disposition in abeyance pending the scheduling and completion of an evidentiary hearing. When such allegation is made, testimony in support of such position must be filed within 30 days of such filing. Upon receipt of the testimony, the commission will schedule additional filing dates and set the matter for hearing. When a hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of Iowa Code chapter 17A and the commission's rules and regulations thereunder.

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