STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: RULE MAKING FOR RATEMAKING PRINCIPLES PROCEEDING [199 IAC CHAPTER 41]	DOCKET NO. RMU-2019-0041

ORDER ADOPTING RULES

On November 30, 2017, the Utilities Board (Board) opened a rule-making docket identified as Docket No. RMU-2017-0003 to consider rules related to Iowa Code § 476.53 for the establishment of filing requirements for advance ratemaking principles (ARPs). Prior to the adoption of any rules, the Board chose to close that docket and to open Docket No. RMU-2019-0041 to allow for further comments from stakeholders and for the inclusion of rules related to Iowa Code § 476.84.

On April 12, 2019, the Board issued an order in this docket requesting stakeholder comment on a draft Notice of Intended Action (NOIA). The Board received comments on the draft NOIA from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Iowa Association of Municipal Utilities (IAMU); Facebook, Inc., and Google LLC (the Tech Customers); MidAmerican Energy Company (MidAmerican); Interstate Power and Light Company (IPL); and Iowa-American Water Company (Iowa-American).

On December 26, 2019, the Board issued an Order Commencing Rule Making. A NOIA was published in the administrative bulletin on January 15, 2020. The Board

received comments on the NOIA from MidAmerican, IPL, Iowa-American, the Tech Customers, the Iowa Environmental Council and the Environmental Law and Policy Center (IEC/ELPC), and OCA.

On March 12, 2020, the Board held an oral presentation. Participants at the oral presentation included MidAmerican, IPL, Iowa-American, the Tech Customers, IEC/ELPC, and OCA.

The Board accepted post-oral presentation comments through May 19, 2020. The Board received post-oral presentation comments from MidAmerican, IPL, Iowa-American, the Tech Customers, IAMU, and OCA.

In this order, the Board is adopting rules which set filing requirements for applications for ARPs associated with the construction of electric power generating facilities pursuant to Iowa Code § 476.53 and ARPs associated with the acquisition of water, sanitary sewage, and storm water systems pursuant to Iowa Code § 476.84.

The rules adopted are shown on the attached Adopted and Filed notice that is incorporated into this order by reference. The official rules are those that will be published in the Iowa Administrative Bulletin (IAB). The published rules may have editorial changes made by the Administrative Code Editor. The rules become effective 35 days after publication in the IAB.

SUMMARY OF COMMENTS AND ADOPTED RULES

The Board considered the comments it received during the rule-making process. The Adopted and Filed version of the rules includes several changes from the NOIA.

Below, the Board addresses the comments it received and describes the changes between the NOIA and the Adopted and Filed rules.

A. Rule 41.1 Definitions

IPL, the Tech Customers, and IEC/ELPC filed comments supporting the NOIA's inclusion of energy storage systems in the definition of the term "facility." OCA commented that the language of Iowa Code § 476.53 authorizes ARPs for energy storage systems that are built on-site at an alternate energy production (AEP) facility, but does not authorize ARPs for stand-alone energy storage systems. IPL and IEC/ELPC countered OCA's position by arguing that the legislative intent behind Iowa Code § 476.53 is to encourage the development of new alternative energy sources. They argued that the language of Iowa Code § 476.53 should be interpreted broadly to effect that goal.

The Adopted and Filed version of rule 41.1 states that the term "facility" includes energy storage systems "located at the site of an alternate energy production facility." Iowa Code § 476.53(3)(a) provides a discrete list of the types of electric generating facilities which are eligible for ARPs, including AEP facilities. AEP facilities are defined at Iowa Code § 476.42. They include several specific types of electric generating facilities, as well as "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." Energy storage systems located at the site of an AEP facility meet this definition because they are located at the project site and are convenient to

the operation of the facility. Stand-alone energy storage systems may also be convenient to the operation of an AEP, but they are not located at the project site.

The Board is not taking the position, at this time, that stand-alone energy storage systems are not eligible for ARPs. The Board is instead merely declining to make a determination by rule. The Board will remain open to making eligibility determinations about stand-alone energy storage systems on a case-by-case basis.

B. Rule 41.2 Applicability and purpose

MidAmerican commented generally that this rule making is not needed and should be terminated. MidAmerican argued the existing process for requesting and granting ARPs has worked well for years and does not need to be changed. MidAmerican argued that turning the Board's long-standing filing guidelines into rules will reduce flexibility and efficiency. MidAmerican stated that some of the information required in the rules will not be known with certainty at the time a utility files its application. MidAmerican cited wind project locations as an example. MidAmerican said that at the time a utility files an application for ARPs, the utility may have multiple sites in mind for the project. MidAmerican fears that the rules will require it to choose a site at the time of application and be locked into that site when it comes time to construct the project. MidAmerican acknowledges that the rules provide for omitting information that is not reasonably available, but it believes having to justify omissions will create opportunities for project opponents to slow down the approval process.

OCA, the Tech Customers, and IEC/ELPC submitted comments supporting the adoption of rules. They argued that all parties to a proceeding, and the public, should

be able to know what information the Board routinely expects to be provided in an ARP application. The Tech Customers stated that it was always the Board's intent to adopt rules once sufficient experience had been acquired with ARP proceedings. The Tech Customers and OCA argued that the rules offer ample opportunity for a utility to omit information, as long as it has a reasonable basis for doing so.

The Adopted and Filed version of the rules contains several specific changes requested by MidAmerican in order to provide increased flexibility about the type of information that must be submitted. However, the Board does not agree with MidAmerican's assertion that the rules are unnecessary or that they will inappropriately slow down projects. The rules are consistent with the Board's long-standing guidelines and allow for the omission of information that is not reasonably available.

There is nothing in the rules that would lock an applicant into choosing a particular wind project site. If an applicant is unable to provide a certain piece of information in its application due to uncertainty about the project details, it may omit the information and explain why it is not reasonably available. Granting ARPs is one of the most financially significant decisions the Board can make. It is entirely reasonable for all parties, and the public, to know what information the Board routinely expects to see in an application.

OCA commented that the rules should more clearly state that they establish only initial filing requirements and that the Board may request additional information. The Adopted and Filed version of rule 41.2 contains new language clarifying that the Board may request additional information on a case-by-case basis.

C. Rule 41.3 Content of application

OCA commented that the language in the introductory paragraph of rule 41.3, which provides that information is required "to the extent such information is reasonably available," should be reinforced with additional language making clear that the prescribed filing requirements are not optional. OCA suggested the introductory paragraph should be revised as follows:

> At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available. The omission of required information due to unavailability at the time of initial application shall be justified in the initial application. The required information shall be provided in an amendment to the application. Adjustments to the procedural schedule may be made as necessary.

The Adopted and Filed version of the rule includes language requiring that omissions due to unavailability must be adequately justified and that the Board will consider such omissions on a case-by-case basis. The Board declines to require that omitted information must be provided in an amended application and that the procedural schedule may be adjusted. The Board will decide on a case-by-case basis whether omitted information must eventually be provided at a later point in the proceeding.

IEC/ELPC commented that subsection 41.3(1)(e) should be revised to require that an applicant must quantify the proposed facility's expected greenhouse gas emissions. IEC/ELPC stated this would alert the Iowa Department of Natural Resources (IDNR) to the potential emissions from the project that should be included in IDNR's annual greenhouse gas emissions inventory, which IDNR is required to submit to the legislature pursuant to Iowa Code § 455B.152. The Board declines to adopt this

suggested revision. It is not clear how learning about projected greenhouse gas emissions from projects that have not yet been constructed would assist IDNR with its annual inventory report.

IEC/ELPC also commented that subrule 41.3(2) should require an evaluation of whether the applicant's existing generation sources remain used and useful and whether the proposed new generation source appropriately fits in the utility's generation portfolio. IEC/ELPC's suggestion is based on the language of Iowa Code § 476.53(3)(c), which provides that a utility seeking ARPs must show that it "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." The Board declines to adopt this suggested revision. The type of analysis suggested by IEC/ELPC is not clearly required by Iowa Code § 476.53(3)(c) and is not appropriate to include as an initial filing requirement.

MidAmerican suggested several specific changes to rule 41.3, which it argued would make the rule less prescriptive and burdensome. Instead of requiring a list of "all" assumptions used in the economic evaluation of the proposed facility, MidAmerican requested that the rule require only that "material" assumptions be provided. MidAmerican requested that the term "facility" be replaced with "proposed facility" in subrule 41.3(2) in order to clarify that the specific information requirements in the subrule need not be provided for each feasible alternative the utility considers. MidAmerican suggested that the word "cost" or "costs" should generally be preceded with the words "projected" or "estimated." MidAmerican also specifically cited the

transmission analysis required by subrule 41.3(1)(h) as an example of information that is not typically available at the time a utility files an application for ARPs. MidAmerican argued that in place of a transmission analysis, the subrule should allow an applicant merely to commit to following all interconnection requirements of the relevant transmission authorities. MidAmerican additionally argued that subrule 41.3(2)'s requirement that an applicant must compare the proposed facility to other feasible sources of supply using a range of assumptions and scenarios amounted to a least-cost approach to resource planning, which Iowa law does not require. MidAmerican also argued that jurisdictional allocations proposed pursuant to subrule 41.3(5)(c) should be allowed to be based on allocations the Board has previously approved for the applicant.

The Adopted and Filed version of the rule includes the revisions requested by MidAmerican regarding the terms "material assumptions," "proposed facility," and "estimated costs." The requirement for a transmission analysis has been made more general and now alternatively allows an applicant to commit to following all interconnection requirements. The language in subrule 41.3(2) regarding a comparison to other feasible sources of supply has been removed. The Board must still determine whether the proposed facility is reasonable in comparison to other feasible alternative sources of supply, in accordance with Iowa Code § 476.53(3)(c)(2). The Board may require additional information from the applicant as needed in order to make that determination. Subrule 41.3(5)(c) has been changed to allow jurisdictional allocations to be based on allocations the Board has previously approved for the applicant.

D. Rule 41.4 Coincident filing

The Board received no comments regarding rule 41.4. The Adopted and Filed version of the rule contains no changes from the NOIA.

E. Rule 41.5 Acquisition of a water, sanitary sewage, or storm water utility (introductory paragraph)

Iowa-American commented that the introductory paragraph should contain a qualifier, similar to the qualifier included in rule 41.3, which makes clear that the information is only required "to the extent such information is reasonably available." OCA replied that if such a qualifier is added, there should also be language requiring justification for any omissions and stating that the application must be amended at a later date.

The Adopted and Filed version of the introductory paragraph mirrors the corresponding language in rule 41.3. It provides that information is only required to the extent it is reasonably available, but it also provides that omissions must be adequately justified. The Board declines to adopt OCA's suggestion about amending the application for the same reasons the Board provided regarding rule 41.3.

F. Subrule 41.5(1) General information

OCA commented that the subrule should not require the applicant to submit a proposed procedural schedule. OCA said the procedural schedule should be established through a scheduling conference. The Board declines to adopt OCA's suggestion. The Board will ultimately determine the procedural schedule and may determine that a scheduling conference will be helpful. Having a proposed procedural schedule from the applicant will be helpful as well. OCA may submit its own proposed

procedural schedule, if it chooses.

G. Subrule 41.5(2) Acquisition information

OCA commented that an additional paragraph should be added to subrule 41.5(2) requiring the applicant to submit:

> Information showing that the value of the system to be acquired has been discounted to reflect the actual depreciated condition of the system and, if improvements are needed to bring the acquired system into compliance
>
> with applicable local, state, or federal standards, to reflect the need for such improvements.

OCA also commented that subrule 41.5(2) should require that, if improvements are needed to bring the acquired system into compliance with standards, the applicant must submit "a complete report on available sources of funding for the improvements and a complete demonstration that efforts to secure such funding have been exhausted."

Iowa-American submitted comments opposing both of OCA's suggestions. Iowa-American argued that the value of the system is determined by the appraisals required at Iowa Code § 388.2A and that rules dictating how the value of the system must be determined are therefore inappropriate. Iowa-American also opposed OCA's suggestion that an applicant must demonstrate that a municipal utility has exhausted all sources of grant funding for needed improvements. Iowa-American argued that the Board does not have authority to require a municipal utility to exhaust all available grant opportunities before deciding to sell its system to a rate-regulated utility.

The Board declines to adopt either of OCA's suggestions. Iowa Code § 388.2A requires a municipal utility to obtain appraisals that consider the depreciated value of the system and the cost of needed capital improvements. Adopting a corresponding

rule is not necessary. OCA's suggestion that the rules should require the municipal utility to exhaust opportunities for grant funding is not appropriate. There is no evidence that the legislature intended for acquisitions to be available only as a last resort for municipal utilities. The Board must ultimately find only that the acquisition will result in rates that are just and reasonable for both sets of customers.

H. Subrule 41.5(3) Impact of acquisition

OCA commented that an additional paragraph should be added to require, "a detailed capital investment and retirement plan regarding the infrastructure of the acquired system, including the dollar amount of estimated investment and retirement by category for each of the next five years." OCA argued that once a system has been acquired, the Board will likely find it very difficult to subsequently deny recovery of costs needed to improve the system. OCA argued that it is therefore crucial that the utility disclose at the application stage the capital investments that it anticipates will be necessary so the Board can make a fully-informed decision about whether to approve the acquisition.

It is appropriate for the Board to understand the scope of improvements that the acquiring utility anticipates making in the acquired system. The Adopted and Filed version of the subrule therefore includes a modified version of OCA's requested revision. It contains a new paragraph "*b*" that requires an application to include 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. There was much discussion at the oral presentation about whether including such

information in the application would mean that the Board's approval of the acquisition also constitutes approval of the anticipated improvements. These rules establish only the initial filing requirements for ARP proceedings. The Board's final order in such a proceeding, not these rules, will delineate the scope of the Board's approval in a specific case.

Iowa-American commented that the subrule should provide that any single acquisition that is projected to increase customer rates by no more than 2.5%, or 5% for all acquisitions, completed before the Board's final order in the next rate case, shall be deemed to comply with the requirement of Iowa Code § 476.84(2)(d) that the acquisition must result in rates that are just and reasonable for all customers. In the alternative, Iowa-American suggested there could merely be a rebuttable presumption that such acquisitions result in rates that are just and reasonable. Iowa-American asserted this would enhance its ability to negotiate acquisitions in a timely manner. OCA and IAMU opposed this suggestion.

The Board declines to adopt Iowa-American's suggested revision. Iowa-American did not clearly explain why the proposed threshold is appropriate, other than that it would help facilitate negotiations with municipal utilities. Further, the proposal is not appropriate because these rules are intended to establish initial filing requirements, not substantive standards by which the Board will render its decisions.

I. Subrule 41.5(4) Ratemaking principles

Iowa-American commented that the Board should reconsider Iowa-American's previous suggestion to include a paragraph establishing filing requirements for ARPs

pertaining to the accounting and ratemaking treatment of post-acquisition system improvements. In its December 26, 2019 Order Commencing Rule Making, the Board declined that suggestion after concluding that Iowa Code § 476.84 does not contemplate granting ARPs for post-acquisition improvements. In its comments on the NOIA, Iowa-American argued against that conclusion and reiterated its support for including the following paragraph under 41.5(4):

> *Post-Acquisition system improvements*. Proposals for the accounting and ratemaking treatment of system improvements after closing of the acquisition and prior to the Utility's next general rate case shall be supported by the proof of the reasonableness of the AFUDC rate to be used to accrue the cost of financing improvements, inclusive of the debt, equity, and income tax gross up components. Such proposals shall also include justification for the time period proposed for recovery of such improvements. Any proposal to alter the time period from the date on which the expenditure was incurred by [sic] until the investment has been in service for a 4-year period or, if sooner, until the time the rates are implemented in the Utility's next general rate case shall be separately justified. Proposals shall also justify the treatment of depreciation expenses for such improvements.

OCA agreed with Iowa-American that Iowa Code § 476.84 authorizes the Board to grant ARPs pertaining to post-acquisition system improvements. However, OCA opposed the adoption of Iowa-American's suggested language because its meaning is not clear.

The Board is persuaded by the arguments of the parties that Iowa Code § 476.84 does authorize ARPs pertaining to post-acquisition improvements. However, the Board declines to adopt Iowa-American's suggested language because the meaning is not clear. The Board may reconsider adopting filing requirements for ARPs pertaining to post-acquisition improvements after it has gained more experience with acquisition proceedings. The Board has, however, revised subrule 41.5(4)(b), which pertains to

ARPs which allocate the cost of the acquisition between the utility's new and existing customers. The Adopted and Filed version of the subrule provides that the allocation proposal may include both the cost of the acquisition and the cost of anticipated improvements.

OCA commented that subrule 41.5(4)(c), which establishes filing requirements pertaining to ARPs for the initial depreciable value of an acquired system, should be revised so that the initial depreciable value is based on the sale price instead of the fair market value. OCA argued that the sale price may be less than the fair market value in some acquisitions. Iowa Code § 476.84(2)(c) provides that the *lesser* of the sale price or the fair market value of the acquired system shall be used in determining the applicable ratemaking principles. The Board concludes that the version of subrule 41.5(4)(c) proposed in the NOIA, which requires the initial depreciable value to be supported by the fair market value, should therefore be revised. The Adopted and Filed version of the subrule tracks the language of Iowa Code § 476.84(2)(c) and provides that proposals to establish the initial depreciable value of an acquired system shall be supported by the lesser of the sale price or the fair market value.

OCA commented that subrule 41.5(4) should contain a paragraph that provides that post-acquisition investments in acquired systems that are the subject of an ARP proceeding are not eligible for recovery through an infrastructure tracker. The Board declines to adopt this suggestion. The purpose of the rules is to establish initial filing requirements. Proposals for the use of tracker mechanisms are more appropriately addressed through individual filings.

OCA also commented that subrule 41.5(4) should contain a paragraph restating the provisions of Iowa Code § 476.84(2)(c), which provides that the Board may approve ARPs that restrict the ability of the acquiring utility to seek an increase in rates for a specified period of time after the acquisition. The Board declines to adopt this suggestion. These rules are intended to establish initial filing requirements. Restating the Board's statutory authority is not necessary.

J. Subrule 41.5(5) At-risk systems

The Adopted and Filed version of the rules contains a new subrule 41.5(5). The Board is adopting this subrule in response to House File 2452, which became effective July 1, 2020. The legislation provides criteria by which a municipal water, sanitary sewer, or storm water utility may qualify to be an "at-risk" system. The legislation provides that the Board must rule on a rate-regulated utility's proposal to acquire an at-risk system within 180 days of the filing date of the application.

The new subrule 41.5(5) requires that an application specify whether the utility to be acquired is an at-risk system. It also provides that the Board may dismiss the application without prejudice if the Board determines that the application does not contain adequate information, consistent with rule 41.5, for the Board to render a timely decision.

K. Rule 41.6 Waiver

The Board received no comments regarding rule 41.6. The Adopted and Filed version of the rule contains no changes from the NOIA.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. New 199 Iowa Administrative Code chapter 41, as shown in the attached "Adopted and Filed" notice and incorporated into this order by reference, is adopted by the Utilities Board.

2. The "Adopted and Filed" notice attached to this order shall be submitted to the Administrative Code Editor for review and publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

Geri Huser Date: 2020.09.03 16:28:35 -05'00'

ATTEST:

Anna Hyatt Date: 2020.09.03 16:39:05 -05'00'

Richard W. Lozier, Jr. Date: 2020.09.03 16:31:47 -05'00'

Dated at Des Moines, Iowa, this 3rd day of September, 2020.

Adopt the following **new** 199—Chapter 41:

CHAPTER 41
RATEMAKING PRINCIPLES PROCEEDING

199—41.1(476) Definitions.

"Affiliate" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

"AFUDC" means allowance for funds used during construction.

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

1. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility.
2. 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.
3. 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 CFR Part 292, Subpart B, is not precluded from being an alternate energy production facility under this chapter.

"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.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

"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.

"Utility" means either a rate-regulated electric public utility selling to retail customers in Iowa or a rate-regulated public utility acquiring a water, sanitary sewage, or storm water utility.

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). Rule 199—41.5(476) sets the initial filing requirements in a ratemaking principles proceeding related to the acquisition.

41.2(3) The board may require additional information from an applicant on a case by case basis.

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 resource 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 which 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 shall be 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. In addition to describing the wastes created in the production process, the applicant shall determine annual expected emissions from the facility and provide a plan for acquiring allowances sufficient to offset these emissions. The applicant shall describe 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 (i) it will follow the interconnection requirements of the local and regional transmission authorities; (ii) it is committed to meeting the pertinent transmission requirements with respect to the proposed facility; and (iii) 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, the utility shall 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, the utility shall 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. Material assumptions used in the analysis shall be disclosed. At a minimum, the evaluation shall include:

a. Net present value calculations. An application shall include 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, the utility shall also 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, the utility shall also provide the estimated effect the proposed facility will have on these calculations. In making these calculations, the utility shall detail the following cost assumptions:

(1) Installed cost. The utility shall provide an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs shall include, but not be 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, the utility shall file 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, the utility shall file expected variable operation and maintenance costs including the cost of fuel and emission allowances. These expected costs shall be reported in absolute terms and on a kWh basis assuming expected annual capacity factors for the proposed facility.

b. Cost of capital. The utility shall provide its 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. Material assumptions used in the projections shall be provided, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

c. Cash flows. The utility shall provide 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, the following information regarding contractual risk mitigation factors shall be included in an application:

a. Construction risk mitigation factors. The utility shall provide 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, the utility shall 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. The utility shall provide 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.* The utility shall include in its application 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 (i.e., 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.

(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 benefitting 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 shall have the option of filing 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 shall 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 which 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 at 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.

199—41.6(476) Waiver. A utility may seek a waiver of any requirement of this chapter. The request for a waiver shall include the utility's reasons for believing the requirement is not applicable or necessary. A request for a waiver shall also comply with rule 199—1.3(17A,474,476).

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