

FEB 13 2003

COMMERCE, REGULATION & LABOR

HOUSE FILE 199
BY WISE and JENKINS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a pilot program for the development of
2 cogeneration facilities, providing for the development of
3 ratemaking principles and rates for pilot program facilities,
4 and providing for a future repeal.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF 199

1 Section 1. NEW SECTION. 15.269 COGENERATION PILOT
2 PROGRAM.

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

5 a. "Cogeneration pilot project facility" means either a
6 utility-owned cogeneration pilot project facility or a
7 qualified cogeneration pilot project facility approved by the
8 department of economic development for participation in the
9 cogeneration pilot program established pursuant to subsection
10 2.

11 b. "Energy sales agreement" means a negotiated agreement
12 for the sale of the electric output from the cogeneration
13 pilot project, between either of the following:

14 (1) A qualified cogeneration pilot project facility and an
15 electric utility.

16 (2) A utility-owned cogeneration pilot project facility
17 and a commercial or industrial facility.

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

22 d. "Utility-owned cogeneration pilot project facility"
23 means a cogeneration facility owned, in whole or in part, by a
24 rate-regulated electric utility that produces electric energy
25 and thermal energy for commercial purposes and is not a
26 qualifying facility as defined in the federal Public Utility
27 Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and
28 related federal regulations.

29 2. PILOT PROGRAM ESTABLISHED.

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

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

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

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

9 (a) The projects shall be geographically diverse, and
10 represent different areas of Iowa, in order to test the
11 potential for cogeneration in different regions of the state.

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

15 (c) Each cogeneration pilot project facility must be
16 constructed in Iowa.

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

20 (2) The department may adopt specific application
21 guidelines and deadlines by rule pursuant to chapter 17A, or
22 follow established departmental procedures and guidelines, if
23 applicable.

24 (3) The department shall assist in the implementation of
25 the cogeneration pilot program, and monitor the progress of
26 the participants. The department shall file its initial
27 report assessing the results of the pilot program with the
28 general assembly by December 1, 2004, and shall also file
29 yearly pilot program progress updates with the general
30 assembly through December 1, 2008.

31 3. FUTURE REPEAL. This section is repealed July 1, 2008.
32 However, any utilities board proceeding that involves a
33 qualified cogeneration pilot project facility or utility-owned
34 cogeneration pilot project facility that is pending on July 1,
35 2008, and that is being conducted pursuant to section 476.53

1 shall be completed notwithstanding the repeal of this section.

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

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

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

12 3. a. ~~If a rate-regulated public utility files~~ The board
13 shall specify in advance, by order issued after a contested
14 case proceeding, the ratemaking principles that will apply
15 when the costs of the electric power generating facility or
16 energy sales agreement are included in regulated electric
17 rates whenever a rate-regulated public utility does any of the
18 following:

19 (1) Files an application pursuant to section 476A.3 to
20 construct in Iowa a baseload electric power generating
21 facility with a nameplate generating capacity equal to or
22 greater than three hundred megawatts or a combined-cycle
23 electric power generating facility, or an alternate energy
24 production facility as defined in section 476.42~~7~~~~-or-if-a~~
25 ~~rate-regulated-public-utility-leases.~~

26 (2) Leases or owns in Iowa, in whole or in part, a new
27 baseload electric power generating facility with a nameplate
28 generating capacity equal to or greater than three hundred
29 megawatts or a combined-cycle electric power generating
30 facility, or a new alternate energy production facility as
31 defined in section 476.42~~7~~~~-the-board-shall-specify-in-advance,~~
32 ~~by-order-issued-after-a-contested-case-proceeding,~~~~the~~
33 ~~ratemaking-principles-that-will-apply-when-the-costs-of-the~~
34 ~~facility-are-included-in-regulated-electric-rates.~~

35 (3) Enters into an agreement for the purchase of the

1 electric power output of a qualified cogeneration pilot
2 project facility or construction of a utility-owned
3 cogeneration pilot project facility pursuant to section
4 15.269.

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

8 c. In determining the applicable ratemaking principles,
9 the board shall make the following findings:

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

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

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

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

32 f. Following issuance of the order, the rate-regulated
33 public utility shall have the option of proceeding with
34 construction or lease of the facility in Iowa, ~~or~~ withdrawing
35 its application for a certificate under chapter 476A.

1 g. Notwithstanding any provision of this chapter to the
2 contrary, the ratemaking principles established by the order
3 issued pursuant to paragraph "e" shall be binding with regard
4 to the specific electric power generating facility or
5 cogeneration pilot project facility in any subsequent rate
6 proceeding.

7 4. The utilities board and the consumer advocate may
8 employ additional temporary staff, or may contract for
9 professional services with persons who are not state
10 employees, as the board and the consumer advocate deem
11 necessary to perform required functions as provided in this
12 section, including but not limited to review of power purchase
13 contracts, review of emission plans and budgets, and review of
14 ratemaking principles proposed for construction or lease of a
15 new generating facility or a cogeneration pilot project
16 facility. Beginning July 1, 2002, there is appropriated out
17 of any funds in the state treasury not otherwise appropriated,
18 such sums as may be necessary to enable the board and the
19 consumer advocate to hire additional staff and contract for
20 services under this section. The costs of the additional
21 staff and services shall be assessed to the utilities pursuant
22 to the procedure in section 476.10 and section 475A.6.

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

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

27 a. A qualified cogeneration pilot project facility may
28 file a petition with the board for a determination of the
29 avoided cost of an electric utility as provided in the federal
30 Public Utility Regulatory Policies Act of 1978 and related
31 federal regulations.

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

35 c. The board, for good cause shown, may extend the

1 deadline for issuing the decision for an additional period not
2 to exceed one hundred twenty days.

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

6 e. The utilities board and the consumer advocate may
7 employ additional temporary staff, or may contract for
8 professional services with persons who are not state
9 employees, as the board and the consumer advocate deem
10 necessary to perform required functions as provided in this
11 subsection. There is appropriated out of any funds in the
12 state treasury not otherwise appropriated, such sums as may be
13 necessary to enable the board and the consumer advocate to
14 hire additional staff and contract for services under this
15 section. The costs of the additional staff and services shall
16 be assessed to the electric utility pursuant to the procedure
17 in sections 476.10 and 475A.6.

18

EXPLANATION

19 This bill relates to energy and economic development.

20 The bill enacts new Code section 15.269, relating to a
21 pilot program for new electric power cogeneration facilities
22 constructed in Iowa. A pilot program for cogeneration
23 projects is established in the department of economic
24 development. The department is authorized to choose up to
25 three cogeneration projects in Iowa which are geographically
26 diverse, are 200 megawatts or less in total size, and have the
27 general approval of the department. The department shall
28 produce an initial report for the general assembly by December
29 1, 2004, with yearly updates until 2008 when the pilot program
30 is repealed. The new section is repealed effective July 1,
31 2008.

32 The bill extends to cogeneration pilot program facilities
33 meeting certain federal standards for energy production the
34 ratemaking procedure currently available in Code section
35 476.53 for other new electric generating and transmission

1 facilities: baseload electric power generating facilities,
2 combined-cycle electric power generating facilities, and
3 alternate energy production facilities. As part of the
4 overall policy statement, the general assembly indicates a
5 state policy that cogeneration projects produce mutual
6 financial benefits for project participants.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Description

House File 199 allows the Department of Economic Development to establish up to three pilot programs for new electric power cogeneration facilities constructed in Iowa, and specifies the requirements for the pilot programs. The Department of Economic Development is required to provide an initial report on program activities to the General Assembly by December 1, 2004, with updates provided each year thereafter until the program sunsets July 1, 2008. The proposed legislation extends ratemaking procedures currently available for other new electric generating and transmission facilities to cogeneration pilot program facilities meeting certain federal standards for energy production. House File 199 allows the utilities board and the consumer advocate to employ additional temporary staff or to contract for professional services with persons who are not State employees, as the board and the consumer advocate deem necessary to perform required functions of the proposed legislation. The proposed legislation appropriates funds in the State treasury not otherwise appropriated, as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services. The Bill further specifies the costs of the additional staff and services are to be assessed to the electric utility.

Assumptions

1. The Department of Economic Development would require no additional staff nor additional resources to establish and report on the pilot programs.
2. The Iowa Utilities Board would contract for assistance with review of cogeneration pilot programs. Each contract would cost approximately \$25,000 per year.
3. A maximum of three contracts would be required per year to assist with review of cogeneration pilot project facilities.
4. The Iowa Utilities Board would contract to help determine avoided costs associated with cogeneration pilot project facilities. Each contract would cost approximately \$12,500.
5. A maximum of two contracts would be required each year to assist in determining the avoided costs.
6. The maximum General Fund cost incurred in a given year would be \$100,000.
7. The Iowa Utilities Board would pay for the cost associated with these pilot programs with General Fund dollars. The electric utility would then be billed for these costs, and the Iowa Utilities Board would deposit the revenue collected in the General Fund. The net effect to the General Fund would be zero.

Fiscal Impact

The net effect of HF 199 would result in no impact to the General Fund. House File 199 would increase General Fund expenditures by up to \$100,000 annually. This cost will be assessed to the utility proposing the cogeneration facility and will be deposited in the General Fund.

Sources

Iowa Department of Economic Development
Iowa Utilities Board

/s/ Dennis C Prouty

March 5, 2003
