

## IOWA UTILITIES BOARD

IN RE:  REVIEW OF RATEMAKING PRINCIPLES PROCEEDING RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 41]	DOCKET NO. RMU-2023-0041
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### **ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE**

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rulemaking and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rulemaking process, eliminating rules that do not provide substantial benefits to Iowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive language. As part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/red-tape-review> (last accessed on February 29, 2024).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned docket for purposes of conducting a comprehensive review of chapter 41, which contains the Board's Ratemaking Principles Proceeding rules. Attached to this order as

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Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 41, which the Board will direct staff to publish on the Board's website as required by Section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft regulatory analysis of chapter 41, which the Board will direct staff to submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin (IAB). The version published in the IAB may contain changes from the version attached to this order. Finally, attached to this order as Attachment C is a draft version of chapter 41 that the Board is evaluating whether to re-promulgate. The proposed changes to chapter 41 focus entirely on removing unnecessary and restrictive language.

The Board is also scheduling a technical conference for April 30, 2024. The technical conference will be led by Board staff, and participation may occur in person or by Zoom. The purpose of the technical conference is to receive comments regarding the draft Regulatory Analysis and the proposed version of chapter 41 to be re-promulgated. Additionally, the Board is accepting written comments concerning the regulatory analysis and the proposed re-promulgated version of chapter 41 through April 30, 2024. The Board will use the oral and written comments received to prepare a final version of the regulatory analysis, which will be uploaded in this docket and published on the Board's website.

**IT IS THEREFORE ORDERED:**

1. Docket No. RMU-2023-0041 is opened for purposes of conducting a comprehensive review of 199 Iowa Administrative Code chapter 41 pursuant to Executive Order Number 10.

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2. A technical conference is set for 9 a.m. April 30, 2024, in the Utilities Board hearing room, located at 1375 E. Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by Zoom. Information for attending by Zoom can be found on the Utilities Board's website on the Hearing and Meeting Calendar page.

3. Comments regarding the draft regulatory analysis or the proposed decision to rescind chapter 41 shall be filed by April 30, 2024.

**UTILITIES BOARD**

Erik M. Helland Date: 2024.03.06  
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Joshua Byrnes Date: 2024.03.05  
15:31:21 -06'00'

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ATTEST:

Jackie Yearington Date: 2024.03.06  
11:04:58 -06'00'

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Sarah Martz Date: 2024.03.05  
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Dated at Des Moines, Iowa, this 6th day of March, 2024.

## Red Tape Review Rule Report (Due: September 1, 2025)

<b>Department Name:</b>	Iowa Utilities Board	<b>Date:</b>	February 26, 2024	<b>Total Rule Count:</b>	6 rules in Chapter 41
<b>IAC #:</b>	199	<b>Chapter/ SubChapter/ Rule(s):</b>	199 IAC chapter 42	<b>Iowa Code Section Authorizing Rule:</b>	Iowa Code §§ 17A.3, 476.53, 476.84.
<b>Contact Name:</b>	Michael Eppink	<b>Email:</b>	<a href="mailto:michael.eppink@iub.iowa.gov">michael.eppink@iub.iowa.gov</a>	<b>Phone:</b>	515-725-0551

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

The intended benefit of chapter 41 is to execute Iowa Code sections 476.53 and 476.84 by providing a standardized procedure for utilities to request advanced ratemaking principles for electric power generating facilities, alternate energy production facilities, water facilities, sanitary sewer facilities, and storm water facilities.

**Is the benefit being achieved? Please provide evidence.**

Yes, the benefit of chapter 41 is being achieved. Utilities are able to request and obtain advanced ratemaking principles. See IUB Docket Nos. RPU-2022-0001, RPU-2021-0003, and RPU-2018-0003.

**What are the costs incurred by the public to comply with the rule?**

Chapter 41 imposes costs on utilities in the form of filing requirements needing to be satisfied to obtain advanced ratemaking principles.

**What are the costs to the agency or any other agency to implement/enforce the rule?**

The IUB and OCA must assign employees to review petitions brought under chapter 41, and the IUB must prepare for and hold a hearing for the presentation of evidence regarding said petitions. These costs are an expected part of the IUB's normal operations.

**Do the costs justify the benefits achieved? Please explain.**

The costs justify the benefits; utilities have repeatedly chosen to submit petitions in compliance with chapter 41 in order to request advanced ratemaking principles.

**Are there less restrictive alternatives to accomplish the benefit?  YES  NO**

**If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.**

Setting forth standard filing requirements for utilities wishing to obtain advanced ratemaking principles ensures that utilities are required to comply with the same standards. If no standard filing requirements were developed, a utility could be subject to different requirements at different times and one utility could be subject to different standards than another utility.

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]**

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**ATTACHMENT A**

199 IAC 41.1 is revised to remove definitions that are already provided in statute.  
 199 IAC 41.2 is revised to remove redundant language.  
 199 IAC 41.3 is revised to remove redundant language.  
 199 IAC 41.4 is revised to remove redundant language.  
 199 IAC 41.5 is revised to remove redundant language.

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

199 IAC 41.6

**RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):**

199 IAC 41.1  
 199 IAC 41.2  
 199 IAC 41.3  
 199 IAC 41.4  
 199 IAC 41.5

*\*For rules being re-promulgated with changes, you may attach a document with suggested changes.*

**METRICS**

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	308
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

**ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?**

No.

**Regulatory Analysis Template**

**ATTACHMENT B**

**TEXT BOXES WILL EXPAND AS YOU TYPE**

**Agency Name** Iowa Utilities Board **Rule #** 199 IAC chapter 41

**Iowa Code Section Authorizing Rule** Iowa Code §§ 17A.3, 476.53, 476.84

**State or Federal Law(s) Implemented by the Rule** Iowa Code §§ 476.53, 476.84

**Public Hearing**

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: April 24, 2024 9:00 a.m.

Location: Utilities Board hearing room, located at 1375 E. Court Ave., Des Moines, Iowa

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

Michael Eppink

Address

1375 E. Court Ave., Des Moines, Iowa 50319

Email and/or phone number

michael.eppink@iub.iowa

**Purpose and summary of proposed rule:**

The purpose of chapter 41 is to execute Iowa Code sections 476.53 and 476.84 by providing a procedure for utility companies to request advanced ratemaking principles for electric power generating facilities, alternate energy production facilities, water facilities, sanitary sewer facilities, and storm water facilities.

**Analysis of Impact of Proposed Rule**

1. Persons affected by the proposed rule

- Classes of persons that will bear the costs of the proposed rule:

Utility companies bear the cost of complying with chapter 41.

- Classes of persons that will benefit from the proposed rule:

Utility companies benefit from the rule.

## Regulatory Analysis Template

### ATTACHMENT B

Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

Chapter 41 sets out standardized and defined filing requirements for utilities to adhere to when requesting advanced ratemaking principles.

- Qualitative description of impact:

The qualitative impact of chapter 41 is entwined with the impact of Iowa Code sections 476.52 and 476.84. Iowa Code sections 476.52, 476.84, and chapter 41, collectively, permit and encourage the development and maintenance of critical infrastructure within the state of Iowa.

#### 2. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

Chapter 41 imposes no costs on the IUB that are outside of the normal operations of the agency.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

#### 3. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

Chapter 41 provides standardized filing requirements for utilities wishing to obtain advanced ratemaking principles. Standard filing requirements benefit utilities by making the regulatory process more predictable and fair. Were there no standardized requirements utilities may be subject to different requirements at different times and one utility could be subject to different standards than another utility.

#### 4. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

The agency has determined that there is no less intrusive method to achieve the purpose of chapter 41.

#### 5. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

Since Iowa Code sections 476.52 and 476.84 compels the Board to consider requests for advanced ratemaking principles, no serious alternatives to standardized filing requirements were identified.

- Reasons why they were rejected in favor of the proposed rule:

No serious alternatives could be identified.

### Small Business Impact

**Regulatory Analysis Template**

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If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

Chapter 41 does not have an impact on small business.

**Text of Proposed Rule:**

CHAPTER 41  
RATEMAKING PRINCIPLES PROCEEDING

**199—41.1(476) Definitions.** The following terms, when used in these rules, shall have the meanings set forth in Iowa Code sections 476.42 and 476.72: “affiliate,” “alternate energy production facility,” and “control.” In addition, as used in this chapter, the following definitions shall apply:

“*AFUDC*” means allowance for funds used during construction.

“*Baseload generation*” refers to generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

“*Combined-cycle combustion turbine*” means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

“*Emission allowance*” means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

“*Facility*” means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3) “a.” The term includes energy storage systems located at the site of an alternate energy production facility.

“*kWh*” means kilowatt-hour.

“*Opportunity sales*” means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

“*Repowering*” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.



## Regulatory Analysis Template

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**199—41.2(476) Applicability and purpose.**

**41.2(1)** Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

**41.2(2)** Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4).

**199—41.3(476) Application for predetermined ratemaking principles; contents.** Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the board. An application may be for one facility or a combination of facilities necessary to meet the current and future

needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

**41.3(1) General information.** An application shall include the following general information:

*a.* The purpose of the proposed facility.  
*b.* A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.

*c.* For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers and parks within the site impact area(s).

*d.* A general description of the proposed facility, including a description of the expected principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the expected net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility that is proposed to be available for use by each participant; the expected number and type of generating units; the primary fuel source for each such unit; the total hours of operation anticipated seasonally and annually and output during these hours; the expected capacity factors; a description of the expected general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility; and a projected schedule for the facility's construction and utilization, including the projected date when a significant site alteration is proposed to begin and the projected in-service date of the facility. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available are considered a single unit.

*e.* A general description of the raw materials, including fuel, used by the proposed facility in producing electricity and of the wastes created in the production process; a determination of the annual expected emissions from the facility; a plan for acquiring allowances sufficient to offset these emissions; a

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description of all transportation facilities currently operating that will be available to serve the proposed facility; and any additional transportation facilities needed to deliver raw materials and to remove wastes.

*f.* An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

*g.* A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.

*h.* A general analysis of the existing transmission system's capability to reliably support the proposed additional generation interconnection to the system. In the alternative, the applicant may provide testimony that (1) it will follow the interconnection requirements of the local and regional transmission authorities; (2) it is committed to meeting the pertinent transmission requirements with respect to the proposed facility; and (3) the applicant assures the board that the interconnection of the proposed facility will not degrade the adequacy, reliability, or operating flexibility of the transmission system from a regional or local perspective.

*i.* Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general contractor.

*j.* Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

**41.3(2) *Economic evaluation of proposed facility.*** An application shall include an overall economic evaluation of the proposed facility using conventional capital evaluation techniques and the proposed ratemaking principles. The economic evaluation shall include:

*a.* Material assumptions used in the analysis

*b.* Net present value calculations. This includes projected annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the proposed facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, provide projected annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, provide the estimated effect the proposed facility will have on these calculations. In making these calculations, detail the following cost assumptions:

(1) Installed cost. This includes an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs include, but are not limited to, the estimated cost of all electric power generating units; all electric supply lines within the proposed facility site boundary; all electric supply lines beyond the proposed facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the proposed facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with the proposed facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The estimated costs of all electric power generating units shall include all estimated costs of transmission and gas interconnection (if applicable). Estimated facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt estimated construction costs shall be adjusted by the expected rate of inflation from the time the estimated construction costs are calculated to the time the proposed facility is scheduled for operation.

(2) Fixed expenses. For each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life, include projected expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the proposed facility's expected life from the scheduled time of operation to the end of the proposed facility's expected life, include expected variable operation and maintenance costs including the cost of fuel and emission allowances. These expected costs are reported in absolute terms and on a kWh basis assuming expected annual capacity factors for the proposed facility.

*b.* Cost of capital. This includes projected costs of capital for the proposed facility for each year of the

## Regulatory Analysis Template

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proposed facility's expected life from the time of application to the end of the proposed facility's expected life. Provide material assumptions used in the projections, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

c. Cash flows. This includes the estimated maximum, minimum and expected cash inflows and outflows associated with the proposed facility in each year from the date of the application throughout the proposed facility's expected life.

**41.3(3) Risk mitigation factors.** At a minimum, include the following information regarding contractual risk mitigation factors in an application:

a. Construction risk mitigation factors. This includes a general description of the contractual standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased by the utility, identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

b. Operational risk mitigation factors. This includes a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

**41.3(4) Noncost factors.** This includes a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.

b. Environmental impact to the state and community where the facility is proposed to be located.

c. Electric supply reliability and security in the state.

d. Fuel diversity and use of nontraditional supply sources such as alternate energy and conservation.

e. Efficiency and control technologies.

**41.3(5) Filing requirements for proposed ratemaking principles.** Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

a. *Cost of equity.* Proposals for establishing the cost of equity shall be supported with analyses which demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

b. *Depreciable life.* Proposals for establishing the depreciable life of the facility shall be supported by board precedent for the depreciable lives of similar facilities, the manufacturer's opinion of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

c. *Jurisdictional allocations.* Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies or recent board-ordered or -approved allocations for the applicant.

**41.3(6) Additional application requirements for leasing arrangements.** The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

a. Identification of the method used in selecting the affiliate or independent third party to build the facility (competitive solicitation, sole source, etc.).

b. A copy of the lease agreement.

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- c. A detailed description of the lease agreement, including but not limited to the following:
- (1) Commitment of capacity from the proposed facility to the utility under the lease agreement.
  - (2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.
  - (3) Identification of the party responsible for operating, dispatching, and maintaining the facility.
  - (4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.
  - (5) Identification of the party responsible for contracting capacity from the proposed facility.
  - (6) Identification of the party benefiting from revenues received through contracted capacity and opportunity sales.
- d. If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate’s corporate structure and the utility’s ownership stake in the affiliate, if any.
- e. If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.
- f. If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

**199—41.4(476) Coincident filing.** The utility may file its application for ratemaking principles, as required by this chapter, coincident with the utility’s application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

**199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility.** A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall file an application for approval of the acquisition with the board. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates will be determined as part of the board’s review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements, to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

**41.5(1) General information.** An application shall include the following general information:

- a. A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.
- b. The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.
- c. A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the board’s procedural rules in 199—Chapter 7.

**41.5(2) Acquisition information.** An application shall include the following information related to the acquisition:

- a. The final reports of both appraisals prepared pursuant to Iowa Code section 388.2A(2) “a”(2).
- b. Final fair market value of the system as identified in Iowa Code section 388.2A(2) “b.”
- c. The final price for the system as negotiated pursuant to Iowa Code section 388.2A(2) “c.”
- d. An inventory of the acquired system’s real and personal property as identified in Iowa Code section 388.2A(2) “d.”
- e. A financial information sheet prepared pursuant to Iowa Code section 388.2A(2) “e.”
- f. An affirmation that the acquiring utility and the acquired system have complied with the applicable components of Iowa Code section 388.2A.

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g. The proposed acquisition contract.

**41.5(3) *Impact of acquisition.*** An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

a. If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.

b. A description of anticipated capital investments and retirements for the acquired system, including estimated dollar amounts, for each of the first five years after the acquisition.

c. Any anticipated staffing changes due to the proposed acquisition.

d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.

e. A description of the anticipated effects of the acquisition, including a cost-benefit analysis which describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.

f. An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.

g. Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.

h. Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.

i. The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.

j. A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility's ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

**41.5(4) *Ratemaking principles.*** Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

a. *Cost of equity.* The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.

b. *Ratepayer allocations.* Proposals for allocating the cost of the acquired system and anticipated improvements to customers of the acquired system and the utility's existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.

c. *Initial depreciable value.* Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the lesser of the sale price or the fair market value of the system as determined consistent with Iowa Code section 388.2A(2) "b." The utility shall also provide the accumulated depreciation balances for the assets.

d. *Depreciable life.* Proposals for establishing rates that will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility's last general rate case.

**41.5(5) *At-risk systems.*** An application shall state whether the system to be acquired is an at-risk system, as defined by Iowa Code section 455B.199D. If the board determines that an application to acquire an at-risk system does not contain sufficient information consistent with this rule to render a timely decision, the board may reject the application without prejudice.

These rules are intended to implement Iowa Code sections 476.53 and 476.84.

CHAPTER 41  
RATEMAKING PRINCIPLES PROCEEDING

**199—41.1(476) Definitions.** The following terms, when used in these rules, shall have the meanings set forth in Iowa Code sections 476.42 and 476.72: “affiliate,” “alternate energy production facility,” and “control.”

In addition, as used in this chapter, the following definitions shall apply:

“*AFUDC*” means allowance for funds used during construction.

“*Baseload generation*” refers to generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

“*Combined-cycle combustion turbine*” means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

“*Emission allowance*” means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

“*Facility*” means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3)“a.” The term includes energy storage systems located at the site of an alternate energy production facility.

“*kWh*” means kilowatt-hour.

“*Opportunity sales*” means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

“*Repowering*” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

**199—41.2(476) Applicability and purpose.**

**41.2(1)** Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

**41.2(2)** Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4).

**199—41.3(476) Application for predetermined ratemaking principles; contents.** Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the board. An application may be for one facility or a combination of facilities necessary to meet the current and future needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably

available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

**41.3(1) General information.** An application shall include the following general information:

- a.* The purpose of the proposed facility.
- b.* A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.
- c.* For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features such as cities, lakes, rivers and parks within the site impact area(s).
- d.* A general description of the proposed facility, including a description of the expected principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the expected net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility that is proposed to be available for use by each participant; the expected number and type of generating units; the primary fuel source for each such unit; the total hours of operation anticipated seasonally and annually and output during these hours; the expected capacity factors; a description of the expected general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility; and a projected schedule for the facility's construction and utilization, including the projected date when a significant site alteration is proposed to begin and the projected in-service date of the facility. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available are considered a single unit.
- e.* A general description of the raw materials, including fuel, used by the proposed facility in producing electricity and of the wastes created in the production process; a determination of the annual expected emissions from the facility; a plan for acquiring allowances sufficient to offset these emissions; a description of all transportation facilities currently operating that will be available to serve the proposed facility; and any additional transportation facilities needed to deliver raw materials and to remove wastes.
- f.* An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.
- g.* A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.
- h.* A general analysis of the existing transmission system's capability to reliably support the proposed additional generation interconnection to the system. In the alternative, the applicant may provide testimony that (1) it will follow the interconnection requirements of the local and regional transmission authorities; (2) it is committed to meeting the pertinent transmission requirements with respect to the proposed facility; and (3) the applicant assures the board that the interconnection of the proposed facility will not degrade the adequacy, reliability, or operating flexibility of the transmission system from a regional or local perspective.
- i.* Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general

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contractor.

*j.* Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

**41.3(2) *Economic evaluation of proposed facility.*** An application shall include an overall economic evaluation of the proposed facility using conventional capital evaluation techniques and the proposed ratemaking principles. The economic evaluation shall include:

*a.* Material assumptions used in the analysis

*b.* Net present value calculations. This includes projected annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the proposed facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, provide projected annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, provide the estimated effect the proposed facility will have on these calculations. In making these calculations, detail the following cost assumptions:

(1) Installed cost. This includes an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs include, but are not limited to, the estimated cost of all electric power generating units; all electric supply lines within the proposed facility site boundary; all electric supply lines beyond the proposed facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the proposed facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with the proposed facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The estimated costs of all electric power generating units shall include all estimated costs of transmission and gas interconnection (if applicable). Estimated facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt estimated construction costs shall be adjusted by the expected rate of inflation from the time the estimated construction costs are calculated to the time the proposed facility is scheduled for operation.

(2) Fixed expenses. For each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life, include projected expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the proposed facility's expected life from the scheduled time of operation to the end of the proposed facility's expected life, include expected variable operation and maintenance costs including the cost of fuel and emission allowances. These expected costs are reported in absolute terms and on a kWh basis assuming expected annual capacity factors for the proposed facility.

*b.* Cost of capital. This includes projected costs of capital for the proposed facility for each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life. Provide material assumptions used in the projections, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

*c.* Cash flows. This includes the estimated maximum, minimum and expected cash inflows and outflows associated with the proposed facility in each year from the date of the application throughout the proposed facility's expected life.

**41.3(3) *Risk mitigation factors.*** At a minimum, include the following information regarding contractual risk mitigation factors in an application:

*a.* Construction risk mitigation factors. This includes a general description of the contractual



standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased by the utility, identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

*b. Operational risk mitigation factors.* This includes a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

**41.3(4) *Noncost factors.*** This includes a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

*a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.*

*b. Environmental impact to the state and community where the facility is proposed to be located.*

*c. Electric supply reliability and security in the state.*

*d. Fuel diversity and use of nontraditional supply sources such as alternate energy and conservation.*

*e. Efficiency and control technologies.*

**41.3(5) *Filing requirements for proposed ratemaking principles.*** Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

*a. Cost of equity.* Proposals for establishing the cost of equity shall be supported with analyses which demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

*b. Depreciable life.* Proposals for establishing the depreciable life of the facility shall be supported by board precedent for the depreciable lives of similar facilities, the manufacturer's opinion of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

*c. Jurisdictional allocations.* Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies or recent board-ordered or -approved allocations for the applicant.

**41.3(6) *Additional application requirements for leasing arrangements.*** The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

*a. Identification of the method used in selecting the affiliate or independent third party to build the facility (competitive solicitation, sole source, etc.).*

*b. A copy of the lease agreement.*

*c. A detailed description of the lease agreement, including but not limited to the following:*

(1) Commitment of capacity from the proposed facility to the utility under the lease agreement.

(2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.

(3) Identification of the party responsible for operating, dispatching, and maintaining the facility.

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(4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.

(5) Identification of the party responsible for contracting capacity from the proposed facility.

(6) Identification of the party benefiting from revenues received through contracted capacity and opportunity sales.

*d.* If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate's corporate structure and the utility's ownership stake in the affiliate, if any.

*e.* If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.

*f.* If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

**199—41.4(476) Coincident filing.** The utility may file its application for ratemaking principles, as required by this chapter, coincident with the utility's application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

**199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility.** A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall file an application for approval of the acquisition with the board. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates will be determined as part of the board's review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements, to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

**41.5(1) General information.** An application shall include the following general information:

*a.* A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.

*b.* The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.

*c.* A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the board's procedural rules in 199—Chapter 7.

**41.5(2) Acquisition information.** An application shall include the following information related to the acquisition:

*a.* The final reports of both appraisals prepared pursuant to Iowa Code section 388.2A(2) "a"(2).

*b.* Final fair market value of the system as identified in Iowa Code section 388.2A(2) "b."

*c.* The final price for the system as negotiated pursuant to Iowa Code section 388.2A(2) "c."

*d.* An inventory of the acquired system's real and personal property as identified in Iowa Code section 388.2A(2) "d."

*e.* A financial information sheet prepared pursuant to Iowa Code section 388.2A(2) "e."

*f.* An affirmation that the acquiring utility and the acquired system have complied with the applicable components of Iowa Code section 388.2A.

g. The proposed acquisition contract.

**41.5(3) *Impact of acquisition.*** An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

a. If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.

b. A description of anticipated capital investments and retirements for the acquired system, including estimated dollar amounts, for each of the first five years after the acquisition.

c. Any anticipated staffing changes due to the proposed acquisition.

d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.

e. A description of the anticipated effects of the acquisition, including a cost-benefit analysis which describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.

f. An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.

g. Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.

h. Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.

i. The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.

j. A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility's ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

**41.5(4) *Ratemaking principles.*** Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

a. *Cost of equity.* The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.

b. *Ratepayer allocations.* Proposals for allocating the cost of the acquired system and anticipated improvements to customers of the acquired system and the utility's existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.

c. *Initial depreciable value.* Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the lesser of the sale price or the fair market value of the system as determined consistent with Iowa Code section 388.2A(2) "b." The utility shall also provide the accumulated depreciation balances for the assets.

d. *Depreciable life.* Proposals for establishing rates that will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility's last general rate case.

**41.5(5) *At-risk systems.*** An application shall state whether the system to be acquired is an at-risk system, as defined by Iowa Code section 455B.199D. If the board determines that an application to acquire an at-risk system does not contain sufficient information consistent with this rule to render a timely decision, the board may reject the application without prejudice.

These rules are intended to implement Iowa Code sections 476.53 and 476.84.