

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
4 investments in infrastructure by water and wastewater
5 utilities.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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
5 adequate water and wastewater treatment facilities within the
6 state to ensure resilient water supply and sanitation services
7 for 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
17 utility providing water or wastewater service subject to rate
18 regulation 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
14 or penalties assessed against or imposed on a utility for
15 violating laws, regulations, or consent decrees.

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

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

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

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

30 3. *a.* Before an eligible utility may seek recovery of
31 its service enhancement costs through a system enhancement
32 charge under this section, it must first obtain approval
33 from the commission of a plan including the proposed service
34 enhancement improvement. The eligible utility must file with
35 the commission an application and supporting evidence for the

1 plan. The commission shall dismiss an application to approve
2 a plan if the commission has not issued a final order in a
3 general rate case proceeding under section 476.6 involving the
4 eligible utility for the same type of utility service within
5 the past five years.

6 *b.* Evidence supporting an application to approve a plan
7 shall include all of the following:

8 (1) Projected annual capital expenditures identified
9 by major categories of expenditures of service enhancement
10 improvements included in the plan.

11 (2) Estimated operation and maintenance costs resulting
12 from the service enhancement improvements.

13 (3) A description of the age, condition, or other similar
14 and reasonably available information about the existing
15 infrastructure, if applicable.

16 (4) The applicable requirements, including any consent
17 decrees and conditions, including but not limited to completion
18 deadlines related to the requirements.

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

21 (6) Alternative plans for compliance considered by the
22 eligible utility.

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

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

30 (9) Proposed rate schedules establishing a system
31 enhancement charge.

32 (10) The estimated rate impact of the proposed system
33 enhancement charge.

34 *c.* An application for approval of a plan shall be a
35 contested case. The commission shall issue its final order

1 on the application not more than ten months after the filing
2 of the petition. When reviewing the plan and corresponding
3 system enhancement charge, the commission shall make reasonable
4 efforts to ensure the utility is in compliance with the
5 requirements as supported by evidence in the application and
6 the proceeding. The commission may consider the following
7 criteria:

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

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

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

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

18 e. An eligible utility that operates both a water and
19 wastewater utility shall establish separate plans for water and
20 wastewater enhancement plans and such plans may be presented to
21 the commission through different petitions.

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

32 b. The system enhancement charge shall do all of the
33 following:

34 (1) Be calculated as a monthly fixed charge based upon meter
35 size.

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

4 (3) Recover system enhancement costs incurred prior to the
5 date of the petition and not previously recovered through a
6 system enhancement charge.

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

10 *c.* The application filed to implement the system enhancement
11 charge shall include all of the following:

12 (1) A breakdown of costs for each service enhancement
13 improvement that clearly identifies the status of completion of
14 such project.

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

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

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

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

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

1

EXPLANATION

2

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

3

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

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

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

33 The bill requires an application for approval of a plan
34 to include projected annual capital expenditures, estimated
35 operation and maintenance costs, a description of the age or

1 condition of the existing infrastructure, applicable legal or
2 regulatory requirements and any consent decrees, a description
3 of how proposed improvements enable compliance, alternative
4 compliance options considered, an engineering evaluation and
5 report identifying system enhancement improvements along with
6 cost estimates and estimated in-service dates, any blanket-type
7 work order and its associated proposed cost, proposed rate
8 schedules for the system enhancement charge, and the estimated
9 rate impact of the charge.

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

19 The bill restricts the commission from disapproving a
20 plan on the basis of one or more service enhancements, but
21 allows the commission to approve plans subject to removal of
22 the service enhancement improvements that do not satisfy the
23 criteria.

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

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

35 The bill requires the annual application to include a

1 breakdown of costs for each improvement with a project's status
2 of completion, and actual costs incurred.

3 The bill prohibits the commission from authorizing an
4 adjustment to a system enhancement charge if the utility has
5 not received a final order in a general rate case within the
6 previous five years.

7 The bill requires petitions under the bill to follow
8 publication of notice requirements. The bill requires a system
9 enhancement charge to reset to zero upon approval of new basic
10 rates and charges for the eligible utility in a general rate
11 case in which the system enhancement improvements are included
12 in the utility's rate base.

13 The bill authorizes the commission to adopt rules
14 establishing procedures to implement the bill.