

Senate File 2314

S-5191

1 Amend Senate File 2314 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 476.6, Code Supplement 2009, is  
5 amended by adding the following new subsection:

6 NEW SUBSECTION. 22. *a.* It is the intent of the  
7 general assembly to require certain rate-regulated  
8 public utilities to undertake analyses of and  
9 preparations for the possible construction of nuclear  
10 generating facilities in this state that would be  
11 beneficial in a carbon-constrained environment.

12 *b.* A rate-regulated electric utility that was  
13 subject to a revenue sharing settlement agreement with  
14 regard to its electric base rates as of January 1,  
15 2010, shall recover, through a rider and pursuant to  
16 a tariff filing made on or before December 31, 2013,  
17 the reasonable and prudent costs of its analyses of  
18 and preparations for the possible construction of  
19 facilities of the type referenced in paragraph "a".  
20 Cost recovery shall be accomplished by instituting a  
21 revenue increase applied in the same percentage amount  
22 to each customer class and not designed to recover,  
23 on an annual basis, more than five-tenths percent of  
24 the electric utility's calendar year 2009 revenues  
25 attributable to billed base rates in this state. At  
26 the conclusion of the cost recovery period, which  
27 shall extend no more than thirty-six months in total,  
28 the board shall conduct a contested case proceeding  
29 pursuant to chapter 17A to evaluate the reasonableness  
30 and prudence of the cost recovery. The utility shall  
31 file such information with the board as the board deems  
32 appropriate, including the filing of an annual report  
33 identifying and explaining expenditures identified in  
34 the rider as items for cost recovery, and any other  
35 information required by the board. If the board  
36 determines that the utility has imprudently incurred  
37 costs, or has incurred costs that are less than the  
38 amount recovered, the board shall order the utility to  
39 modify the rider to adjust the amount recoverable.

40 *c.* Costs that may be recovered through the rider  
41 described in paragraph "b" shall be consistent with  
42 the United States nuclear regulatory guide, section  
43 4.7, general site suitability criteria for nuclear  
44 power stations, revision two, April 1998, including  
45 costs related to the study and use of sites for nuclear  
46 generation.

47 Sec. 2. Section 476.53, Code 2009, is amended to  
48 read as follows:

49 **476.53 Electric generating and transmission**  
50 **facilities.**

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

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

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

26 ~~3. For purposes of this section, unless the context~~  
27 ~~otherwise requires, the terms "cogeneration pilot~~  
28 ~~project facility", "energy sales agreement", "qualified~~  
29 ~~cogeneration pilot project facility", and "utility-owned~~  
30 ~~cogeneration pilot project facility" mean the same as~~  
31 ~~defined in section 15.269.~~

32 4. ~~3. a. The board shall specify in advance, by~~  
33 ~~order issued after a contested case proceeding, the~~  
34 ~~ratemaking principles that will apply when the costs of~~  
35 ~~the electric power generating facility, or alternate~~  
36 ~~energy production facility, cogeneration pilot project~~  
37 ~~facility, or energy sales agreement are included in~~  
38 ~~regulated electric rates whenever a rate-regulated~~  
39 ~~public utility does any of the following:~~

40 (1) Files an application pursuant to section 476A.3  
41 to construct in Iowa a baseload electric generating  
42 facility with a nameplate generating capacity equal  
43 to or greater than three hundred megawatts or a  
44 combined-cycle electric power generating facility, or  
45 an alternative energy production facility as defined  
46 in section 476.42, or to significantly alter an  
47 existing generating facility. For purposes of this  
48 subparagraph, a significant alteration of an existing  
49 generating facility must, in order to qualify for  
50 establishment of ratemaking principles, fall into one

1 of the following categories:

2 (a) Conversion of a coal fueled facility into a gas  
3 fueled facility.

4 (b) Addition of carbon capture and storage  
5 facilities at a coal fueled facility.

6 (c) Addition of gas fueled capability to a coal  
7 fueled facility, in order to convert the facility  
8 to one that will rely primarily on gas for future  
9 generation.

10 (d) Addition of a biomass fueled capability to a  
11 coal fueled facility.

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

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

35 ~~(3) Enters into an agreement for the purchase of~~  
36 ~~the electric power output of a qualified cogeneration~~  
37 ~~pilot project facility or constructs a utility-owned~~  
38 ~~cogeneration pilot project facility pursuant to section~~  
39 ~~15.269.~~

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

1 customers.

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

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

8 (2) The rate-regulated public utility has  
9 demonstrated to the board that the public utility  
10 has considered other sources for long-term electric  
11 supply and that the facility, ~~or lease, or cogeneration~~  
12 ~~pilot project facility~~ is reasonable when compared  
13 to other feasible alternative sources of supply.  
14 The rate-regulated public utility may satisfy the  
15 requirements of this subparagraph through a competitive  
16 bidding process, under rules adopted by the board, that  
17 demonstrate the facility, ~~energy sales agreement,~~ or  
18 lease is a reasonable alternative to meet its electric  
19 supply needs.

20 d. The applicable ratemaking principles shall  
21 be determined in a contested case proceeding, which  
22 proceeding may be combined with the proceeding for  
23 issuance of a certificate conducted pursuant to chapter  
24 476A.

25 e. The order setting forth the applicable  
26 ratemaking principles shall be issued prior to the  
27 commencement of construction or lease of the facility,  
28 ~~or execution of an energy sales agreement related to~~  
29 ~~the cogeneration pilot project facility.~~

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

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

35 (2) Proceeding with the construction or lease  
36 of the facility ~~or implementation of an energy sales~~  
37 ~~agreement related to a cogeneration pilot project~~  
38 ~~facility.~~

39 g. Notwithstanding any provision of this chapter  
40 to the contrary, the ratemaking principles established  
41 by the order issued pursuant to paragraph "e" shall  
42 be binding with regard to the specific electric power  
43 generating facility ~~or cogeneration pilot project~~  
44 ~~facility~~ in any subsequent rate proceeding.

45 ~~5.~~ 4. The utilities board and the consumer  
46 advocate may employ additional temporary staff, or may  
47 contract for professional services with persons who  
48 are not state employees, as the board and the consumer  
49 advocate deem necessary to perform required functions  
50 as provided in this section, including but not limited

1 to review of power purchase contracts, review of  
2 emission plans and budgets, and review of ratemaking  
3 principles proposed for construction or lease of  
4 a new generating facility ~~or a cogeneration pilot~~  
5 ~~project facility~~. Beginning July 1, 2002, there is  
6 appropriated out of any funds in the state treasury not  
7 otherwise appropriated, such sums as may be necessary  
8 to enable the board and the consumer advocate to  
9 hire additional staff and contract for services under  
10 this section. The costs of the additional staff and  
11 services shall be assessed to the utilities pursuant to  
12 the procedure in section 476.10 and section 475A.6.

13 ~~6. a. A qualified cogeneration pilot project~~  
14 ~~facility may file a petition with the board for a~~  
15 ~~determination of the avoided cost of an electric~~  
16 ~~utility as provided in the federal Public Utility~~  
17 ~~Regulatory Policies Act of 1978 and related federal~~  
18 ~~regulations, if such a determination has not been made~~  
19 ~~within the last twenty-four months or if there is~~  
20 ~~reason to believe the avoided cost has changed.~~

21 ~~b. The board shall issue its determination of the~~  
22 ~~electric utility's avoided cost within one hundred~~  
23 ~~twenty days after the petition is filed.~~

24 ~~c. The board, for good cause shown, may extend the~~  
25 ~~deadline for issuing the decision for an additional~~  
26 ~~period not to exceed one hundred twenty days.~~

27 ~~d. The board shall not issue a decision under this~~  
28 ~~subsection without providing notice and an opportunity~~  
29 ~~for hearing.~~

30 ~~e. The utilities board and the consumer advocate~~  
31 ~~may employ additional temporary staff, or may contract~~  
32 ~~for professional services with persons who are not~~  
33 ~~state employees, as the board and the consumer advocate~~  
34 ~~deem necessary to perform required functions as~~  
35 ~~provided in this subsection. There is appropriated~~  
36 ~~out of any funds in the state treasury not otherwise~~  
37 ~~appropriated, such sums as may be necessary to enable~~  
38 ~~the board and the consumer advocate to hire additional~~  
39 ~~staff and contract for services under this section.~~  
40 ~~The costs of the additional staff and services shall~~  
41 ~~be assessed to the electric utility pursuant to the~~  
42 ~~procedure in sections 476.10 and 475A.6.~~

43 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being  
44 deemed of immediate importance, takes effect upon  
45 enactment.>

46 2. Title page, by striking lines 1 and 2 and  
47 inserting <An Act requiring certain rate-regulated  
48 public utilities to undertake analyses of and  
49 preparation for the possible construction of low carbon  
50 emitting nuclear generating facilities in this state,

1 permitting all rate-regulated public utilities to make  
2 significant alterations to an existing generating  
3 facility, and including effective date provisions.>

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TOM HANCOCK