

House Study Bill 595 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act modifying various provisions relating to public
2 utilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28F.1, subsection 1, Code 2018, is
2 amended to read as follows:

3 1. **This chapter** provides a means for the joint financing
4 by public agencies of works or facilities useful and necessary
5 for the collection, treatment, purification, and disposal
6 in a sanitary manner of liquid and solid waste, sewage,
7 and industrial waste, facilities used for the conversion of
8 solid waste to energy, gasworks and facilities useful for the
9 delivery of gas service, and also electric power facilities
10 constructed within the state of Iowa, except that hydroelectric
11 power facilities may also be located in the waters and on the
12 dams of or on land adjacent to either side of the Mississippi
13 or Missouri river bordering the state of Iowa, water supply
14 systems, swimming pools or golf courses. **This chapter** applies
15 to the acquisition, construction, reconstruction, ownership,
16 operation, repair, extension, or improvement of such works
17 or facilities, by a separate administrative or legal entity
18 created pursuant to **chapter 28E** or **chapter 389**. When the
19 legal entity created under **this chapter** is comprised solely
20 of cities, counties, and sanitary districts established under
21 chapter 358, or any combination thereof or any combination of
22 the foregoing with other public agencies, the entity shall
23 be both a corporation and a political subdivision with the
24 name under which it was organized. The legal entity may sue
25 and be sued, contract, acquire and hold real and personal
26 property necessary for corporate purposes, adopt a corporate
27 seal and alter the seal at pleasure, and execute all the powers
28 conferred in **this chapter**.

29 Sec. 2. Section 28F.11, Code 2018, is amended to read as
30 follows:

31 **28F.11 Eminent domain.**

32 Any public agency participating in an agreement authorizing
33 the joint exercise of governmental powers pursuant to this
34 chapter may exercise its power of eminent domain to acquire
35 interests in property, under provisions of law then in effect

1 and applicable to the public agency, for the use of the entity
2 created to carry out the agreement, provided that the power of
3 eminent domain is not used to acquire interests in property
4 which is part of a system of facilities in existence, under
5 construction, or planned, for the generation, transmission
6 or sale of electric power, or for the transmission,
7 transportation, or sale of natural gas. In the exercise
8 of the power of eminent domain, the public agency shall
9 proceed in the manner provided by [chapter 6B](#). Any interests
10 in property acquired are acquired for a public purpose, as
11 defined in [chapter 6A](#), of the condemning public agency, and the
12 payment of the costs of the acquisition may be made pursuant
13 to the agreement or to any separate agreement between the
14 public agency and the entity or the other public agencies
15 participating in the entity or any of them. Upon payment of
16 costs, any property acquired is the property of the entity.

17 Sec. 3. Section 476.1, subsection 7, Code 2018, is amended
18 to read as follows:

19 7. The jurisdiction of the board under [this chapter](#)
20 shall include efforts designed to promote the use of energy
21 efficiency strategies by ~~rate or service-regulated~~ gas and
22 electric utilities required to be rate-regulated.

23 Sec. 4. Section 476.1A, subsections 1, 2, and 4, Code 2018,
24 are amended to read as follows:

25 1. Electric public utilities having fewer than ten
26 thousand customers and electric cooperative corporations
27 and associations are not subject to the ~~rate~~ regulation
28 authority of the board. ~~Such utilities are subject to all~~
29 ~~other regulation and enforcement activities of the board,~~
30 including, except for regulatory action pertaining to all of
31 the following:

32 a. Assessment of fees for the support of the division and
33 the office of consumer advocate, pursuant to section 476.10.

34 b. Safety and engineering standards for equipment,
35 operations, and procedures.

1 c. Assigned area of service.

2 d. Pilot projects of the board.

3 e. Assessment of fees for the support of the Iowa energy
4 center created in [section 15.120](#) and the center for global and
5 regional environmental research established by the state board
6 of regents. This paragraph "e" is repealed July 1, 2022.

7 f. Filing alternate energy purchase program plans with the
8 board, and offering such programs to customers, pursuant to
9 section 476.47.

10 g. Filing energy efficiency plans and energy efficiency
11 results with the board. The energy efficiency programs
12 included in such plans ~~as a whole~~ shall be cost-effective. The
13 board may permit these utilities to file joint plans. ~~The~~
14 ~~board shall periodically report the energy efficiency results~~
15 ~~including energy savings of each of these utilities to the~~
16 ~~general assembly.~~ The board may waive all or part of the
17 energy efficiency filing and review requirements for electric
18 cooperative corporations and associations and electric public
19 utilities which demonstrate superior results with existing
20 energy efficiency efforts.

21 2. However, [sections 476.20](#), subsections 1 through 4,
22 [476.21](#), ~~476.41 through 476.44~~, [476.51](#), [476.56](#), [476.62](#), and
23 [476.66](#) and [chapters 476A](#) and [478](#), to the extent applicable,
24 apply to such electric utilities.

25 4. The board of directors or the membership of an electric
26 cooperative corporation or association otherwise exempt
27 from rate regulation may elect to have the cooperative's
28 rates regulated by the board. The board shall adopt rules
29 prescribing the manner in which the board of directors or the
30 membership of an electric cooperative may so elect. If the
31 board of directors or the membership of an electric cooperative
32 has elected to have the cooperative's rates regulated by the
33 board, after two years have elapsed from the effective date of
34 such election the board of directors or the membership of the
35 electric cooperative may elect to exempt the cooperative from

1 the rate regulation authority of the board, provided, however,
2 that if the membership elected to have the cooperative's rates
3 regulated by the board, only the membership may elect to exempt
4 the cooperative from the rate regulation authority of the
5 board.

6 Sec. 5. Section 476.1B, subsection 1, paragraph 1, Code
7 2018, is amended to read as follows:

8 1. Filing energy efficiency plans and energy efficiency
9 results with the board. The energy efficiency programs
10 included in such plans as a whole shall be cost-effective. The
11 board may permit these utilities to file joint plans. ~~The~~
12 ~~board shall periodically report the energy efficiency results~~
13 ~~including energy savings of each of these utilities to the~~
14 ~~general assembly.~~

15 Sec. 6. Section 476.2, subsection 6, Code 2018, is amended
16 by striking the subsection.

17 Sec. 7. Section 476.4, subsection 1, Code 2018, is amended
18 to read as follows:

19 1. Every public utility shall file with the board tariffs
20 showing the rates and charges for its public utility services
21 and the rules and regulations under which such services were
22 furnished, on April 1, 1963, which rates and charges shall be
23 subject to investigation by the board as provided in section
24 476.3, and upon such investigation the burden of establishing
25 the reasonableness of such rates and charges shall be upon the
26 public utility filing the same. These filings shall be made
27 under such rules as the board may prescribe within such time
28 and in such form as the board may designate. In prescribing
29 rules and regulations with respect to the form of tariffs
30 and any other regulations, the board shall, in the case of
31 public utilities subject to regulation by any federal agency,
32 give due regard to any corresponding rules and regulations of
33 such federal agency, to the end that unnecessary duplication
34 of effort and expense may be avoided so far as reasonably
35 possible. Each public utility shall keep copies of its tariffs

1 open to public inspection under such rules as the board may
2 prescribe.

3 Sec. 8. Section 476.6, subsections 1, 8, and 13, Code 2018,
4 are amended to read as follows:

5 1. *Filing with board.* A public utility subject to rate
6 regulation shall not make effective a new or changed rate,
7 charge, schedule, or regulation until the rate, charge,
8 schedule, or regulation has been approved by the board, except
9 as provided in subsections 8, and 9, and 22.

10 8. *Automatic adjustments permitted.*

11 a. This chapter does not prohibit a public utility from
12 making provision for the automatic adjustment of rates and
13 charges for public utility service provided that a schedule
14 showing the automatic adjustment of rates and charges is first
15 filed with the board.

16 b. A public utility may automatically adjust rates and
17 charges to recover costs related to transmission incurred by
18 or charged to the public utility consistent with a tariff or
19 agreement that is subject to the jurisdiction of the federal
20 energy regulatory commission, provided that a schedule showing
21 the automatic adjustment of rates and charges is first filed
22 with the board.

23 13. *Energy efficiency plans.* Electric and gas public
24 utilities shall offer energy efficiency programs to their
25 customers through energy efficiency plans. ~~An~~ Each energy
26 efficiency ~~plan as a whole~~ program shall be cost-effective.
27 In determining the cost-effectiveness of an energy efficiency
28 ~~plan program~~, the board shall apply the societal test, total
29 resource cost test, utility cost test, rate-payer impact
30 test, and participant test. Energy efficiency programs for
31 qualified low-income persons and for tree planting programs,
32 educational programs, and assessments of consumers' needs for
33 information to make effective choices regarding energy use
34 and energy efficiency need not be cost-effective ~~and shall~~
35 ~~not be considered in determining cost-effectiveness of plans~~

1 ~~as a whole~~. The energy efficiency programs in the plans may
2 be provided by the utility or by a contractor or agent of the
3 utility. Programs offered pursuant to **this subsection** by gas
4 and electric utilities that are required to be rate-regulated
5 shall require board approval.

6 Sec. 9. Section 476.6, subsection 15, paragraphs a and b,
7 Code 2018, are amended to read as follows:

8 a. (1) (a) Gas and electric utilities required to be
9 rate-regulated under **this chapter** shall file energy efficiency
10 plans with the board. An energy efficiency plan and budget
11 shall include a range of energy efficiency and demand response
12 programs, tailored to the needs of all customer classes,
13 including residential, commercial, and industrial customers,
14 for energy efficiency opportunities. The plans shall
15 include programs for qualified low-income persons including a
16 cooperative program with any community action agency within the
17 utility's service area to implement countywide or communitywide
18 energy efficiency programs for qualified low-income persons.
19 Rate-regulated gas and electric utilities shall utilize
20 Iowa agencies and Iowa contractors to the maximum extent
21 cost-effective in their energy efficiency plans filed with the
22 board.

23 (b) Gas and electric utilities required to be
24 rate-regulated under this chapter may request an energy
25 efficiency plan modification during the course of a five-year
26 plan. A modification may be requested due to changes in
27 funding as the result of public utility customers filing
28 exemptions from the plan or for any other reason identified by
29 the gas or electric utility. The board shall take action on a
30 modification request made by the gas or electric utility within
31 sixty days after a modification request is filed. If the board
32 fails to take action within sixty days after a modification
33 request is filed, the modification request shall be deemed
34 approved.

35 (2) Public utility customers with monthly peak usage that

1 averages fifteen megawatts or more of electricity during a plan
2 year may apply for an exemption from participation in energy
3 efficiency and demand response programs included in an energy
4 efficiency plan, including an exemption from the costs of the
5 plan. For an exemption from a plan that is effective prior to
6 the effective date of this Act, a customer qualifying pursuant
7 to this paragraph shall apply within three months after the
8 effective date of this Act. For an exemption from a plan that
9 takes effect on or after the effective date of this Act, a
10 customer qualifying pursuant to this paragraph shall apply for
11 an exemption on or before June 1 of the first plan year. Upon
12 verification that a customer is eligible for such exemption,
13 the gas or electric utility shall grant the exemption and,
14 beginning January 1 of the following year, the customer shall
15 no longer be assessed the costs of the plan and shall no
16 longer be required to participate in energy efficiency and
17 demand response programs included in the plan. The exemption
18 shall be considered permanent unless the customer applies for
19 reenrollment in such programs on or before June 1 of a given
20 plan year.

21 *b. (1)* A gas and electric utility required to be
22 rate-regulated under [this chapter](#) shall assess potential energy
23 and capacity savings available from actual and projected
24 customer usage by applying commercially available technology
25 and improved operating practices to energy-using equipment and
26 buildings. The utility shall submit the assessment to the
27 board. Upon receipt of the assessment, the board shall consult
28 with the economic development authority to develop specific
29 capacity and energy savings ~~performance standards~~ goals for
30 each utility. Such goals, except as provided for in subsection
31 13, shall only include cost-effective energy efficiency and
32 demand response programs. The utility shall submit an energy
33 efficiency plan which shall include economically achievable
34 programs designed to attain these energy and capacity
35 ~~performance standards~~ goals. The board shall periodically

1 report the energy efficiency results including energy savings
2 of each utility to the general assembly.

3 (2) For purposes of this paragraph, "cost-effective" means
4 the total resource cost test result for a program is greater
5 than one. In applying the total resource cost test, benefits
6 to be considered include avoided capacity and energy costs
7 and federal tax credits, and costs to be considered include
8 incremental costs of equipment, operation, and maintenance,
9 utility costs, and program administration costs.

10 Sec. 10. Section 476.6, subsection 15, paragraph c,
11 subparagraphs (1) and (3), Code 2018, are amended to read as
12 follows:

13 (1) Gas and electric utilities that are not required to
14 be rate-regulated under [this chapter](#) shall assess maximum
15 potential energy and capacity savings available from actual
16 and projected customer usage through cost-effective energy
17 efficiency measures and programs, taking into consideration the
18 utility service area's historic energy load, projected demand,
19 customer base, and other relevant factors. Each utility shall
20 establish an energy efficiency goal based upon this assessment
21 of potential and shall establish cost-effective energy
22 efficiency programs designed to meet the energy efficiency
23 goal. Separate goals may be established for various customer
24 groupings.

25 (3) ~~Each utility shall commence the process of determining~~
26 ~~its cost-effective energy efficiency goal on or before July 1,~~
27 ~~2008, shall provide a progress report to the board on or before~~
28 ~~January 1, 2009, and complete the process and submit a final~~
29 ~~report to the board on or before January 1, 2010. The report~~
30 ~~shall include the utility's cost-effective energy efficiency~~
31 ~~goal, and for each measure utilized by the utility in meeting~~
32 ~~the goal, the measure's description, projected costs, and the~~
33 ~~analysis of its cost-effectiveness. Each utility or group~~
34 of utilities shall evaluate cost-effectiveness using the
35 cost-effectiveness tests in accordance with [subsection 13](#) of

1 this section. Individual utilities or groups of utilities may
2 collaborate in conducting the studies required hereunder and
3 may file a joint report or reports with the board. However,
4 the board may require individual information from any utility,
5 even if it participates in a joint report.

6 Sec. 11. Section 476.6, subsection 15, paragraph d, Code
7 2018, is amended by striking the paragraph.

8 Sec. 12. Section 476.6, subsection 15, paragraphs e and g,
9 Code 2018, are amended to read as follows:

10 e. (1) The board shall conduct contested case proceedings
11 for review of energy efficiency plans and budgets filed by gas
12 and electric utilities required to be rate-regulated under
13 this chapter. Notwithstanding the goals developed pursuant to
14 paragraph "b", the board shall not require a gas or electric
15 utility to adopt an energy efficiency plan that results in
16 projected average annual costs that exceed two percent of the
17 gas or electric utility's annual rate revenue. For purposes of
18 determining the two percent threshold amount, the board shall
19 exclude from a gas or electric utility's annual rate revenue
20 the revenues from customers that receive an exemption pursuant
21 to paragraph "a", subparagraph (2), and shall exclude revenues
22 associated with the recovery of energy efficiency costs. A
23 gas or electric utility may voluntarily propose an energy
24 efficiency plan that results in projected average annual costs
25 that exceed two percent of the gas or electric utility's annual
26 rate revenue. The board may approve, reject, or modify the
27 plans and budgets. Notwithstanding the provisions of section
28 17A.19, subsection 5, in an application for judicial review of
29 the board's decision concerning a utility's energy efficiency
30 plan or budget, the reviewing court shall not order a stay.

31 ~~Whenever~~

32 (2) Notwithstanding paragraph "a", subparagraph (1),
33 subparagraph division (b), if, on the effective date of this
34 Act, a gas or electric utility's currently approved energy
35 efficiency plan includes projected annual costs that exceed

1 two percent of the gas or electric utility's annual rate
2 revenue received for service within the previous calendar year,
3 exclusive of recovery of energy efficiency costs, the gas or
4 electric utility may file a request to modify its approved
5 energy efficiency plan to achieve projected annual costs at
6 two percent or less of the gas or electric utility's annual
7 rate revenue. In such case, or whenever a request to modify
8 an approved plan or budget is filed subsequently by the office
9 of consumer advocate or a gas or electric utility required to
10 be rate-regulated under this chapter, the board shall promptly
11 initiate a formal proceeding if the board determines that any
12 reasonable ground exists for investigating the request. The
13 formal proceeding may be initiated at any time by the board
14 on its own motion. Implementation of board-approved plans or
15 budgets shall be considered continuous in nature and shall be
16 subject to investigation at any time by the board or the office
17 of the consumer advocate.

18 *g.* (1) A gas or electric utility required to be
19 rate-regulated under [this chapter](#) may recover, through an
20 automatic adjustment mechanism filed pursuant to subsection
21 8, over a period not to exceed the term of the plan, the
22 costs of an energy efficiency plan approved by the board,
23 ~~including amounts for a plan approved prior to July 1, 1996,~~
24 in a contested case proceeding conducted pursuant to paragraph
25 "e". The board shall ensure that energy efficiency costs are
26 recovered from all customers on a reasonably comparable basis,
27 including customers who utilize alternate energy production
28 facilities as defined in section 476.42. Customers who are
29 granted an exemption from energy efficiency and demand response
30 programs pursuant to paragraph "a", subparagraph (2), shall not
31 be charged for recovery of energy efficiency costs.

32 (2) The board shall periodically conduct a contested case
33 proceeding to evaluate the reasonableness and prudence of the
34 utility's implementation of an approved energy efficiency plan
35 and budget. If a utility is not taking all reasonable actions

1 to cost-effectively implement an approved energy efficiency
2 plan, the board shall not allow the utility to recover from
3 customers costs in excess of those costs that would be incurred
4 under reasonable and prudent implementation and shall not allow
5 the utility to recover future costs at a level other than what
6 the board determines to be reasonable and prudent. If the
7 result of a contested case proceeding is a judgment against a
8 utility, that utility's future level of cost recovery shall be
9 reduced by the amount by which the programs were found to be
10 imprudently conducted. The utility shall not represent energy
11 efficiency in customer billings as a separate cost or expense
12 unless the board otherwise approves.

13 Sec. 13. Section 476.6, subsection 17, Code 2018, is amended
14 by striking the subsection.

15 Sec. 14. Section 476.6, subsection 20, Code 2018, is amended
16 to read as follows:

17 20. *Electric power generating facility emissions.*

18 ~~a. It is the intent of the general assembly that the state,~~
19 ~~through a collaborative effort involving state agencies and~~
20 ~~affected generation owners, provide for compatible statewide~~
21 ~~environmental and electric energy policies with respect~~
22 ~~to regulated emissions from rate-regulated electric power~~
23 ~~generating facilities in the state that are fueled by coal.~~
24 ~~Each~~ A rate-regulated public utility that is an owner of one
25 or more electric power generating facilities fueled by coal
26 and located in this state ~~on July 1, 2001, shall develop a~~
27 ~~multiyear plan and budget~~ may, in its sole discretion, file for
28 advanced review of projects for managing regulated emissions
29 from its facilities in a cost-effective manner.

30 ~~(1) The initial multiyear plan and budget shall be filed~~
31 ~~with the board by April 1, 2002. Updates to the plan and budget~~
32 ~~shall be filed at least every twenty-four months.~~

33 ~~(2) Copies of the initial plan and budget, as well as~~
34 ~~any subsequent updates, shall be served on the department of~~
35 ~~natural resources.~~

1 ~~(3) The initial multiyear plan and budget and any subsequent~~
2 ~~updates shall be considered in a contested case proceeding~~
3 ~~pursuant to chapter 17A. The department of natural resources~~
4 ~~and the consumer advocate shall participate as parties to the~~
5 ~~proceeding.~~

6 b. A rate-regulated public utility shall file an application
7 for advanced review of a project at least one hundred twenty
8 days before the anticipated start of construction. Where an
9 electric power generating facility is owned by two or more
10 rate-regulated public utilities, the operator of the electric
11 power generating facility may file the application on behalf of
12 the rate-regulated public utilities.

13 ~~(4) c.~~ The department of natural resources shall state
14 whether the ~~plan or update~~ project meets applicable state or
15 federal environmental requirements for regulated emissions,
16 including requirements related to air, water, or solid waste.
17 If the ~~plan~~ project does not meet these requirements, the
18 department shall recommend amendments that outline actions
19 necessary to bring the ~~plan or update~~ project into compliance
20 with the environmental requirements.

21 ~~b. d.~~ The board shall not approve a ~~plan or update~~ project
22 that does not meet applicable state or federal environmental
23 requirements ~~and federal ambient air quality standards~~ for
24 regulated emissions from electric power generating facilities
25 located in the state.

26 ~~e. e.~~ The board shall review the ~~plan or update~~ project
27 and the associated budget, and shall approve the ~~plan or update~~
28 project and the associated budget if the ~~plan or update~~ project
29 and the associated budget are reasonably expected to achieve
30 cost-effective compliance with applicable state or federal
31 environmental requirements ~~and federal ambient air quality~~
32 ~~standards~~. In reaching its decision, the board shall consider
33 whether the ~~plan or update~~ project and the associated budget
34 reasonably balance costs, environmental requirements, economic
35 development potential, and the reliability of the electric

1 generation and transmission system.

2 ~~d. f.~~ The board shall issue an order approving or rejecting
3 a ~~plan, update, or budget project~~ within ~~one hundred eighty~~
4 ~~ninety~~ days after the ~~public utility's a~~ filing is deemed
5 complete; however, upon good cause shown, the board may
6 extend the time for issuing the order as follows: for approval
7 pursuant to this subsection.

8 ~~(1) The board may grant an extension of thirty days.~~

9 ~~(2) The board may grant more than one extension, but each~~
10 ~~extension must rely upon a separate showing of good cause.~~

11 ~~(3) A subsequent extension must not be granted any earlier~~
12 ~~than five days prior to the expiration of the original~~
13 ~~one hundred eighty-day period, or the current extension.~~

14 ~~e. g.~~ The reasonable costs incurred by a rate-regulated
15 public utility in preparing and filing the ~~plan, update, or~~
16 ~~budget project~~ and in participating in the proceedings before
17 the board and the reasonable costs associated with implementing
18 the ~~plan, update, or budget project~~ shall be included in its
19 regulated retail rates.

20 ~~f.~~ It is the intent of the general assembly that the board,
21 in an environmental plan, update, or associated budget filed
22 under ~~this section~~ by a rate-regulated public utility, may
23 limit investments or expenditures that are proposed to be
24 undertaken prior to the time that the environmental benefit to
25 be produced by the investment or expenditure would be required
26 by state or federal law.

27 Sec. 15. Section 476.6, Code 2018, is amended by adding the
28 following new subsections:

29 NEW SUBSECTION. 22. *Voluntary rates and revenue-neutral*
30 *tariff filings.*

31 *a.* A rate-regulated public utility may file at any time for
32 approval a tariff or rate that satisfies any of the following
33 conditions:

34 (1) The tariff or rate is optional for customers and all
35 costs associated with the tariff or rate are borne by customers

1 who elect to participate in the tariff or rate.

2 (2) The tariff or rate is revenue-neutral. For purposes
3 of this subparagraph, "*revenue-neutral*" means a change in a
4 rate, tariff design, or mechanism as a component of an energy
5 efficiency plan or base rate that does not shift annualized
6 allowed revenue between customer classes and does not increase
7 or decrease the public utility's average nonfuel revenue per
8 customer for any given rate class when compared to either the
9 rate, tariff design, or mechanism in effect at the time that a
10 filing is made pursuant to this subsection or the allocation
11 of costs approved by the board in a rate case using the cost of
12 service methodology.

13 b. The board shall review the tariff or rate filing within
14 thirty days of filing. If the board fails to review the tariff
15 or rate filing within thirty days of filing, the tariff or
16 rate filing shall be deemed approved. The board shall not be
17 required to hold a hearing to review a tariff or rate filing
18 made pursuant to this subsection.

19 NEW SUBSECTION. 23. *Preapproval for natural gas extensions*
20 — *rules.* The board may adopt rules which provide for a
21 preapproval process for natural gas extensions to support
22 population growth or economic development.

23 Sec. 16. Section 476.20, subsection 5, paragraph a,
24 unnumbered paragraph 1, Code 2018, is amended to read as
25 follows:

26 The board shall establish rules which shall be uniform with
27 respect to all public utilities furnishing gas or electricity
28 relating to deposits which may be required by the public
29 utility for the initiation or reinstatement of service. This
30 subsection shall not apply to municipally owned utilities,
31 which shall be governed by the provisions of [section 384.84](#)
32 with respect to deposits and payment plans for delinquent
33 amounts owed. Municipally owned utilities and electric
34 utilities that are not required to be rate-regulated shall not
35 be subject to the board's rules in regards to deposits and

1 payment plans for delinquent amounts owed and repayment of past
2 due debt. Municipally owned utilities and electric utilities
3 that are not required to be rate-regulated shall be subject to
4 the board's rules in regards to payment plans made prior to the
5 disconnection of services.

6 Sec. 17. Section 476.21, Code 2018, is amended to read as
7 follows:

8 **476.21 Discrimination prohibited.**

9 A municipality, corporation or cooperative association
10 providing electrical or gas service shall not consider the
11 use of renewable energy sources by a customer as a basis for
12 establishing discriminatory rates or charges for any service
13 or commodity sold to the customer or discontinue services or
14 subject the customer to any other prejudice or disadvantage
15 based on the customer's use or intended use of renewable energy
16 sources. As used in [this section](#), "*renewable energy sources*"
17 includes but is not limited to solar heating, wind power
18 and the conversion of urban and agricultural organic wastes
19 into methane gas and liquid fuels. This section shall not
20 prohibit the establishment of rates or charges for customers
21 that are different than the rates or charges for customers who
22 obtain all of their energy requirements from the municipality,
23 corporation, or cooperative association, provided that the
24 difference in rates or charges is based on the difference in
25 cost of service and anticipated energy use.

26 Sec. 18. NEW SECTION. **476.26A Right to construct, own, and**
27 **maintain electric transmission lines.**

28 1. As used in this section, unless the context otherwise
29 requires:

30 a. "*Electric transmission line*" means a high-voltage
31 direct current electric transmission line with a capacity of
32 one hundred kilovolts or more and any associated electric
33 transmission facilities.

34 b. "*Electric transmission owner*" means an individual or
35 entity who, as of the effective date of this Act, owns and

1 maintains an electric transmission facility including electric
2 transmission lines, wires, or cables that are capable of
3 operating at an electric voltage of one hundred kilovolts or
4 more that are required for rate-regulated electric utilities,
5 municipal electric utilities, and rural electric cooperatives
6 in this state to provide electric service to the public for
7 compensation.

8 *c. "Incumbent electric transmission owner"* means any of the
9 following:

10 (1) A public utility or a municipally owned utility that
11 owns, operates, and maintains an electric transmission line in
12 this state.

13 (2) An electric cooperative corporation or association or
14 municipally owned utility that owns an electric transmission
15 facility in this state and has turned over the functional
16 control of such facility to a federally approved authority.

17 (3) An *"electric transmission owner"* as defined in paragraph
18 *"b"*.

19 *d. "Municipally owned utility"* means a *"city utility"* as
20 defined in section 362.2, or an *"electric power agency"* as
21 defined in section 390.9 which is comprised solely of cities or
22 solely of cities and other political subdivisions.

23 2. An incumbent electric transmission owner may construct,
24 own, and maintain an electric transmission line that has
25 been approved for construction in a federally registered
26 planning authority transmission plan and which connects to an
27 electric transmission facility owned by the incumbent electric
28 transmission owner. Where an electric transmission facility is
29 owned by two or more incumbent electric transmission owners,
30 each incumbent electric transmission owner shall have the right
31 to construct, own, and maintain an electric transmission line
32 that connects to the electric transmission facility regardless
33 of whether one incumbent electric transmission owner declines
34 to construct, own, or maintain its portion of an electric
35 transmission line connecting to the electric transmission

1 facility, unless otherwise agreed upon in writing.

2 3. This section shall not modify the rights and obligations
3 relating to the construction, maintenance, and operation of
4 electric transmission lines pursuant to chapter 478.

5 Sec. 19. Section 476.33, subsection 4, Code 2018, is amended
6 to read as follows:

7 4. The board shall adopt rules that require the board, in
8 rate regulatory proceedings under [sections 476.3](#) and [476.6](#), to
9 utilize either a historic test year or a future test year at
10 the rate-regulated public utility's discretion.

11 a. For a rate regulatory proceeding utilizing a historic
12 test year, the rules shall require the board to consider the
13 use of the most current test period possible in determining
14 reasonable and just rates, subject only to the availability of
15 existing and verifiable data respecting costs and revenues, and
16 in addition, to consider verifiable data that exists within
17 nine months after the conclusion of the test year, respecting
18 known and measurable changes in costs not associated with a
19 different level of revenue, and known and measurable revenues
20 not associated with a different level of costs, that are to
21 occur at any time within twelve months after the date of
22 commencement of the proceedings. Parties proposing adjustments
23 that are not verifiable at the commencement of the proceedings
24 shall include projected data related to the adjustments in
25 their initial substantive filing with the board. For purposes
26 of [this subsection paragraph](#), a proceeding commences under
27 section 476.6 upon the filing date of new or changed rates,
28 charges, schedules, or regulations. ~~This subsection does not~~
29 ~~limit the authority of the board to consider other evidence in~~
30 ~~proceedings under [sections 476.3](#) and [476.6](#).~~

31 b. For a rate regulatory proceeding utilizing a future test
32 year, the rules shall require the board to consider the use
33 of any twelve-month period beginning no later than the date
34 on which a proposed rate change is expected to take effect in
35 determining just and reasonable rates.

1 c. This subsection does not limit the authority of the board
2 to consider other evidence in proceedings under sections 476.3
3 and 476.6.

4 Sec. 20. Section 476.53, subsection 3, paragraph a,
5 subparagraph (1), subparagraph division (a), Code 2018, is
6 amended by adding the following new subparagraph subdivision:

7 NEW SUBPARAGRAPH SUBDIVISION. (v) Repowering of an
8 alternate energy production facility to upgrade or extend the
9 useful life of the facility.

10 Sec. 21. NEW SECTION. **476.59 Emerging energy technologies.**

11 1. For purposes of this section, "*emerging energy*
12 *technology*" includes but is not limited to an energy storage
13 facility, electric grid protection system, electric grid
14 management system, cyber security infrastructure, electric
15 vehicle infrastructure, or any other emerging energy technology
16 identified by the board and consistent with the general
17 assembly's intent as provided in subsection 2.

18 2. a. It is the intent of the general assembly to attract
19 the development of emerging energy technologies within the
20 state in sufficient quantity to ensure reliable electric
21 service to Iowa consumers and provide economic benefits to
22 the state. It is also the intent of the general assembly to
23 encourage the development of the state's future electric energy
24 supply and the protection of the electric grid from cyber and
25 physical threats.

26 b. The general assembly's intent with regard to the
27 reliability of electric service to Iowa consumers shall be
28 implemented by considering, among other things, the development
29 of energy storage, and the protection of the electric grid from
30 cyber and physical threats.

31 c. The general assembly's intent with regard to the
32 development of Iowa's future electric energy supply shall be
33 implemented in a manner that advances a reliable, secure,
34 economical, and environmentally responsible energy supply
35 for the state, recognizing the value of emerging energy

1 technologies to promote the state's economic development.

2 3. *a.* The board shall specify in advance, by order issued
3 after a contested case proceeding, the ratemaking principles
4 that will apply whenever a rate-regulated public utility
5 requests advanced ratemaking principles for the construction,
6 investment, or implementation of an emerging energy technology,
7 and the costs of the emerging energy technology are included in
8 regulated electric rates.

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

12 *c.* In determining the applicable ratemaking principles, the
13 board shall make the following findings:

14 (1) The rate-regulated public utility has demonstrated
15 to the board that the proposed emerging energy technology is
16 reasonable.

17 (2) The rate-regulated public utility has demonstrated
18 to the board that the public utility has considered
19 other reasonable alternatives, if any, to the proposed
20 emerging energy technology and that the proposed emerging
21 energy technology is reasonable when compared to any such
22 alternatives.

23 *d.* The applicable ratemaking principles shall be determined
24 in a contested case proceeding.

25 *e.* The order setting forth the applicable ratemaking
26 principles shall be issued prior to the construction,
27 investment, or implementation of the emerging energy
28 technology.

29 *f.* Following issuance of the order, the rate-regulated
30 public utility may proceed with the construction, investment,
31 or implementation of the emerging energy technology.

32 *g.* Notwithstanding any provision of this chapter to the
33 contrary, the ratemaking principles established by the order
34 issued pursuant to paragraph "e" shall be binding with regard to
35 the specific emerging energy technology in any subsequent rate

1 proceeding.

2

EXPLANATION

3

The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

4

5 This bill modifies various provisions relating to public
6 utilities.

7 The bill adds gasworks and facilities useful for the
8 delivery of gas service to the list of works or facilities
9 permitted for joint financing by public agencies pursuant
10 to Code chapter 28F. The bill prohibits public agencies
11 participating in joint financing agreements pursuant to Code
12 chapter 28F from exercising their powers of eminent domain to
13 acquire interests in properties used for the transmission,
14 transportation, or sale of natural gas.

15 Current law requires certain non-rate-regulated electric
16 utilities and municipally owned utilities to file energy
17 efficiency plans with the Iowa utilities board. The bill
18 provides that the energy efficiency programs included in such
19 plans shall be cost-effective and removes requirements for the
20 board to report the energy efficiency results of such utilities
21 to the general assembly.

22 Current law allows the board of directors or the membership
23 of non-rate-regulated electric cooperatives to elect to
24 have the cooperative's rates regulated by the board, and
25 subsequently elect to exempt the cooperative from rate
26 regulation. The bill provides that if the membership of a
27 cooperative elects to have the cooperative's rates regulated
28 by the board, only the membership may elect to exempt the
29 cooperative from rate regulation.

30 The bill allows a public utility to automatically adjust
31 rates and charges to recover certain costs related to
32 transmission, provided that the public utility first files a
33 schedule showing such automatic adjustment with the board.

34 Current law requires electric and gas public utilities to
35 offer energy efficiency programs to customers through energy

1 efficiency plans, which plans must be cost-effective. The
2 bill requires each energy efficiency program, instead of the
3 energy efficiency plan as a whole, to be cost-effective. The
4 bill adds the total resource cost test to the list of tests the
5 board must apply in determining the cost-effectiveness of an
6 energy efficiency program. The bill specifies that the types
7 of programs included in an energy efficiency plan must pertain
8 to energy efficiency and demand response.

9 The bill allows a gas and electric utility to request an
10 energy efficiency plan modification during the course of a
11 five-year plan due to changes in funding or any other reason
12 identified by the utility. The board must take action on a
13 modification request within 60 days after filing, or such
14 request is deemed approved.

15 The bill allows public utility customers with monthly peak
16 usage of 15 megawatts of electricity or more during a plan
17 year to apply for an exemption from participation in programs
18 included in an energy efficiency plan, including the costs of
19 the plan. For a plan that takes effect prior to the effective
20 date of the bill, a qualifying customer must apply within three
21 months after the effective date of the bill. For a plan taking
22 effect on or after the effective date of the bill, a qualifying
23 customer must apply no later than June 1 of the first plan
24 year. An exemption shall take effect on January 1 of the
25 year following the application filing and shall be considered
26 permanent unless the customer applies for reenrollment on or
27 before June 1 of a given plan year.

28 Current law requires the board to consult with the
29 economic development authority to develop capacity and energy
30 savings performance standards for each rate-regulated gas or
31 electric utility. The bill replaces "performance standards"
32 with "goals", and specifies that such goals only include
33 cost-effective energy efficiency and demand response programs,
34 as defined in the bill.

35 The bill removes the outdated requirement for

1 non-rate-regulated gas and electric utilities to submit reports
2 to the board on or before January 1, 2010, relating to such
3 utilities' energy efficiency goals. The bill also removes
4 outdated requirements for the board to submit certain reports
5 relating to energy efficiency to the general assembly in 1998,
6 2009, and 2011.

7 The bill prohibits the board from requiring a gas or electric
8 utility from adopting an energy efficiency plan that results in
9 projected annual costs in excess of 2 percent of the utility's
10 annual rate revenue. In determining the 2 percent threshold
11 amount, the board shall exclude revenues from customers
12 receiving exemptions from participation in energy efficiency
13 programs and revenues associated with the recovery of energy
14 efficiency costs. A gas or electric utility may voluntarily
15 propose an energy efficiency plan in excess of the 2 percent
16 threshold amount. If a gas or electric utility has an approved
17 energy efficiency plan that exceeds the 2 percent threshold
18 amount on the effective date of the bill, the utility may file
19 a request to modify the energy efficiency plan to achieve
20 projected annual costs below the 2 percent threshold amount.
21 The board shall promptly initiate a formal proceeding if
22 reasonable grounds exist for investigating the request.

23 Current law allows a rate-regulated gas or electric utility
24 to recover the costs of energy efficiency plans through
25 automatic adjustment mechanisms. The bill requires the board
26 to ensure that energy efficiency costs are recovered from all
27 customers on a reasonably comparable basis, including customers
28 who utilize alternate energy production facilities. The bill
29 prohibits customers exempt from energy efficiency and demand
30 response programs from being charged for recovery of energy
31 efficiency costs.

32 The bill strikes Code section 476.6(17), which allows the
33 board to require rate-regulated gas or electric utilities to
34 offer financing for certain energy efficiency improvements to
35 customers.

1 Current law specifies the general assembly's intent to
2 provide for compatible statewide environmental and electric
3 energy policies with respect to emissions from electric
4 power generating facilities in the state that are fueled
5 by coal. Current law requires each rate-regulated public
6 utility that owns one or more such facilities on July 1, 2001,
7 to develop a multiyear plan and budget managing emissions
8 in a cost-effective manner. The bill strikes the language
9 expressing the general assembly's intent and replaces the
10 requirement that an applicable rate-regulated public utility
11 develop a multiyear plan and budget with the option for a
12 rate-regulated public utility to file for advanced review of
13 projects to manage regulated emissions from its facilities
14 in a cost-effective manner. Such filing shall be made at
15 least 120 days before the anticipated start of construction.
16 When a facility is owned by two or more rate-regulated public
17 utilities, the owner of such facility may file the application
18 for advanced review on behalf of the utilities. The bill
19 requires a project to comply with applicable state and federal
20 environmental requirements. The bill requires the board to
21 issue an order approving or rejecting a project within 90 days
22 after filing. The bill removes the ability of the board to
23 limit certain proposed investments or expenditures pursuant to
24 an environmental plan, update, or associated budget.

25 The bill allows rate-regulated public utilities to file
26 for approval of a tariff or rate that is either optional
27 for customers, with all associated costs borne by customers
28 electing to participate, or is revenue-neutral, as defined in
29 the bill. The board must review the tariff or rate within 30
30 days of filing or the tariff or rate is deemed approved. The
31 board is not required to hold a hearing to review such tariff
32 or rate.

33 The bill allows the board to adopt rules to provide for
34 a preapproval process for natural gas extensions to support
35 population growth or economic development.

1 The bill provides that non-rate-regulated electric utilities
2 shall not be subject to the board's rules in regards to
3 deposits and payment plans for delinquent amounts owed and
4 repayment of past due debt, but shall be subject to the
5 board's rules in regards to payment plans made prior to the
6 disconnection of service.

7 Current law prohibits a municipality, corporation,
8 or cooperative from considering the use of renewable
9 energy sources by a customer as a basis for establishing
10 discriminatory rates or charges. The bill provides that
11 these entities shall not be prohibited from establishing
12 rates or charges for customers that are different than the
13 rates or charges for customers who obtain all of their energy
14 requirements from such entities, provided that the difference
15 in rates or charges is based on the difference in cost of
16 service and anticipated energy use.

17 The bill allows an incumbent electric transmission owner,
18 as defined in the bill, to construct, own, and maintain an
19 electric transmission line, as defined in the bill, that has
20 been approved for construction in a federally registered
21 planning authority transmission plan and which connects to the
22 owner's electric transmission facility. Where an electric
23 transmission facility is owned by two or more incumbent
24 electric transmission owners, each owner shall have the right
25 to construct, own, and maintain an electric transmission
26 line that connects to the facility regardless of whether one
27 owner declines to construct, own, or maintain its portion of
28 an electric transmission line connecting to the facility,
29 unless otherwise agreed upon in writing. The bill provides
30 that this does not modify the rights and obligations related
31 to the construction, maintenance, and operation of electric
32 transmission lines under Code chapter 478.

33 Current law requires the board to adopt rules that require
34 the board to consider the most current test period to determine
35 just and reasonable rates in rate regulatory proceedings under

1 Code sections 476.3 and 476.6. The bill requires the board
2 to adopt rules that require the board to utilize either a
3 historic test year or a future test year, at a public utility's
4 discretion, in rate regulatory proceedings. For a proceeding
5 utilizing a historic test year, the rules shall require the
6 board to consider the use of the most current test period
7 to determine just and reasonable rates. For a proceeding
8 utilizing a future test year, the rules shall require the board
9 to consider the use of any 12-month period beginning no later
10 than the date on which a proposed rate change is expected to
11 take effect to determine just and reasonable rates.

12 Current law requires the board to specify ratemaking
13 principles in advance whenever a rate-regulated public utility
14 files an application to significantly alter an existing
15 electric generating facility. The bill adds the repowering of
16 an alternate energy production facility to upgrade or extend
17 the useful life of the facility to the list of significant
18 alterations requiring the establishment of advanced ratemaking
19 principles.

20 The bill creates new Code section 476.59, relating to
21 emerging energy technologies. The bill defines "emerging
22 energy technology" to include but not be limited to an energy
23 storage facility, electric grid protection system, electric
24 grid management system, cyber security infrastructure, electric
25 vehicle infrastructure, or other technologies identified
26 by the board. The bill provides that it is the general
27 assembly's intent to attract the development of emerging energy
28 technologies within the state to ensure reliable electric
29 service and encourage the development of the state's future
30 electric energy supply and the protection of the electric grid
31 from cyber and physical threats. The bill further elaborates
32 on the general assembly's intent with respect to emerging
33 energy technologies.

34 New Code section 476.59 requires the board to specify in
35 advance the ratemaking principles that will apply whenever a

1 rate-regulated public utility requests advanced ratemaking
2 principles for the construction, investment, or implementation
3 of an emerging energy technology and the costs of such
4 technology are included in rates. The board shall not be
5 limited to traditional ratemaking principles or cost recovery
6 mechanisms in determining such ratemaking principles. In
7 determining the applicable ratemaking principles, the board
8 shall find that the utility has demonstrated that the proposed
9 emerging energy technology is reasonable and that such
10 technology is reasonable when compared to any other reasonable
11 alternatives. The applicable ratemaking principles shall be
12 determined in a contested case proceeding and shall be issued
13 prior to the construction, investment, or implementation of
14 the emerging energy technology. Following the issuance of
15 the order, the utility may proceed with the construction,
16 investment, or implementation of the emerging energy
17 technology. The applicable ratemaking principles shall be
18 binding with respect to the specific emerging energy technology
19 in subsequent rate proceedings.