

MAR 26 2003

COMMERCE, REGULATION & LABOR

HOUSE FILE 659
BY GIPP and MYERS

Passed House, Date Passed 4/2/03 Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to ownership of alternate energy production
2 facilities by public utilities, making related changes, and
3 providing an effective date.

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

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HOUSE FILE 659*

H-1218

1 Amend House File 659 as follows:

1 2 1. By striking page 3, line 32, through page 4,
3 line 8, and inserting the following:

1 4 "b. In determining the applicable ratemaking
1 5 principles, the board shall not be limited to
1 6 traditional ratemaking principles or traditional cost
1 7 recovery mechanisms. Among the principles and
1 8 mechanisms the board may consider, the board has the
1 9 authority to approve ratemaking principles proposed by
1 10 a rate-regulated public utility that provide for
1 11 reasonable restrictions upon the ability of the public
1 12 utility to seek a general increase in electric rates
1 13 under section 476.6 for at least three years after the
1 14 generation facility begins providing service to Iowa
1 15 customers."

2 16 2. By renumbering, redesignating, and correcting
2 17 internal references as necessary.

2 By COMMITTEE ON COMMERCE, REGULATION AND LABOR
2 HANSEN of Pottawattamie, Chairperson

2 H-1218 FILED APRIL 7, 2003

2 Adopted 4/2/03 L2

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HF-659

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

3 1. An electric utility shall not construct or extend
4 facilities or furnish or offer to furnish electric service to
5 the existing point of delivery of any customer already
6 receiving electric service from another electric utility
7 without having first filed with the board the express written
8 agreement of the electric utility presently serving this
9 customer, except as otherwise provided in this section. Any
10 municipal corporation, after being authorized by a vote of the
11 people, or any electric utility may file a petition with the
12 board requesting a certificate of authority to furnish
13 electric service to the existing point of delivery of any
14 customer already receiving electric service from another
15 electric utility. If, after notice by the board to the
16 electric utility currently serving the customer, objection to
17 the petition is not filed and investigation is not deemed
18 necessary, the board shall issue a certificate within thirty
19 days of the filing of the petition. When an objection is
20 filed, if the board, after notice and opportunity for hearing,
21 determines that service to the customer by the petitioner is
22 in the public interest, including consideration of any
23 unnecessary duplication of facilities, it shall grant this
24 certificate in whole or in part, upon such terms, conditions,
25 and restrictions as may be justified. Whether or not an
26 objection is filed, any certificate issued shall require that
27 the petitioner pay to the electric utility presently serving
28 the customer, the reasonable price for facilities serving the
29 customer. This price determination by the board shall include
30 due consideration of the cost of the facilities being
31 acquired; any necessary generating capacity and transmission
32 capacity dedicated to the customer, including, but not limited
33 to, electric power generating facilities and alternate energy
34 production facilities not yet in service but for which the
35 board has issued an order pursuant to section 476.53, and

1 electric power generating facility emissions plan budgets
2 approved by the board pursuant to section 476.6, subsection
3 25; depreciation; loss of revenue; and the cost of
4 facilities necessary to reintegrate the system of the utility
5 after detaching the portion sold.

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

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

15 a. Purchase At least one of the following:

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

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

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

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

32 2. An electric utility subject to this division, except a
33 utility which that elects rate regulation pursuant to section
34 476.1A, shall not be required to own or purchase, at any one
35 time, more than its share of one hundred five megawatts of

1 power from alternative energy production facilities or small
2 hydro facilities at the rates established pursuant to section
3 476.43. The board shall allocate the one hundred five
4 megawatts based upon each utility's percentage of the total
5 Iowa retail peak demand, for the year beginning January 1,
6 1990, of all utilities subject to this section. If a utility
7 undergoes reorganization as defined in section 476.76, the
8 board shall combine the allocated purchases of power for each
9 utility involved in the reorganization.

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

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

24 476.45 EXEMPTION FROM EXCESS CAPACITY.

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

30 Sec. 5. Section 476.53, subsection 3, paragraph b, Code
31 2003, is amended to read as follows:

32 b. In determining the applicable ratemaking principles,
33 the board shall not be limited to traditional ratemaking
34 principles or traditional cost recovery mechanisms. In
35 particular, the board shall have the authority to consider

1 ratemaking proposals by a rate-regulated public utility that
2 facilitate the construction of an electric power generating
3 facility or an alternate energy production facility pursuant
4 to paragraph "a" and provide for reasonable restrictions on
5 the ability of the public utility to seek a general increase
6 in electric rates under section 476.6 for at least three years
7 after the generation facility begins providing service to Iowa
8 consumers.

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

11 EXPLANATION

12 This bill amends various provisions in Code chapter 476,
13 relating to public utilities. Specifically, the bill provides
14 for ownership of alternate energy production facilities by
15 public utilities, and makes related changes.

16 The bill in Code section 476.23 states the authority of the
17 utilities board to consider the cost of a utility's alternate
18 energy production facilities and other generating facilities,
19 as well as generating plant emissions plan budgets approved by
20 the board, when valuing an electric utility's property.

21 The bill provides in Code section 476.43 that public
22 utilities may own alternate energy production facilities or
23 small hydro facilities located in Iowa. The bill also
24 restructures the language in subsection 1. Related changes
25 are made in Code sections 476.44 and 476.45.

26 The bill in Code section 476.53 specifies the authority of
27 the utilities board to consider rate proposals that facilitate
28 construction of alternate energy production facilities or
29 other electric generating facilities when the proposal
30 provides for reasonable restrictions on the utility's ability
31 to seek rate increases for at least three years after the
32 generating facility begins providing service.

33 The bill is effective upon enactment.

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HOUSE FILE 659
BY GIPP and MYERS

(As Amended and Passed by the House April 2, 2003)

Passed House, Date Passed 4/2/03 Passed Senate, Date Passed 4/2/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 4/11/03

A BILL FOR

1 An Act relating to ownership of alternate energy production
2 facilities by public utilities, making related changes, and
3 providing an effective date.

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

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House Amendments _____

HF 659

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

3 1. An electric utility shall not construct or extend
4 facilities or furnish or offer to furnish electric service to
5 the existing point of delivery of any customer already
6 receiving electric service from another electric utility
7 without having first filed with the board the express written
8 agreement of the electric utility presently serving this
9 customer, except as otherwise provided in this section. Any
10 municipal corporation, after being authorized by a vote of the
11 people, or any electric utility may file a petition with the
12 board requesting a certificate of authority to furnish
13 electric service to the existing point of delivery of any
14 customer already receiving electric service from another
15 electric utility. If, after notice by the board to the
16 electric utility currently serving the customer, objection to
17 the petition is not filed and investigation is not deemed
18 necessary, the board shall issue a certificate within thirty
19 days of the filing of the petition. When an objection is
20 filed, if the board, after notice and opportunity for hearing,
21 determines that service to the customer by the petitioner is
22 in the public interest, including consideration of any
23 unnecessary duplication of facilities, it shall grant this
24 certificate in whole or in part, upon such terms, conditions,
25 and restrictions as may be justified. Whether or not an
26 objection is filed, any certificate issued shall require that
27 the petitioner pay to the electric utility presently serving
28 the customer, the reasonable price for facilities serving the
29 customer. This price determination by the board shall include
30 due consideration of the cost of the facilities being
31 acquired; any necessary generating capacity and transmission
32 capacity dedicated to the customer, including, but not limited
33 to, electric power generating facilities and alternate energy
34 production facilities not yet in service but for which the
35 board has issued an order pursuant to section 476.53, and

1 electric power generating facility emissions plan budgets
2 approved by the board pursuant to section 476.6, subsection
3 25; depreciation; loss of revenue; and the cost of
4 facilities necessary to reintegrate the system of the utility
5 after detaching the portion sold.

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

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

15 a. Purchase At least one of the following:

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

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

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

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

32 2. An electric utility subject to this division, except a
33 utility ~~which~~ that elects rate regulation pursuant to section
34 476.1A, shall not be required to own or purchase, at any one
35 time, more than its share of one hundred five megawatts of

1 power from alternative energy production facilities or small
2 hydro facilities at the rates established pursuant to section
3 476.43. The board shall allocate the one hundred five
4 megawatts based upon each utility's percentage of the total
5 Iowa retail peak demand, for the year beginning January 1,
6 1990, of all utilities subject to this section. If a utility
7 undergoes reorganization as defined in section 476.76, the
8 board shall combine the allocated purchases of power for each
9 utility involved in the reorganization.

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

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

24 476.45 EXEMPTION FROM EXCESS CAPACITY.

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

30 Sec. 5. Section 476.53, subsection 3, paragraph b, Code
31 2003, is amended to read as follows:

32 b. In determining the applicable ratemaking principles,
33 the board shall not be limited to traditional ratemaking
34 principles or traditional cost recovery mechanisms. Among the
35 principles and mechanisms the board may consider, the board

1 has the authority to approve ratemaking principles proposed by
2 a rate-regulated public utility that provide for reasonable
3 restrictions upon the ability of the public utility to seek a
4 general increase in electric rates under section 476.6 for at
5 least three years after the generation facility begins
6 providing service to Iowa customers.

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

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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 _____, 2003

THOMAS J. VILSACK
Governor