



THOMAS J. VILSACK  
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR

April 11, 2003

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
LOCAL

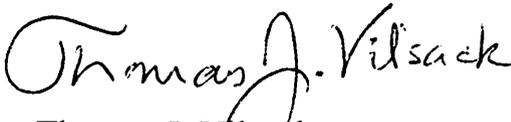
Dear Mr. Secretary:

I hereby transmit:

**House File 659**, an Act relating to ownership of alternate energy production facilities by public utilities, making related changes, and providing an effective date.

The above House File is hereby approved this date.

Sincerely,

  
Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House





HOUSE FILE 659

AN ACT

RELATING TO OWNERSHIP OF ALTERNATE ENERGY PRODUCTION FACILITIES  
BY PUBLIC UTILITIES, MAKING RELATED CHANGES, AND PROVIDING  
AN EFFECTIVE DATE.

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

Section 1. Section 476.23, subsection 1, Code 2003, is amended to read as follows:

1. An electric utility shall not construct or extend facilities or furnish or offer to furnish electric service to the existing point of delivery of any customer already receiving electric service from another electric utility without having first filed with the board the express written agreement of the electric utility presently serving this customer, except as otherwise provided in this section. Any municipal corporation, after being authorized by a vote of the people, or any electric utility may file a petition with the board requesting a certificate of authority to furnish electric service to the existing point of delivery of any customer already receiving electric service from another electric utility. If, after notice by the board to the electric utility currently serving the customer, objection to the petition is not filed and investigation is not deemed necessary, the board shall issue a certificate within thirty days of the filing of the petition. When an objection is filed, if the board, after notice and opportunity for hearing, determines that service to the customer by the petitioner is in the public interest, including consideration of any unnecessary duplication of facilities, it shall grant this certificate in whole or in part, upon such terms, conditions, and restrictions as may be justified. Whether or not an objection is filed, any certificate issued shall require that

the petitioner pay to the electric utility presently serving the customer, the reasonable price for facilities serving the customer. This price determination by the board shall include due consideration of the cost of the facilities being acquired; any necessary generating capacity and transmission capacity dedicated to the customer, including, but not limited to, electric power generating facilities and alternate energy production facilities not yet in service but for which the board has issued an order pursuant to section 476.53, and electric power generating facility emissions plan budgets approved by the board pursuant to section 476.6, subsection 25; depreciation; loss of revenue; and the cost of facilities necessary to reintegrate the system of the utility after detaching the portion sold.

Sec. 2. Section 476.43, subsection 1, Code 2003, is amended to read as follows:

1. Subject to section 476.44, the board shall require electric utilities ~~to enter into long-term contracts~~ to do both of the following under terms and conditions that the board finds are just and economically reasonable for the electric utilities' customers, are nondiscriminatory to alternate energy producers and small hydro producers, and will further the policy stated in section 476.41:

a. Purchase At least one of the following:

(1) Own alternate energy production facilities or small hydro facilities located in this state.

(2) Enter into long-term contracts to purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area ~~under the terms and conditions that the board finds are just and economically reasonable to the electric utilities' ratepayers, are nondiscriminatory to alternate energy producers and small hydro producers and will further the policy stated in section 476.41.~~

b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

Sec. 3. Section 476.44, subsection 2, Code 2003, is amended to read as follows:

2. An electric utility subject to this division, except a utility ~~which~~ that elects rate regulation pursuant to section 476.1A, shall not be required to own or purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to own or purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

Sec. 4. Section 476.45, Code 2003, is amended to read as follows:

476.45 EXEMPTION FROM EXCESS CAPACITY.

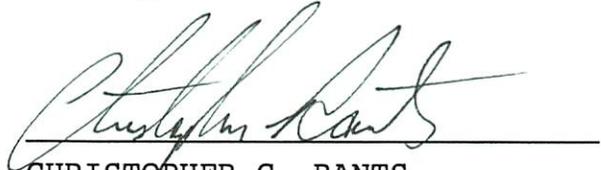
Capacity ~~purchased-from~~ of an alternate energy production facility or small hydro facility, that is owned or purchased by an electric utility, shall not be included in a calculation of an electric utility's excess generating capacity for ~~rate-making~~ ratemaking purposes.

Sec. 5. Section 476.53, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. In determining the applicable ratemaking principles, the board shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms. Among the principles and mechanisms the board may consider, the board has the authority to approve ratemaking principles proposed by

a rate-regulated public utility that provide for reasonable restrictions upon the ability of the public utility to seek a general increase in electric rates under section 476.6 for at least three years after the generation facility begins providing service to Iowa customers.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.



CHRISTOPHER C. RANTS

Speaker of the House



MARY E. KRAMER

President of the Senate

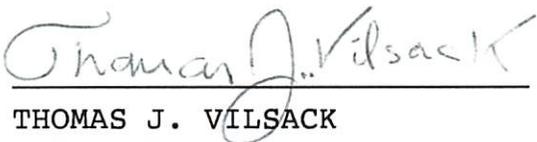
I hereby certify that this bill originated in the House and is known as House File 659, Eightieth General Assembly.



MARGARET THOMSON

Chief Clerk of the House

Approved April 11, 2003



THOMAS J. VILSACK

Governor