



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

May 30, 2003

SALLY J. PEDERSON
LT. GOVERNOR

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

House File 391, an Act establishing a pilot program for the development of cogeneration facilities, providing for the development of ratemaking principles and rates for pilot program facilities, and providing for a future repeal.

House File 644, an Act providing for manure application requirements, providing for fees, making penalties applicable, and providing effective dates.

House File 654, an Act relating to the exemption of sand handling and core and mold making equipment used in the mold making process from sales and use taxes, providing refunds, and including effective and retroactive applicability date provisions.

House File 672, an Act relating to the regulation of adult day care services, providing for penalties, and providing an effective date.

House File 689, an Act relating to ethanol blended gasoline, by providing for tax credits and for their retroactive applicability, providing for refunds, and providing for an effective date.

The above House Files are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 391

AN ACT

ESTABLISHING A PILOT PROGRAM FOR THE DEVELOPMENT OF
COGENERATION FACILITIES, PROVIDING FOR THE DEVELOPMENT
OF RATEMAKING PRINCIPLES AND RATES FOR PILOT PROGRAM
FACILITIES, AND PROVIDING FOR A FUTURE REPEAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 15.269 COGENERATION PILOT
PROGRAM.

1. DEFINITIONS. For purposes of this section, unless the
context otherwise requires:

a. "Cogeneration pilot project facility" means either a
utility-owned cogeneration pilot project facility or a
qualified cogeneration pilot project facility. Both a
utility-owned cogeneration pilot project facility and a
qualified cogeneration pilot project facility must be approved
by the department of economic development for participation in
the cogeneration pilot program established pursuant to
subsection 2.

b. "Energy sales agreement" means a negotiated agreement
for the sale of the electric output from the cogeneration
pilot project, between a qualified cogeneration pilot project
facility and an electric utility.

c. "Qualified cogeneration pilot project facility" means a
qualifying facility as defined in the federal Public Utility
Regulation Policies Act of 1978, 16 U.S.C. § 2601 et seq., and
related federal regulations.

d. "Utility-owned cogeneration pilot project facility"
means a cogeneration facility owned, in whole or in part, by a
rate-regulated electric utility that produces electric energy

and thermal energy for commercial purposes and is not a qualifying facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

2. PILOT PROGRAM ESTABLISHED.

a. It is the policy of this state to foster both the development of cogeneration in Iowa and related economic development associated with cogeneration projects.

It is the policy of this state that cogeneration projects operate to the mutual benefit of businesses, industry, and electric utilities in Iowa, financially and otherwise.

b. A cogeneration pilot program is established within the department of economic development to obtain reliable energy and economic benefits associated with successful development of new, Iowa-based, electric power cogeneration strategies. The department shall develop and administer the cogeneration pilot program, according to the following:

(1) The department may choose up to two projects for participation in the cogeneration pilot program:

(a) Each cogeneration pilot project facility must involve two hundred megawatts or less of electricity, in combination with one or more other cogeneration project facilities.

(b) Each cogeneration pilot project facility must be constructed in Iowa.

(c) Each project chosen for participation in the cogeneration pilot program must also have the approval and support of the department for economic development purposes.

(2) The department may adopt specific application guidelines and deadlines by rule pursuant to chapter 17A, or follow established departmental procedures and guidelines, if applicable. The guidelines, rules, and procedures shall not require participation in a cogeneration pilot project or program by any rate-regulated public utility providing retail electric service to more than five hundred twenty thousand customers in the state as of January 1, 2003, but any such utility shall have the option to participate.

(3) The department shall assist in the implementation of the cogeneration pilot program, and monitor the progress of the participants. The department shall file its initial report assessing the results of the pilot program with the general assembly by December 1, 2004, and shall also file yearly pilot program progress updates with the general assembly through December 1, 2007.

c. The selection of a cogeneration project under this program does not authorize an electric utility to furnish or offer to furnish electric services to the public outside its assigned area of service established under sections 476.22 through 476.26.

3. FUTURE REPEAL. This section is repealed July 1, 2007. However, any utilities board proceeding that involves a cogeneration pilot project facility that is pending on July 1, 2007, and that is being conducted pursuant to section 476.53 shall be completed notwithstanding the repeal of this section.

Sec. 2. Section 476.53, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For purposes of this section, unless the context otherwise requires, the terms "cogeneration pilot project facility", "energy sales agreement", "qualified cogeneration pilot project facility", and "utility-owned cogeneration pilot project facility" mean the same as defined in section 15.269.

Sec. 3. Section 476.53, subsections 3 and 4, Code 2003, are amended to read as follows:

3. a. ~~if-a-rate-regulated-public-utility-files~~ 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, alternate energy production facility, cogeneration pilot project facility, or energy sales agreement 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~~7-or-if-a-rate-regulated-public-utility-leases.~~

(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~~7-the-board-shall-specify-in-advance7-by-order-issued-after-a-contested-case-proceeding7-the~~

~~ratemaking-principles-that-will-apply-when-the-costs-of-the-facility-are-included-in-regulated-electric-rates.~~

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

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

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 19.

(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, or cogeneration pilot project facility 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, energy sales agreement, 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, or execution of an energy sales agreement related to the cogeneration pilot project facility.

f. Following issuance of the order, the rate-regulated public utility shall have the option of proceeding with construction-or-lease-of-the-facility-in-Iowa-or-withdrawing according to either of the following:

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

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

Sec. 4. Section 476.53, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5. DETERMINATION OF AVOIDED COST FOR COGENERATION PROJECTS.

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

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

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

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

e. 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 subsection. 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 electric utility pursuant to the procedure in sections 476.10 and 475A.6.



CHRISTOPHER C. RANTS
Speaker of the House



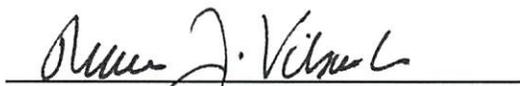
MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 391, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved May 30, 2003



THOMAS J. VILSACK
Governor