

Senate File 390

S-3298

1 Amend Senate File 390 as follows:

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

4 <Section 1. Section 476.6, subsection 22, Code
5 2011, is amended by adding the following new paragraph:
6 NEW PARAGRAPH. *d.* A rate-regulated electric
7 utility that was subject to a revenue sharing
8 settlement agreement with regard to its electric
9 base rates as of January 1, 2010, shall file an
10 application for ratemaking principles applicable to
11 the construction of a nuclear generating facility
12 with the board. The application shall comply with the
13 provisions of section 476.53. In addition, the utility
14 shall remain bound by the commitments described in the
15 March 11, 1999, board order in Docket No. SPU-98-8,
16 unless such restrictions are eased by subsequent board
17 order.

18 Sec. 2. Section 476.53, Code 2011, is amended to
19 read as follows:

20 **476.53 Electric generating and transmission**
21 **facilities.**

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

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

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

47 2. a. It is also the intent of the general
48 assembly to encourage the safe and prudent development
49 of baseload nuclear electric power generation, at a
50 reasonable cost to ratepayers. Nuclear generation

1 has a long-term proven record of providing a safe,
2 reliable, and secure source of electricity in the
3 United States and offers the potential for significant
4 job creation, substantial economic development
5 benefits, and the production of electricity at
6 significantly reduced levels of regulated air emissions
7 when compared to output from other thermal generation
8 sources. Further, the general assembly recognizes
9 that meeting stringent environmental permit and
10 public health and safety requirements is expensive
11 and creates significant cost burdens on customers
12 and employers attributable to the imposition of
13 additional comprehensive and costly regulations by the
14 United States environmental protection agency that
15 dramatically increase costs to customers. Finally,
16 the general assembly recognizes that development of
17 nuclear electric power generation requires significant
18 capital investment, ongoing operating expenses, and
19 decommissioning expenses, including storage or disposal
20 of used nuclear fuel, and a substantial period of time
21 for successful nuclear generation development, siting,
22 permitting, licensing, and deployment.

23 b. The general assembly recognizes that to maximize
24 the potential for significant job creation, economic
25 development, and competitive advantage derived from a
26 robust nuclear industry, a significant workforce is
27 required to construct and operate new nuclear power
28 plants. Such jobs include skilled trades, such as
29 welders, pipe fitters, masons, carpenters, millwrights,
30 sheet metal workers, electricians, and heavy equipment
31 operators, in addition to nuclear reactor operators,
32 radiation protection specialists, and nuclear,
33 mechanical, and electrical engineers. In order for
34 this state to lead the nation in developing this
35 skilled workforce and to maximize economic development
36 related to nuclear electric power generation, the
37 general assembly intends for the state to undertake the
38 following:

39 (1) Create and implement plans to assess and
40 enhance educational and training systems to develop a
41 next-generation nuclear workforce.

42 (2) Assess the adequacy and potential expansion
43 of supply chain infrastructure to support the growing
44 nuclear industry.

45 (3) Recommend steps to attract new nuclear-related
46 businesses.

47 (4) Evaluate the economic development impact
48 affordable nuclear electric power generation will have
49 on the expansion and retention of existing industry.

50 3. a. The board shall specify in advance, by

1 order issued after a contested case proceeding, the
2 ratemaking principles that will apply when the costs
3 of the electric power generating facility or alternate
4 energy production facility are included in regulated
5 electric rates, whether collected through base rates
6 or through a rider approved under paragraph "b",
7 subparagraph (2), subparagraph division (a), whenever
8 a rate-regulated public utility does any of the
9 following:

10 (1) Files an application pursuant to section 476A.3
11 to construct do any of the following in Iowa a:

12 (a) Construct a baseload electric power generating
13 facility with a nameplate generating capacity equal to
14 or greater than three hundred megawatts or a.

15 (b) Construct a combined-cycle electric power
16 generating facility, or an.

17 (c) Construct an alternate energy production
18 facility as defined in section 476.42, or to
19 significantly.

20 (d) Significantly alter an existing generating
21 facility.

22 (i) For purposes of this subparagraph division (d),
23 a significant alteration of an existing generating
24 facility must, in order to qualify for establishment of
25 ratemaking principles, fall into one of the following
26 categories:

27 (a) (A) Conversion of a coal fueled facility into
28 a gas fueled facility.

29 (b) (B) Addition of carbon capture and storage
30 facilities at a coal fueled facility.

31 (c) (C) Addition of gas fueled capability to a
32 coal fueled facility, in order to convert the facility
33 to one that will rely primarily on gas for future
34 generation.

35 (d) (D) Addition of a biomass fueled capability to
36 a coal fueled facility.

37 (ii) With respect to a significant alteration of
38 an existing generating facility, an original facility
39 shall not be required to be either a baseload or
40 a combined-cycle facility. Only the incremental
41 investment undertaken by a utility under subparagraph
42 divisions (a), (b), (c), or (d) subdivision (i),
43 subparagraph part (A), (B), (C), or (D) shall be
44 eligible to apply the ratemaking principles established
45 by the order issued pursuant to paragraph "e".

46 ~~Facilities for which advanced ratemaking principles are~~
47 ~~obtained pursuant to this section shall not be subject~~
48 ~~to a subsequent board review pursuant to section 476.6,~~
49 ~~subsection 21 to the extent that the investment has~~
50 ~~been considered by the board under this section. To~~

1 ~~the extent an eligible utility has been authorized to~~
2 ~~make capital investments subject to section 476.6,~~
3 ~~subsection 21, such investments shall not be eligible~~
4 ~~for ratemaking principles pursuant to this section.~~

5 (2) Expresses its intent, upon completion of
6 analyses authorized pursuant to section 476.6,
7 subsection 22, for a rate-regulated utility that was
8 subject to a revenue-sharing settlement agreement with
9 regard to its electric base rates as of January 1,
10 2010, to file an application pursuant to section 476A.3
11 to build a nuclear generating facility including but
12 not limited to small modular reactor technology, or
13 expresses its intent to seek authority pursuant to a
14 combined construction and operating license or an early
15 site permit from the United States nuclear regulatory
16 commission.

17 ~~(2)~~ (3) Leases or owns in Iowa, in whole or in
18 part, a any of the following:

19 (a) A new baseload electric power generating
20 facility with a nameplate generating capacity equal to
21 or greater than three hundred megawatts or a.

22 (b) A combined-cycle electric power generating
23 facility, or a.

24 (c) A new alternate energy production facility as
25 defined in section 476.42.

26 (d) A new nuclear generating facility including but
27 not limited to small modular reactor technology.

28 b. In determining the applicable ratemaking
29 principles, the board shall not be limited to
30 traditional ratemaking principles or traditional cost
31 recovery mechanisms.

32 (1) Among the principles and mechanisms the board
33 may consider, the board has the authority to approve
34 ratemaking principles proposed by a rate-regulated
35 public utility that provide for reasonable restrictions
36 upon the ability of the public utility to seek a
37 general increase in electric rates under section 476.6
38 for at least three years after the generating facility
39 begins providing service to Iowa customers.

40 (2) In determining the applicable ratemaking
41 principles for a nuclear generating facility or for
42 a license or permit from the United States nuclear
43 regulatory commission, a ratemaking principles order
44 issued by the board shall incorporate all of the
45 following:

46 (a) Enable the utility to recover upon issuance of
47 the order, through a rider pursuant to a tariff filing,
48 a return on and a return of all prudent capitalized
49 costs and a return of all prudent noncapitalized
50 costs associated with the permitting, licensing, and

1 construction of a nuclear generating facility. The
2 amount of such cost recovery from utility customers
3 shall be reduced by the amount of any funding of such
4 costs borne by the United States department of energy
5 or any other governmental entity, and costs recovered
6 from any joint owners of the nuclear generating
7 facility. A determination of all prudent costs
8 recoverable pursuant to this subparagraph division
9 shall be made and the level and rate of the recovery
10 of such charges reset annually to reflect the level
11 of reasonable costs related to pursuit of a United
12 States nuclear regulatory commission permit or license
13 or construction costs expected to be incurred in
14 the next twelve months. A determination shall also
15 be made of any adjustment required to balance the
16 preceding period's actual expenditures and financing
17 costs with what had been projected and included
18 in costs recoverable for the preceding period. If
19 applicable, the utility shall report to the board
20 annually the budgeted and actual costs as compared to
21 the estimated total in-service cost of the nuclear
22 generating facility that was presented in the last
23 annual filing, as projected through the expected
24 in-service date of the nuclear generating facility.
25 Following issuance of the board's ratemaking principles
26 order, the utility shall file an application with the
27 board on an annual basis providing such information,
28 with the understanding that some cost components may be
29 higher than estimated and other cost components may be
30 lower. Each annual proceeding shall be completed by
31 the board within ninety days from the date of filing
32 the application. The board, for good cause shown, may
33 extend the deadline for completing an annual proceeding
34 for an additional period not to exceed ninety days.
35 The complete methodology for determination of prudent
36 costs shall be addressed as a ratemaking principle.
37 All United States nuclear regulatory commission
38 permitting or licensing costs are to be recovered over
39 a period not to exceed the estimated construction
40 period for a nuclear generating facility as determined
41 by the board. All nuclear generating facility
42 construction costs are to be recovered over a period
43 not to exceed the sum of the estimated construction
44 period for a nuclear unit, plus its useful life as
45 determined by the board. A utility's commencement of
46 cost collection shall begin promptly after completion
47 of the ratemaking principles proceeding, allowing for
48 such additional time as may be needed by the board to
49 review a compliance rider tariff filing.

50 (b) Enable the utility to recover in rates all

1 prudently incurred expenses and costs, including but
2 not limited to ongoing operations and maintenance
3 costs, decommissioning funding and site restoration
4 costs, and taxes for such a new nuclear generating
5 facility.

6 (c) Base the allowed debt, preferred stock,
7 and equity percentages on a capital structure
8 calculated using the average of the utility's actual
9 thirteen-month balances for long-term debt, preferred
10 stock, and common equity. The long-term debt and
11 preferred stock thirteen-month balances shall include
12 adjustments for thirteen-month balances of unamortized
13 discount, premium, expense, and any gain or loss on
14 reacquired securities. The costs of long-term debt
15 and preferred stock shall reflect the actual embedded
16 interest and dividend rate for each issue as well
17 as any annual amortization of unamortized discount,
18 premium, expense, and any gain or loss on reacquired
19 securities or interest rate hedges as approved by the
20 board as a ratemaking principle. The costs of common
21 equity shall reflect the following:

22 (1) The risks to which the investor's capital
23 is exposed and not the investor's source of funds by
24 comparing returns on investments in other enterprises
25 having corresponding risks.

26 (2) The investor-required cost of capital of the
27 rate-regulated utility so as to maintain its credit and
28 ability to attract capital.

29 (3) Neither directly or indirectly include
30 additional debt of the rate-regulated utility's parent
31 or other affiliates in the rate-regulated utility's
32 capital structure or cost of service, so long as
33 the utility equity ratio does not exceed fifty-five
34 percent as determined in this subparagraph division

35 (c). If the rate-regulated utility's equity ratio
36 exceeds this cap, or it is anticipated it will exceed
37 this cap, the rate-regulated utility may provide a
38 rationale to the board as to why the actual capital
39 structure is reasonable for maintaining its credit,
40 attracting capital on reasonable terms, and results in
41 reasonable costs to the rate-regulated utility's retail
42 customers. The board shall rule upon any such request
43 in a contested case proceeding.

44 (d) Allow the utility to recover return on and a
45 return of all prudent preconstruction and construction
46 costs incurred if the utility elects not to complete
47 or is precluded from completing construction of the
48 nuclear generating facility. Costs determined to be
49 prudent in prior annual review proceedings shall not
50 subsequently be redetermined to be imprudent. The

1 utility shall recover such costs over a period not to
2 exceed the sum of the estimated construction period for
3 a nuclear unit plus its useful life as determined by
4 the board.

5 (e) Allow the utility to recover the net book value
6 of any coal-fired generating facility entered into
7 service prior to 1974 and owned by the utility as of
8 January 1, 2010, that the utility commits to retire
9 in anticipation of the operation of a new nuclear
10 generating facility, and that the board determines to
11 be prudent. The board shall allow for the recovery of
12 a return on, and a return of the book value of, the
13 retired generating facility over a period not greater
14 than the remaining useful life of the facility prior to
15 a determination to retire the facility.

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

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

22 (2) The Except for an application for ratemaking
23 principles subject to paragraph "a", subparagraph (2),
24 the rate-regulated public utility has demonstrated
25 to the board that the public utility has considered
26 other sources for long-term electric supply and that
27 the facility or lease is reasonable when compared
28 to other feasible alternative sources of supply.
29 The rate-regulated public utility may satisfy the
30 requirements of this subparagraph through a competitive
31 bidding process, under rules adopted by the board,
32 that demonstrate the facility or lease is a reasonable
33 alternative to meet its electric supply needs.

34 (3) For an application for ratemaking principles
35 subject to paragraph "a", subparagraph (2), the
36 rate-regulated utility has demonstrated through a
37 detailed business case filed with the board that it
38 is prudent to build the proposed nuclear generating
39 facility.

40 d. The applicable ratemaking principles shall
41 be determined in a contested case proceeding, which
42 proceeding may be combined with the proceeding for
43 issuance of a certificate conducted pursuant to chapter
44 476A.

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

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

1 (1) Withdrawing its application for a certificate
2 pursuant to chapter 476A or withdrawing its ratemaking
3 principles application.

4 (2) Proceeding with the construction or lease
5 of the facility or efforts to pursue a United States
6 nuclear regulatory commission permit or license.

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

12 h. Any judicial action directly or indirectly
13 resulting in a modification of the board's ratemaking
14 principles order shall be applied prospectively
15 only. No refunds shall be made of revenues previously
16 collected, unless the board determines such revenues to
17 be in excess of the costs incurred or to be incurred
18 by the utility. With respect to financial commitments
19 made prior to any judicial action directly or
20 indirectly resulting in a modification of the board's
21 ratemaking principles order, the utility shall recover
22 such costs under a cancellation costs ratemaking
23 principle.

24 i. The board shall issue an order on the merits of
25 a ratemaking application within one hundred eighty days
26 after the utility files an application for ratemaking
27 principles. The board, for good cause shown, may
28 extend the deadline for ruling on the merits of the
29 application for an additional period not to exceed one
30 hundred eighty days, and by such additional time beyond
31 that period that is agreed to by the utility.

32 4. The utilities board and the consumer advocate
33 may employ additional ~~temporary~~ permanent staff, ~~or~~ and
34 may contract for professional services with persons
35 who are not state employees, as the board and the
36 consumer advocate deem necessary to perform required
37 functions as provided in this section, including but
38 not limited to review of power purchase contracts,
39 review of emission plans and budgets, and review of
40 ratemaking principles proposed for construction or
41 lease of a new generating facility, including a new
42 nuclear generating facility or United States nuclear
43 regulatory commission permit or license. The board
44 and consumer advocate may also expend funds they
45 deem necessary to train such employees and provide
46 office space and equipment. Beginning July 1, 2002,
47 there is appropriated out of any funds in the state
48 treasury not otherwise appropriated, such sums as
49 may be necessary to enable the board and the consumer
50 advocate to hire, train, house, and equip additional

1 staff and contract for services under this section.
2 The costs of the additional staff and services shall
3 be assessed to the utilities pursuant to the procedure
4 in section 476.10 and section 475A.6. The utilities
5 board and consumer advocate may each hire up to five
6 permanent employees capable of performing functions
7 required by this section. Any persons employed by the
8 board or consumer advocate to carry out the duties of
9 this section related to nuclear generating facilities
10 shall be paid at compensation rates consistent with
11 current standards in the nuclear energy industry, and
12 new salary classifications shall be established to
13 set pay ranges for skilled personnel in the nuclear
14 engineering, nuclear construction, and any other
15 professional categories in the nuclear energy industry
16 the board and consumer advocate deem appropriate,
17 including but not limited to legal, accounting, and
18 skilled examiners and inspectors.

19 5. Facilities for which advanced ratemaking
20 principles are obtained pursuant to this section shall
21 not be subject to a subsequent board review pursuant
22 to section 476.6, subsection 21, to the extent that
23 the investment has been considered by the board under
24 this section. To the extent an eligible utility has
25 been authorized to make capital investments subject to
26 section 476.6, subsection 21, such investments shall
27 not be eligible for ratemaking principles pursuant to
28 this section.

29 Sec. 3. Section 476A.6, Code 2011, is amended by
30 adding the following new subsection:

31 NEW SUBSECTION. 4. In the case of an application
32 to construct a nuclear generation facility, the
33 applicant commits to prepare plans addressing
34 United States nuclear regulatory commission and
35 federal emergency management agency public emergency
36 preparedness and response strategy requirements in
37 the event of an accident, natural disaster, or other
38 circumstance, condition, or occurrence compromising
39 the safety and security of the facility and posing a
40 potential threat to public health, safety, or welfare.
41 The plans shall also address coordination with state
42 emergency planning departments, public safety drills,
43 and emergency response testing in response to a
44 simulated nuclear disaster as required by the rules of
45 the United States nuclear regulatory commission and the
46 federal emergency management agency.

47 Sec. 4. ELECTRIC UTILITY RATE INCREASES —
48 MITIGATION STUDY. The utilities board of the utilities
49 division of the department of commerce shall conduct
50 a study to identify the potential impact to customer

1 electric utility rates resulting from recent federal
2 regulations adopted by the United States environmental
3 protection agency, and strategies to mitigate this
4 impact. The study shall be undertaken with the
5 involvement of rate-regulated electric public utilities
6 and other stakeholders identified by the board. The
7 board shall submit a report regarding the results of
8 the study by January 1, 2012.

9 Sec. 5. NUCLEAR ELECTRIC POWER GENERATION —
10 ECONOMIC DEVELOPMENT OPPORTUNITIES — TASK FORCE. The
11 governor shall appoint a task force to evaluate the
12 economic development opportunities created through
13 nuclear electric power generation in this state and to
14 develop specific plans to maximize these opportunities.
15 Task force members appointed by the governor shall
16 include but not be limited to representatives from
17 the state board of regents, the community colleges,
18 the Iowa department of workforce development, the
19 department of economic development, the department of
20 education, and utility industry leaders. The governor
21 shall appoint a chairperson from among the members.
22 The task force shall submit a report summarizing its
23 evaluation and containing recommendations to the
24 general assembly by January 1, 2012.>

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