

House File 2581 - Introduced

HOUSE FILE 2581
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 2032)

A BILL FOR

1 An Act establishing procedures for system enhancement of
2 infrastructure, including for development of ratemaking
3 principles permitted for recovery costs of certain investments
4 in infrastructure by water and wastewater utilities.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **476.59 System enhancement**
2 **infrastructure.**

3 1. It is the intent of the general assembly to authorize
4 alternative ratemaking mechanisms to develop and sustain adequate
5 water and wastewater treatment facilities within the state
6 to ensure resilient water supply and sanitation services for
7 Iowa consumers and provide economic benefits to the state.
8 The commission shall not be bound by traditional ratemaking
9 principles or traditional cost recovery mechanisms with respect
10 to system enhancement infrastructure.

11 2. For purposes of this section:

12 a. "*Blanket-type work project order*" means an agreement
13 between an eligible utility and a supplier to deliver goods or
14 services at a set price on a recurring basis over a specified
15 time period.

16 b. "*Eligible utility*" means an investor-owned public utility
17 providing water or wastewater service subject to rate regulation
18 by the commission pursuant to section 476.1.

19 c. "*Plan*" means a multiyear plan to implement system
20 enhancement improvements.

21 d. "*Requirement*" means any decision or regulation imposed on
22 an eligible utility by a local government unit, a state, or the
23 federal government in connection with any of the following:

24 (1) The federal Water Pollution Control Act, 33 U.S.C. §1251
25 et seq.

26 (2) The federal Safe Drinking Water Act, 42 U.S.C. §300f et
27 seq.

28 (3) Any other law, order, or regulation administered by
29 the United States environmental protection agency, the United
30 States army corps of engineers, the United States department of
31 transportation, the Iowa department of transportation, or the
32 Iowa department of natural resources.

33 (4) Regulations imposed by a local government unit.

34 e. "*System enhancement charge*" means a charge assessed by an
35 eligible utility to recover system enhancement costs.

1 *f.* (1) "*System enhancement costs*" means the following
2 costs associated with any of the following system enhancement
3 improvements:

4 (a) Depreciation expenses, including any such expenses
5 incurred prior to the approval of a plan containing the
6 applicable system enhancement improvement.

7 (b) Operation and maintenance expenses.

8 (c) Restoration costs incurred to restore property to its
9 preconstruction condition other than those already capitalized
10 and included in depreciation expenses.

11 (d) Property taxes to be paid by the utility based upon the
12 first assessment date following placement in service.

13 (2) "*System enhancement costs*" does not include fines or
14 penalties assessed against or imposed on a utility for violating
15 laws, regulations, or consent decrees.

16 *g.* (1) "*System enhancement improvement*" means a water or
17 wastewater utility plant project that does any of the following:

18 (a) Installs new utility infrastructure required by federal,
19 state, or local requirements pertaining to resilience, health,
20 safety, or environmental protection.

21 (b) Relocates utility infrastructure necessary to accommodate
22 public improvement projects required by federal, state, or
23 local jurisdictions to the extent the relocation costs are not
24 otherwise reimbursed through the public improvement project.

25 (2) "*System enhancement improvement*" does not include a water
26 or wastewater utility plant included in the eligible utility's
27 rate base in its most recent general rate case.

28 3. *a.* Before an eligible utility may seek recovery of its
29 service enhancement costs through a system enhancement charge
30 under this section, it must first obtain approval from the
31 commission of a plan including the proposed service enhancement
32 improvement. The eligible utility must file with the commission
33 an application and supporting evidence for the plan. The
34 commission shall dismiss an application to approve a plan if the
35 commission has not issued a final order in a general rate case

1 proceeding under section 476.6 involving the eligible utility for
2 the same type of utility service within the past five years.

3 b. Evidence supporting an application to approve a plan shall
4 include all of the following:

5 (1) Projected annual capital expenditures identified by major
6 categories of expenditures of service enhancement improvements
7 included in the plan.

8 (2) Estimated operation and maintenance costs resulting from
9 the service enhancement improvements.

10 (3) A description of the age, condition, or other similar
11 and reasonably available information about the existing
12 infrastructure, if applicable.

13 (4) The applicable requirements, including any consent
14 decrees and conditions, including but not limited to completion
15 deadlines related to the requirements.

16 (5) A narrative describing how the service enhancement
17 improvement enables compliance with the requirements.

18 (6) Alternative plans for compliance considered by the
19 eligible utility.

20 (7) An engineering evaluation and report identifying the
21 system enhancement improvements included in the plan, with
22 descriptions of project objectives, detailed cost estimates,
23 and the estimated in-service dates for each system enhancement
24 improvement.

25 (8) Any blanket-type work order and its associated costs
26 proposed to implement the improvement.

27 (9) Proposed rate schedules establishing a system enhancement
28 charge.

29 (10) The estimated rate impact of the proposed system
30 enhancement charge.

31 c. An application for approval of a plan shall be a contested
32 case. The commission shall issue its final order on the
33 application not more than ten months after the filing of the
34 petition. When reviewing the plan and corresponding system
35 enhancement charge, the commission shall make reasonable efforts

1 to ensure the utility is in compliance with the requirements as
2 supported by evidence in the application and the proceeding. The
3 commission may consider the following criteria:

4 (1) Consists of projects that are service enhancement
5 improvements, except any removed pursuant to paragraph "d".

6 (2) Includes cost estimates that enable a reasonable
7 assessment of the costs of the plan.

8 (3) Will result in rates that are just and reasonable.

9 d. The commission shall not disapprove the plan on the basis
10 that one or more service enhancement improvements within the
11 plan do not satisfy paragraph "e". The commission may approve
12 the plan subject to the removal of the service enhancement
13 improvements found not to satisfy paragraph "e".

14 e. An eligible utility that operates both a water and
15 wastewater utility shall establish separate plans for water and
16 wastewater enhancement plans and such plans may be presented to
17 the commission through different petitions.

18 4. a. An eligible utility with one or more plans approved
19 under subsection 3 shall file with the commission an application
20 annually setting forth rate schedules establishing a system
21 enhancement charge, which may thereafter be automatically
22 adjusted and include a reconciliation of revenues collected under
23 previous system enhancement charges. A revenue reconciliation
24 filing will be filed on an annual basis no later than ninety days
25 following the expiration of the charge. The commission shall
26 review the filing to ensure compliance with previously approved
27 filings.

28 b. The system enhancement charge shall do all of the
29 following:

30 (1) Be calculated as a monthly fixed charge based upon meter
31 size.

32 (2) Not include recovery of any system enhancement costs
33 recovered by the eligible utility through contributions in aid of
34 construction.

35 (3) Recover system enhancement costs incurred prior to the

1 date of the petition and not previously recovered through a
2 system enhancement charge.

3 (4) Reflect system enhancement costs for system enhancement
4 improvements placed in service prior to the date the application
5 is filed.

6 c. The application filed to implement the system enhancement
7 charge shall include all of the following:

8 (1) A breakdown of costs for each service enhancement
9 improvement that clearly identifies the status of completion of
10 such project.

11 (2) The actual costs incurred, the projected construction
12 timeline for projects with a construction period of more
13 than twelve months, and the in-service or estimated in-service
14 dates or aggregate information capturing service enhancement
15 improvements constructed pursuant to blanket-type work project
16 orders and the actual annual costs of the replacement programs
17 performed pursuant to blanket-type work project orders.

18 d. The commission shall not authorize an adjustment to the
19 system enhancement charge to incorporate system enhancement costs
20 incurred since the date of prior petition filed under this
21 subsection if the commission has not issued a final order in a
22 general rate case proceeding under section 476.6 involving the
23 eligible utility within the past five years.

24 5. Publication of notice of an eligible utility's petitions
25 under section 476.6, subsection 2, is required.

26 6. An eligible utility's system enhancement charge approved
27 under this section shall reset to zero upon approval of new basic
28 rates and charges for the eligible utility by the commission in a
29 general rate case.

30 7. The commission shall adopt rules pursuant to chapter 17A
31 to establish procedures to implement this chapter.

32 EXPLANATION

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

35 This bill establishes procedures for system enhancement

1 of infrastructure, including the development of ratemaking
2 principles permitted for the recovery costs of certain
3 investments in infrastructure by water and wastewater utilities.
4 The bill states the intent of the general assembly that
5 these mechanisms be available to support the development and
6 sustainability of adequate and resilient water and wastewater
7 treatment facilities, and provides that the commission is not
8 bound by traditional ratemaking principles when evaluating system
9 enhancement infrastructure.

10 The bill defines terms, including "system enhancement costs"
11 and "system enhancement improvement". System enhancement
12 costs include depreciation expenses, operation and maintenance
13 expenses, restoration costs, and property taxes, but exclude
14 fines and penalties. System enhancement improvements include
15 a water or wastewater utility plant project that constructs
16 infrastructure necessary to comply with federal, state, or
17 local requirements or relocates utility infrastructure necessary
18 to accommodate required public improvement projects when the
19 relocation costs are not reimbursed. Utility plants included in
20 an eligible utility's most recent rate base are excluded from the
21 definition.

22 The bill requires an eligible utility to obtain commission
23 approval of a plan before seeking recovery of system enhancement
24 costs through a system enhancement charge. The bill requires the
25 commission to dismiss an application for a plan if the utility
26 has not received a final order in a general rate case for the
27 same type of utility service within the previous five years.

28 The bill requires an application for approval of a plan
29 to include projected annual capital expenditures, estimated
30 operation and maintenance costs, a description of the age or
31 condition of the existing infrastructure, applicable legal or
32 regulatory requirements and any consent decrees, a description
33 of how proposed improvements enable compliance, alternative
34 compliance options considered, an engineering evaluation and
35 report identifying system enhancement improvements along with

1 cost estimates and estimated in-service dates, any blanket-type
2 work order and its associated proposed cost, proposed rate
3 schedules for the system enhancement charge, and the estimated
4 rate impact of the charge.

5 The bill requires the application to be a contested case,
6 and the commission must issue a final order within 10 months
7 of filing. The bill requires the commission, when reviewing
8 the plan and corresponding system enhancement charge, to make
9 reasonable efforts to ensure that the utility is in compliance
10 with the requirements and allows the commission to consider if
11 the plan consists of system enhancement improvements, includes
12 cost estimates that allow reasonable assessment, and will result
13 in rates that are just and reasonable.

14 The bill restricts the commission from disapproving a plan on
15 the basis of one or more service enhancements, but allows the
16 commission to approve plans subject to removal of the service
17 enhancement improvements that do not satisfy the criteria.

18 The bill requires a utility providing both water and
19 wastewater service to submit separate plans for each service.

20 Following approval of a plan, the bill requires an eligible
21 utility to file an annual application to establish or adjust a
22 system enhancement charge. The charge must be calculated as
23 a fixed monthly charge based on meter size, shall not include
24 recovery of costs recovered through contributions in aid of
25 construction, must recover system enhancement costs incurred
26 prior to filing that have not been previously recovered, and
27 must reflect costs for system enhancement improvements placed in
28 service before the filing date.

29 The bill requires the annual application to include a
30 breakdown of costs for each improvement with a project's status
31 of completion, and actual costs incurred.

32 The bill prohibits the commission from authorizing an
33 adjustment to a system enhancement charge if the utility has not
34 received a final order in a general rate case within the previous
35 five years.

1 The bill requires petitions under the bill to follow
2 publication of notice requirements. The bill requires a system
3 enhancement charge to reset to zero upon approval of new basic
4 rates and charges for the eligible utility in a general rate case
5 in which the system enhancement improvements are included in the
6 utility's rate base.

7 The bill authorizes the commission to adopt rules establishing
8 procedures to implement the bill.

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