

**House Study Bill 200 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON LUNDGREN)

**A BILL FOR**

1 An Act relating to tariffs for public utility innovation  
2 programs and including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.6, Code 2023, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 22. *Innovative utility programs.*

4 a. It is the intent of the general assembly to encourage  
5 public utilities to pursue innovation in pricing and programs  
6 to meet the dynamic needs of current and prospective customers,  
7 enable price-responsive solutions, and to provide economic,  
8 environmental, employment, and other benefits to the state.  
9 It is also the intent of the general assembly that these  
10 new endeavors shall not negatively impact nonparticipating  
11 customers. Therefore, the general assembly declares that  
12 innovative utility programs are essential to further the  
13 attraction and retention of customers to benefit the state's  
14 economy and to support economical and sustainable energy  
15 production.

16 b. (1) A tariff authorized under this subsection shall  
17 comply with all of the following conditions:

18 (a) A program created under the tariff shall be available to  
19 interested energy customers and customer participation shall  
20 be optional.

21 (b) A tariff shall define the eligible customer groups.

22 (c) Costs of the program shall be borne by participating  
23 customers, including program-specific facilities and  
24 administrative or overhead costs. Program costs shall include  
25 direct costs associated with the construction, operation,  
26 maintenance, and interconnection of facilities, including new  
27 transmission infrastructure directly arising from the tariff  
28 program and costs related to the implementation of tariff  
29 programs. Participants in a tariff approved pursuant to this  
30 section shall participate in future indirect costs allocated to  
31 customers of that utility without regard for the existence of a  
32 tariff approved pursuant to this section.

33 (d) An eligible customer group shall not exclude directly  
34 competing customers in the same customer service territory.  
35 For purposes of this subparagraph, "*directly competing*

1 *customers* means customers that make the same end product or  
2 offer the same service for the same general group of customers,  
3 and excludes customers that only produce component parts of the  
4 same end product.

5 (e) A tariff shall not alter the existing base rates or  
6 charges of the public utility. Refund, credit, or waiver of  
7 existing base rates or charges offered as part of the program  
8 shall not be considered an alteration of existing base rates  
9 or charges.

10 (f) The program created under the tariff shall not  
11 negatively impact nonparticipating customers.

12 (2) A tariff authorized under this subsection may include  
13 any of the following:

14 (a) Recovery of costs associated with program-specific  
15 services or facilities, including but not limited to energy  
16 storage, renewable hydrogen, transmission, electric generating  
17 facilities, electric distribution facilities, renewable natural  
18 gas generation facilities, renewable natural gas distribution  
19 facilities, utility-assisted hourly prices, or liquefied  
20 natural gas facilities.

21 (b) A just and reasonable rate of return applicable to  
22 the program for its duration for new facilities, existing  
23 facilities, or services provided by the public utility that are  
24 serving the program created under the tariff. In the absence  
25 of a program-specific rate of return, the rate of return  
26 approved in a public utility's most recent general rate case  
27 proceeding shall be presumed to be just and reasonable for the  
28 purpose of this subparagraph.

29 (c) Application of the program to readily identifiable  
30 customer usage patterns, customer characteristics, or output  
31 of specified facilities.

32 (d) Assignment of program benefits, including nonmonetary  
33 benefits which may derive from dynamically balancing supply  
34 and demand, providing ancillary services, or the production of  
35 renewable energy attributes.

1 (e) When the program created under the tariff replaces  
2 a service for which the public utility collects an existing  
3 base rate or charge, a tariff may refund, credit, or waive the  
4 base rate or charge for the replaced service. A participating  
5 customer shall pay the costs of remaining services received  
6 from the public utility unless those costs are refunded,  
7 credited, or waived under the program created by the tariff.

8 (f) When the program created under the tariff is designed  
9 to recover costs associated with existing facilities, such  
10 recovery would require reconciliation of the impact to  
11 nonparticipating customers. Existing facilities subject to  
12 advance ratemaking principles established pursuant to section  
13 476.53 are ineligible for program inclusion.

14 (g) If the program or its eligible customer group  
15 cease to exist and the public utility seeks the recovery  
16 of the program-specific facilities through a general rate  
17 case proceeding, the public utility shall demonstrate the  
18 reasonableness and prudence without any presumption regarding  
19 approval of such request. A public utility shall not be  
20 prohibited from recovering the costs of program-specific  
21 facilities through an alternative regulatory mechanism.

22 *c.* A public utility's participation under this subsection  
23 is not mandatory. A public utility that elects to propose a  
24 tariff or tariff amendment under this subsection shall file an  
25 application for approval with the board. The application shall  
26 include an identification of costs and benefits related to the  
27 program for the board's review of the conditions specified in  
28 paragraph "b", subparagraph (1).

29 *d.* Within thirty days, the board shall approve, deny,  
30 or docket for further review an application for a tariff or  
31 amended tariff submitted pursuant to this subsection. If  
32 the application is docketed for further review, the board  
33 shall render a decision within ninety days from the date of  
34 application filing unless an objection has been filed with  
35 the board. If the application proposes to amend a tariff

1 previously approved under this subsection, the board shall not  
2 reconsider existing programs previously approved under the  
3 tariff unless proposed as part of the amendment. All further  
4 review shall be conducted as a contested case pursuant to  
5 chapter 17A.

6 *e.* In the exercise of its authority under this subsection,  
7 the board shall not do any of the following:

8 (1) Limit the number of applications a public utility may  
9 file.

10 (2) Deny or condition the approval of a tariff because  
11 a public utility is subject to an alternative regulatory  
12 mechanism.

13 (3) Require a public utility subject to an alternative  
14 regulatory mechanism to record the revenues and costs  
15 associated with the program in an inconsistent manner with  
16 the federal energy regulatory commission's uniform system of  
17 accounts, 18 C.F.R. pt. 101.

18 (4) Condition its approval on the public utility changing  
19 its proposal if the public utility has not agreed to such  
20 changes. This subparagraph shall not be interpreted to prevent  
21 the board from identifying changes to the proposal which might  
22 result in approval.

23 *f.* Tariffs and programs approved pursuant to this subsection  
24 shall be presumed just and reasonable in any subsequent general  
25 rate case proceeding.

26 *g.* The board shall not condition approval or denial of a  
27 tariff on final adoption of rules by the board.

28 *h.* The board shall adopt rules pursuant to chapter 17A to  
29 implement this subsection.

30 Sec. 2. APPLICABILITY. This Act applies to a public utility  
31 filing an application with the utilities board for review of a  
32 tariff on or after the effective date of this Act.

33

#### EXPLANATION

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

1 This bill creates a tariff program relating to innovative  
2 utility programs.

3 The bill provides that it is the intent of the general  
4 assembly to encourage public utility innovation in pricing  
5 and programs, and that the new innovations not negatively  
6 impact nonparticipating customers. The bill additionally  
7 provides that it is the intent of the general assembly to  
8 attract and retain customers for the benefit of the state's  
9 economy, support of economical energy production, and support  
10 of sustainable energy production.

11 The bill authorizes a tariff program. The bill provides  
12 that a tariff shall comply with several provisions. The  
13 tariff shall be optional for customers, define eligible  
14 customer groups, and assess program costs to participating  
15 customers. Program costs shall include specified direct costs  
16 arising from the tariff program and costs related to the  
17 implementation of tariff programs. Participants of a tariff  
18 program shall participate in future indirect costs allocated  
19 to customers of that utility without regard for the existence  
20 of an approved tariff. The tariff shall not allow for an  
21 eligible customer group excluding directly competing customers  
22 in the same customer service territory, alter existing base  
23 rate or charges of the public utility, or negatively impact  
24 nonparticipating customers. A tariff may include provisions  
25 relating to recovery of costs, rate of return, application of  
26 the program to other specified patterns, program benefits,  
27 and refunds, credits, or waivers where the program replaces  
28 an existing service, or recovery of costs associated with  
29 existing facilities. A participating program customer shall  
30 pay the costs of the services received from the public utility  
31 unless the costs are refunded, credited, or waived under the  
32 program. The bill provides that if the program or eligible  
33 customer group cease to exist and the public utility seeks  
34 recovery of the program-specific facilities through a general  
35 rate case proceeding, the public utility shall demonstrate the

1 reasonableness and prudence without any presumption regarding  
2 approval of such request. A public utility shall be allowed  
3 to recover program-specific facilities through alternative  
4 regulatory mechanisms.

5 The bill provides for tariff application and approval. A  
6 public utility's authority is not mandatory regarding tariffs.  
7 The bill provides that an application for a tariff or amendment  
8 to a tariff shall be filed with the Iowa utilities board  
9 (board). The board shall approve, deny, or docket for further  
10 review an application within 30 days. If the board docket  
11 the application for further review, the board shall render a  
12 decision within 90 days from the date of application filing,  
13 unless an objection is filed. The board shall not reconsider  
14 existing programs previously approved under the tariff during a  
15 review of an application for an amendment to a tariff unless  
16 the review of a program is proposed as part of the amendment.

17 The bill prohibits the board from certain actions. The  
18 bill provides that the board shall not limit the number of  
19 applications a public utility may file, deny or condition the  
20 approval of a tariff because a public utility is subject to  
21 an alternative regulatory mechanism, require a public utility  
22 subject to an alternative regulatory mechanism to record  
23 revenues and costs in an inconsistent manner with specified  
24 federal standards, or condition approval of a tariff on the  
25 requirement that the public utility change the proposal to  
26 unagreed-upon terms.

27 The bill provides that tariffs and programs approved  
28 pursuant to the bill shall be presumed to be just and  
29 reasonable in general rate case proceedings. The bill  
30 prohibits the board from conditioning approval or denial of a  
31 tariff on the final adoption of rules and requires the board to  
32 adopt rules related to the bill.

33 The bill applies to a public utility filing an application  
34 with the board for review of a tariff on or after the effective  
35 date of the bill.