

Senate Study Bill 1173 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON BROWN)

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.

25 (d) An eligible customer group shall not exclude directly
26 competing customers in the same customer service territory.
27 For purposes of this subparagraph, "*directly competing*
28 *customers*" means customers that make the same end product or
29 offer the same service for the same general group of customers,
30 and excludes customers that only produce component parts of the
31 same end product.

32 (e) A tariff shall not alter the existing base rates or
33 charges of the public utility. Refund, credit, or waiver of
34 existing base rates or charges offered as part of the program
35 shall not be considered an alteration of existing base rates

1 or charges.

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

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

6 (a) Recovery of costs associated with program-specific
7 services or facilities, including but not limited to energy
8 storage, renewable hydrogen, transmission, electric generating
9 facilities, electric distribution facilities, renewable natural
10 gas generation facilities, renewable natural gas distribution
11 facilities, utility-assisted hourly prices, or liquefied
12 natural gas facilities.

13 (b) A just and reasonable rate of return applicable to
14 the program for its duration for new facilities, existing
15 facilities, or services provided by the public utility that are
16 serving the program created under the tariff. In the absence
17 of a program-specific rate of return, the rate of return
18 approved in a public utility's most recent general rate case
19 proceeding shall be presumed to be just and reasonable for the
20 purpose of this subparagraph.

21 (c) Application of the program to readily identifiable
22 customer usage patterns, customer characteristics, or output
23 of specified facilities.

24 (d) Assignment of program benefits, including nonmonetary
25 benefits which may derive from dynamically balancing supply
26 and demand, providing ancillary services, or the production of
27 renewable energy attributes.

28 (e) When the program created under the tariff replaces
29 a service for which the public utility collects an existing
30 base rate or charge, a tariff may refund, credit, or waive the
31 base rate or charge for the replaced service. A participating
32 customer shall pay the costs of remaining services received
33 from the public utility unless those costs are refunded,
34 credited, or waived under the program created by the tariff.

35 (f) When the program created under the tariff is designed

1 to recover costs associated with existing facilities, such
2 recovery would require reconciliation of the impact to
3 nonparticipating customers. Existing facilities subject to
4 advance ratemaking principles established pursuant to section
5 476.53 are ineligible for program inclusion.

6 (g) If the program or its eligible customer group
7 cease to exist and the public utility seeks the recovery
8 of the program-specific facilities through a general rate
9 case proceeding, the public utility shall demonstrate the
10 reasonableness and prudence without any presumption regarding
11 approval of such request. A public utility shall not be
12 prohibited from recovering the costs of program-specific
13 facilities through an alternative regulatory mechanism.

14 c. A public utility's participation under this subsection
15 is not mandatory. A public utility that elects to propose a
16 tariff or tariff amendment under this subsection shall file an
17 application for approval with the board. The application shall
18 include an identification of costs and benefits related to the
19 program for the board's review of the conditions specified in
20 paragraph "b", subparagraph (1).

21 d. Within thirty days, the board shall approve, deny,
22 or docket for further review an application for a tariff or
23 amended tariff submitted pursuant to this subsection. If
24 the application is docketed for further review, the board
25 shall render a decision within ninety days from the date of
26 application filing unless an objection has been filed with
27 the board. If the application proposes to amend a tariff
28 previously approved under this subsection, the board shall not
29 reconsider existing programs previously approved under the
30 tariff unless proposed as part of the amendment. All further
31 review shall be conducted as a contested case pursuant to
32 chapter 17A.

33 e. In the exercise of its authority under this subsection,
34 the board shall not do any of the following:

35 (1) Limit the number of applications a public utility may

1 file.

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

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

10 (4) Condition its approval on the public utility changing
11 its proposal if the public utility has not agreed to such
12 changes. This subparagraph shall not be interpreted to prevent
13 the board from identifying changes to the proposal which might
14 result in approval.

15 *f.* Tariffs and programs approved pursuant to this subsection
16 shall be presumed just and reasonable in any subsequent general
17 rate case proceeding.

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

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

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

25 EXPLANATION

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

28 This bill creates a tariff program relating to innovative
29 utility programs.

30 The bill provides that it is the intent of the general
31 assembly to encourage public utility innovation in pricing
32 and programs, and that the new innovations not negatively
33 impact nonparticipating customers. The bill additionally
34 provides that it is the intent of the general assembly to
35 attract and retain customers for the benefit of the state's

1 economy, support of economical energy production, and support
2 of sustainable energy production.

3 The bill authorizes a tariff program. The bill provides
4 that a tariff shall comply with several provisions. The
5 tariff shall be optional for customers, define eligible
6 customer groups, and assess program costs to participating
7 customers. The tariff shall not allow for an eligible
8 customer group excluding directly competing customers in
9 the same customer service territory, alter existing base
10 rate or charges of the public utility, or negatively impact
11 nonparticipating customers. A tariff may include provisions
12 relating to recovery of costs, rate of return, application of
13 the program to other specified patterns, program benefits,
14 and refunds, credits, or waivers where the program replaces
15 an existing service, or recovery of costs associated with
16 existing facilities. A participating program customer shall
17 pay the costs of the services received from the public utility
18 unless the costs are refunded, credited, or waived under the
19 program. The bill provides that if the program or eligible
20 customer group cease to exist and the public utility seeks
21 recovery of the program-specific facilities through a general
22 rate case proceeding, the public utility shall demonstrate the
23 reasonableness and prudence without any presumption regarding
24 approval of such request. A public utility shall be allowed
25 to recover program-specific facilities through alternative
26 regulatory mechanisms.

27 The bill provides for tariff application and approval. A
28 public utility's authority is not mandatory regarding tariffs.
29 The bill provides that an application for a tariff or amendment
30 to a tariff shall be filed with the Iowa utilities board
31 (board). The board shall approve, deny, or docket for further
32 review an application within 30 days. If the board docket
33 the application for further review, the board shall render a
34 decision within 90 days from the date of application filing,
35 unless an objection is filed. The board shall not reconsider

1 existing programs previously approved under the tariff during a
2 review of an application for an amendment to a tariff unless
3 the review of a program is proposed as part of the amendment.

4 The bill prohibits the board from certain actions. The
5 bill provides that the board shall not limit the number of
6 applications a public utility may file, deny or condition the
7 approval of a tariff because a public utility is subject to
8 an alternative regulatory mechanism, require a public utility
9 subject to an alternative regulatory mechanism to record
10 revenues and costs in an inconsistent manner with specified
11 federal standards, or condition approval of a tariff on the
12 requirement that the public utility change the proposal to
13 unagreed-upon terms.

14 The bill provides that tariffs and programs approved
15 pursuant to the bill shall be presumed to be just and
16 reasonable in general rate case proceedings. The bill
17 prohibits the board from conditioning approval or denial of a
18 tariff on the final adoption of rules and requires the board to
19 adopt rules related to the bill.

20 The bill applies to a public utility filing an application
21 with the board for review of a tariff on or after the effective
22 date of the bill.