

CODE OF IOWA
TITLE XI. NATURAL RESOURCES
SUBTITLE 5. PUBLIC UTILITIES
CHAPTER 476. PUBLIC UTILITY REGULATION
ALTERNATE ENERGY PRODUCTION FACILITIES
IOWA CODE § 476.41 et seq. (2003)

476.41 Purpose.

It is the policy of this state to encourage the development of alternate energy production facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient use.

476.42 Definitions.

As used in this division, unless the context otherwise requires:

1. "*Alternate energy production facility*" means any or all of the following:

- a. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility.
- b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
- c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

A facility which is a qualifying facility under 18 C.F.R. part 292, subpart B is not precluded from being an alternate energy production facility under this division.

2. "*Electric utility*" means a public utility that furnishes electricity to the public for compensation.

3. "*Next generating plant*" means an electric utility's assumed next coal-fired base load electric generating plant, whether planned or not, based on current technology and undiscounted current cost.

4. "*Small hydro facility*" means any or all of the following:

- a. A hydroelectric facility at a dam.
- b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
- c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

A facility which is a qualifying facility under 18 C.F.R. part 292, subpart B is not precluded from being a small hydro facility under this division.

476.43 Rates for alternate energy production facilities.

1. Subject to section 476.44, the board shall require electric utilities to do both of the following under terms and conditions that the board finds are just and economically reasonable for the electric utilities' customers, are nondiscriminatory to alternate energy producers and small hydro producers, and will further the policy stated in section 476.41:

a. At least one of the following:

(1) Own alternate energy production facilities or small hydro facilities located in this state.

(2) Enter into long-term contracts to purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area.

b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

2. Upon application by the owner or operator of an alternate energy production facility or small hydro facility or any interested party, the board shall establish for the affected public utility just and economically reasonable rates for electricity purchased under subsection 1, paragraph "*a*". The rates shall be established at levels sufficient to stimulate the development of alternate energy production and small hydro facilities in Iowa and to encourage the continuation of existing capacity from those facilities.

3. The board may adopt individual utility or uniform statewide facility rates. The board shall consider the following factors in setting individual or uniform rates:

a. The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the electric utility serving the area.

b. The term of the contract between the electric utility and the seller.

c. A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the electric utility's new construction program.

d. The electric utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and other energy-related costs considered appropriate by the board.

e. External factors, including but not limited to, environmental and economic factors.

f. Other relevant factors.

g. If the board adopts uniform statewide rates, the board shall use representative data in lieu of utility specific information in applying the factors listed in paragraphs "*a*" through "*f*".

4. In the case of a utility that purchases all or substantially all of its electricity requirements, the

rates established under this section must be based on the electric utility's current purchased power costs.

5. In lieu of the other procedures provided by this section, an electric utility and an owner or operator of an alternate energy production facility or small hydro facility may enter into a long-term contract in accordance with subsection 1 and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the board in the manner provided for tariffs under section 476.4.

6. This section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility or small hydro facility.

476.44 Exceptions.

1. The board shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following:

a. Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

b. Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. An electric utility subject to this division, except a utility that elects rate regulation pursuant to section 476.1A, shall not be required to own or purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to own or purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

476.45 Exemption from excess capacity.

Capacity of an alternate energy production facility or small hydro facility, that is owned or purchased by an electric utility, shall not be included in a calculation of an electric utility's excess generating capacity for ratemaking purposes.

