

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: GENERATION PLANT SITING	DOCKET NO. RMU-01-7
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ORDER ADOPTING RULES

(Issued February 15, 2002)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.1 and Iowa Code chapter 476A (2001), the Utilities Board adopts the amendments attached hereto and incorporated by reference. These rules amend 199 IAC chapter 24 to reflect recent changes to the chapter enacted in House File 577. The reasons for adopting these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-01-7, is adopted.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 15th day of February, 2002.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.1 and chapter 476A (2001), the Utilities Board (Board) gives notice that on February 15, 2002, the Board issued an order in Docket No. RMU-01-7, In re: Generation Plant Siting, "Order Adopting Rules." The amendments to 199 IAC 24 make the rules consistent with changes to Iowa Code chapter 476A enacted this legislative session in 2001 Iowa Acts, House File 577. House File 577, among other things, made significant changes to the plant siting statute.

On August 3, 2001, the Board issued an order in Docket No. RMU-01-7 to consider adoption of amendments to 199 IAC 24. Notice of Intended Action for the proposed rule making was published in IAB Vol. XXIV, No. 4 (8/22/01), p. 281, as **ARC** 0889B. Written comments were filed by the Consumer Advocate Division of the Department of Justice, the International Brotherhood of Electrical Workers, Local 109 (IBEW), and Iowa Public Utilities (IPU), a group consisting of IES Utilities Inc., Interstate Power Company, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives, the Iowa Association of Municipal Utilities, and Missouri River Energy Services. An oral presentation was held on October 3, 2001.

The comments were generally favorable to the proposed rules. The IPU recommended that the Board retain the consolidated hearing process in

199 IAC 24.1(3). The Board has added language to use this process where appropriate. Other minor changes in response to their comments have also been made. However, the Board has not adopted language to impose even stricter time limits because the rules already provide for a compressed hearing process. At the suggestion of the IBEW, language has been added to 199 IAC 24.4(1)"d" to require that information be filed on whether or not the proposed facility is located in a flood plain and that the American Society of Mechanical Engineers' standard boiler code be utilized. Other minor changes have been made, including deletion of the reference to "aesthetic standards" in 199 IAC 24.4(3). Aesthetic standards are no longer a decision criteria with the passage of House File 577.

The changes to the noticed rules are in response to the comments or minor changes such that no additional notice is required. The rules contain a waiver provision, 199 IAC 24.15. The rule sets forth the criteria for obtaining a waiver. In addition, the Board has a general waiver provision in 199 IAC 1.3.

These amendments will become effective on April 10, 2002.

These amendments are intended to implement Iowa Code section 476.1 and chapter 476A as amended by 2001 Iowa Acts, House File 577.

The following amendments are adopted.

ITEM 1. Amend subrule **24.1(2)** as follows:

24.1(2) Purpose. The purpose of these regulations is to provide guidelines for proceedings for the determination, ~~after consolidated hearing,~~ whether the proposed construction of a major electric generation facility or significant

alteration thereto should be issued a certificate of ~~public convenience, use, and necessity required~~ before such construction may commence and to state the procedures for determining compliance by the applicant with permit and licensing requirements of state regulatory agencies.

ITEM 2. Amend subrule **24.1(3)** as follows:

24.1(3) ~~Policy.~~ Cooperative agreements.

a. ~~These regulations reflect the following policies of the board:~~

~~(1) That a just and reasonable determination of whether the proposed construction is to be certificated requires a thorough, public development of information describing the present and future impacts a facility's construction and use would have on the public and the state.~~

~~(2) That the proceedings to certificate major electric power plants and significant alterations to such plants should be conducted in a manner which is as expeditious and economical as possible without compromising the board's fundamental obligation of protecting the public interest.~~

~~(3) That a consolidated hearing process in which the The board, utilizing Iowa Code chapter 28E, may enter enter into cooperative agreements pursuant to Iowa Code chapter 28E with the appropriate state agencies that will facilitate ~~through~~ thorough review of all state issues arising in the certification process and will reduce the time and expense in determining, to the extent necessary, the environmental, economic, and social effects of the facility's construction and use. Under the auspices of these 28E agreements, the board shall delegate to the various state agencies responsibility for the issuance of permits and licenses~~

appropriate to the authority of the agency ~~in assuring~~ to ensure compliance with the steps in the certification process. The Board, where appropriate, may use a consolidated hearing process.

~~(4) That each party to a certification proceeding should guide its conduct in the proceeding by these considerations:~~

~~b. Each applicant for facility certification shall accept primary responsibility for qualitative and quantitative information it provides in support of its application. In further recognition of its responsibilities, each application shall disclose any and all information known to the applicant which would reasonably be expected to affect the board's certification decision.~~

~~c. Each party to the certification proceeding shall make every effort to avoid unnecessary delay in the proceeding to the end that a determination as to the issuance of a certificate will be timely made, thereby minimizing both the cost of the construction of a facility, and the cost of the electric energy generated at such facility.~~

ITEM 3. Amend rule 199—24.2(476A) as follows:

199—24.2(476A) Definitions. As used in this chapter:

“Acid Rain Program” means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

“Act” means Iowa Code chapter 476A entitled Electric Power Generators.

“Agency” means an agency as defined in Iowa Code section 17A.2(1).

“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.

“Applicant” means the person or persons who make an application for a certificate for a facility or an amendment to a certificate for a facility under the Act. For projects with more than one participant, the applicant may be that person designated by and acting on behalf of the participants.

“Application” means an application for a certificate or an amendment to a certificate submitted to the board pursuant to the Act.

“Board” means the utilities board.

“Certificate” means a certificate ~~of public convenience, use and necessity issued by the board under the Act.~~ as defined in Iowa Code section 476A.1.

“Contested case proceeding” means the contested case proceeding before the board prescribed by ~~section 4 of the Act.~~ Iowa Code section 476A.4.

“Duration curve” means ~~a graphical representation of kilowatts plotted in descending order of magnitude against time intervals for a specified period.~~

“Facility” means any electric power generating plant or combination of plants at a single site, owned by any person, with a maximum generator nameplate capacity of 25 megawatts of electricity or more and those associated transmission lines connecting the generating plant to either a power transmission system or an interconnected primary transmission system or both. This term includes any generation addition that increases the total maximum generator

nameplate capacity at one site to 25 megawatts or more, but does not include those transmission lines beyond the generation station's substation.

~~“Integrated energy curve” means a graphical representation of kilowatts as a function of kilowatt hours showing the amount of energy represented under a duration curve, above any point of demand.~~

“Interested agency” means an agency, other than a regulatory agency, which the board in its discretion determines to have a legitimate interest in the disposition of the application.

“Intervenor” means a person who received notice under 24.6(2)“b,” “c,” “d,” “e,” or “f” and has filed with the board a written notice of intervention, or, in all other cases, who, upon written petition of intervention is permitted in the proceeding pursuant to 199—subrule 7.2(8).

~~“Largest industrial users” means the largest industrial customers, whose collective kilowatt hour consumption comprises one-half of total large commercial and industrial sales or whose demand is 2000 kilowatts or larger.~~

~~“Load curve” means a graphical representation of kilowatts versus time of occurrence showing in chronological sequence the magnitude of the load for each unit of time of the period covered.~~

“Participant” means any person who either jointly or severally owns or operates a proposed facility or significant alteration thereto or who has contracted or intends to contract for a purchase of electricity produced by the subject facility.

“Party” means each person or agency named or admitted as a party, including the applicant, intervenors, and consumer advocate.

“Person” means individual, corporation, cooperative, government or governmental subdivision or agency, partnership, association or other legal entity.

“Public utility” means a public utility as defined in Iowa Code section 476.1.

“Regulatory agency” means a state agency which issues licenses or permits required for the construction, operation or maintenance of a facility pursuant to statutes or rules in effect on the date on which an application for a certificate is accepted by the board.

“Significant alteration” means:

a. A change in the generic type of fuel used by the major electric generating facility; or

b. Any change in the location, construction, maintenance, or operation of equipment at an existing facility that results in a 10 percent increase or more in the maximum generator nameplate capacity of an existing facility if the increase is more than or equal to 25 megawatts.

“Site” means the land on which the generating unit of the facility, and any cooling facilities, cooling water reservoirs, security exclusion areas, and other necessary components of the facility, are proposed to be located.

“Site impact area” means the area within the state of Iowa within a ten-mile radius of the intersection of the transverse centerline axis and longitudinal

centerline axis of the generator, or, all such generators where the proposed facility includes multiple generators.

“Zoning authority” means any city or county zoning authority in whose jurisdictional area a proposed facility site or portion thereof is located.

ITEM 4. Amend subrule **24.3(2)**, paragraphs **"c"** and **"d,"** as follows:

c. Within ten days of the receipt of application, the board shall forward copies thereof to each regulatory agency listed in the application. In addition, that part of the application responding to 24.4(1)“a” through “c” will be forwarded to such other agencies as the board deems appropriate, including the office of state archaeologist, ~~the Iowa geological survey,~~ the division of community action agencies of the department of human rights, and the office of historical preservation of the state historical society of Iowa as interested agencies, and also to ~~the natural resource commission of the department of natural resources,~~ the Iowa department of transportation, and ~~the environmental protection division of the~~ the Iowa department of natural resources, if such have not been designated as regulatory agencies.

d. Any amendments to the application shall be filed in a manner similar to that required of the application. ~~All information subsequently transmitted for purposes of inclusion in the application shall be by the issuance of appropriate amendments to the application which shall be in the form of page for page additions or substitutions properly identified as such.~~

ITEM 5. Amend rule 199—24.4(476A), introductory paragraph, as follows:

199—24.4(476A) Application for a certificate—contents. Each person or group of persons proposing to construct a facility after January 1, 1977, or a significant alteration to a facility shall file an application for certificate of public convenience, use, and necessity with the board, unless otherwise provided by these rules. ~~Any such person may file its application in stages.~~ The applicant may file a portion of an application and, in conjunction therewith, a request that the board accept such portion of the application pursuant to subrule 24.5(3) and conduct a separate phase of the proceeding with respect to issues presented by such portion of the application to the extent permitted pursuant to 24.5(3) and ~~24.109(476A).~~ ~~The purpose of this rule is to elicit the development and presentation of information sufficient to adequately facilitate comprehensive evaluation of a proposed facility's feasibility. Nothing in this rule shall be construed to limit or in any way restrict the amount or type of information relevant to the issues in a plant siting adjudication. Any omission or deficiency in the filed information, which is known to the applicant, shall be clearly identified by the applicant with an explanation for the noted omission or deficiency. Applicant shall indicate whether the information omitted will be supplied at a later date and, if not, shall indicate the rationale for the omission.~~ An application shall substantially comply with the following informational requirements:

ITEM 6. Amend subrule **24.4(1)** as follows:

24.4(1) In section 1, entitled, "General Information," applicant shall include the following information:

a. ~~Name~~ The legal name, address, telephone number, facsimile transmission number, and E-mail address of the applicant and all other participants of the proposed facility at the time of filing, as well as the name of the person authorized to receive communications relating to the application on behalf of those persons, Iowa business address, if applicable, and principal place of business of the applicant.

b. The name and type of business of the applicant's and all other participants' parent companies and affiliates. The information must include percentages of ownership.

c. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchase power contracts with respect to the proposed facility.

d. A general site description including a legal description of the site location, 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. Applicant shall also provide a more detailed map showing the location of the facility perimeter, utility property, railroads and other transportation facilities, abutting and adjacent properties, cities, lakes, rivers, parks, other public facilities, cemeteries and places of historical significance within one mile of the site boundary. The general site description should include a discussion of whether the proposed site is located in a flood plain.

d e . A general description of the proposed facility including a description of the principal characteristics of the facility such as ~~major components and such information as will generally acquaint the board with the significant features of the facility,~~ including the capacity of the proposed facility in megawatts expressed by the contracted maximum generator nameplate MW rating, the net facility addition ~~to the system~~ in MW, by net to the busbar rating, and the portion (in MW) of the design capacity of the proposed facility which is proposed to be available to ~~serve for use by each participant's service area participant,~~ the number and type of generating units ~~and the type of fuel used by each,~~ primary fuel source for each such unit, ~~the heat rate of each generating unit in Btu/kilowatt hour over the range of its operating capacity,~~ the function of each generating unit in applicant's generating system, total hours of operation anticipated seasonally and annually, and output in MWH during these hours, expected capacity factors, a description of the general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility, and a schedule for the facility's construction and utilization including the projected date significant site alteration is proposed to begin and the projected date the facility is to be placed into service. 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 as a single unit.

e f . A general description of all raw materials, including fuel, used by the proposed facility in producing electricity and of all wastes created in the production process. In addition to describing the wastes created in the

production process, the applicant shall determine annual expected sulfur dioxide 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 shall describe any additional transportation facilities needed to deliver raw materials and to remove wastes.

f g.

h.i. A The applicant, if a public utility, must include a statement of total cost to construct the proposed facility. Such cost shall include, but shall not be limited to, the cost of all electric power generating units, all electric supply lines within the facility site boundary, all electric supply lines beyond the facility site boundary with voltage of 69 kilovolts or higher used for transmitting power from the 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 said facility or any part thereof, and 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.

i.j. The names and addresses of those owners and lessees of record or real property identified in 24.6(2)“d” and “e.”

ITEM 7. Amend subrule 24.4(2) as follows:

24.4(2) In section 2, entitled, “Regulatory Requirements,” applicant shall include the following:

a. All information related to the regulatory agency and zoning authority requirements for permits or licenses necessary to construct, operate, and maintain the facility. ~~Any deficiencies in this information shall be clearly identified, and a schedule for submitting the omitted information shall be presented.~~

b. A listing of every state agency from which any approval or authorization concerning the proposed facility is required and a listing of zoning authorities.

c. Information equivalent to the information required in the rules and application forms of such state regulatory agencies and zoning authorities, to the extent such information is ready to be filed.

ITEM 8. Rescind subrules **24.4(3)** to **24.4(5)** and renumber subrules **24.4(6)** and **24.4(7)** as **24.4(3)** and **24.4(4)**.

ITEM 9. Amend renumbered subrule 24.4(3) as follows:

24.4(3) In section 6 3, entitled “Community impact,” the applicant shall include an identification and analysis of the effects the construction, operation and maintenance of the proposed facility will have on the site impact area including, but not limited to, the following:

a. A forecast of the permanent impact of the construction, operation, and maintenance of the proposed facility on commercial and industrial sectors, housing, land values, labor market, health facilities, sewage and water, fire and public protection, recreational facilities, schools and transportation facilities.

b. A forecast of any temporary stress placed upon housing, schools or other community facilities as a result of a temporary influx of workers during the construction of the proposed facility.

c. A forecast of the impact of the proposed facility on property taxes of affected taxing jurisdictions. The forecast shall include the effects on property taxes caused by all community development proximately related to the construction of the proposed facility.

d. A forecast of the impact on agricultural production and uses.

e. A forecast of the impact on open space areas and areas of significant wildlife habitat. Such forecast shall include identification and description of the impact of the proposed facility on terrestrial and aquatic plants and animals.

f. A forecast of the impact on transportation facilities.

g. A forecast of the impact on cultural resources including known archaeological, historical and architectural properties, which are on, or eligible for, the National Register of Historic Places.

h. A forecast of the impact on landmarks of historic, religious, archaeological, scenic, natural or other cultural significance. Such information shall ~~include an assessment of the aesthetic impact of the proposed facility,~~ applicant's plans to coordinate with the ~~state historical preservation office and~~ office of state archaeologist to reduce or obviate any adverse impact and the applicant's plans to coordinate with the state office of disaster services in the event of accidental release of contaminants from the proposed facility.

ITEM 10. Amend renumbered subrule 24.4(4) as follows:

24.4(4) Site selection methodology. In section 7 4, entitled "Site selection methodology," applicant shall present information related to its selection of the proposed site for the facility. Such information shall include the following:

a. The general criteria used to select alternative sites, ~~how these criteria were measured and weighted, and reasons for selecting those criteria.~~ and how these criteria were used to select the proposed site.

~~b. An identification of at least two alternative sites considered by applicant for the facility and discussion of the applicability of the site selection criteria to those sites.~~

~~c. A discussion of the applicability of the site selection criteria to the proposed site and its advantages over the other alternative sites considered by applicant.~~

~~d. b. A discussion of the extent to which reliance upon eminent domain powers could be reduced by use of an alternative site, alternative generation method or alternative waste handling method.~~

ITEM 11. Amend subrule 24.5(3) as follows:

24.5(3) If the application or portion thereof, after amendment or otherwise, is in substantial compliance with the requirements of rule 24.4(476A) which pertain thereto, the board shall, within 45 days of the filing of the application or portion thereof or amendment thereto, accept the application or portion thereof and set the time and place for hearing as provided in rule 24.6(476A); provided, however, that upon acceptance of a partial application, the board may order separate proceedings on particular phases of the application, pursuant to rule 24.409(476A), where such partial application permits a finding to be made with regard to any of the facility siting criteria contained in subrule 24.4110(2).

ITEM 12. Amend subrules **24.6(1)** and **24.6(2)**, paragraphs "a" and "b," as follows:

24.6(1) Upon acceptance of the application, the board shall establish a schedule for the certification proceeding which shall include:

~~a. A prehearing conference to be held in accordance with 24.8 (476A), no sooner than 45 days after acceptance of the application.~~

b a. A hearing to be commenced in accordance with 24.98(476A), no earlier than 90 days nor later than 150 days from the date of acceptance. This hearing shall be conducted in the county in which the construction of the greater portion of the facility is being proposed.

c b. Provision of the publication of notice of the schedule for ~~the prehearing conference,~~ and the hearing held by the board in the form provided in Iowa Code section 17A.12(2), which notice shall be published in a newspaper of general circulation in each county in which the proposed site is located once each week for two consecutive weeks with the second publication being no later than 30 days after acceptance of the application.

24.6(2) The board shall serve notice of the acceptance of the application and proceeding schedule upon the following:

a. All regulatory agencies, including Iowa department of transportation, and ~~environmental protection division and natural resource commission of the Iowa~~ department of natural resources.

b. Interested agencies as determined by the board, including the ~~Iowa geological survey,~~ office of state archaeologist, and the office of historical preservation of the state historical society of Iowa.

ITEM 13. Amend subrule 24.7(6) as follows:

24.7(6) *Conduct of the meeting.* A member of the board, or a hearing examiner designated by the board, shall serve as the presiding officer at the

meeting and present an agenda for such meeting, which shall include a summary of the legal rights of affected legal landowners. No formal record of the meeting is required. The meeting shall not be considered adversarial in nature, but rather shall have as its purpose the presentation by the applicant of its proposal, the furnishing of an opportunity for interested members of the public to raise questions regarding the proposal, and an opportunity for the applicant to respond.

ITEM 14. Rescind rule **199—24.8(476A)** and renumber rule **199—24.9(476A)** as **199—24.8(476A)**.

ITEM 15. Amend renumbered 199—24.8(476A) as follows:

Amend subrule 24.8(1) as follows:

24.8(1) General. The proceedings conducted by the board pursuant to this chapter shall be treated in the same manner as a contested case pursuant to the provisions of Iowa Code chapter 17A. Except where contrary to express provisions below, the hearing procedure shall conform to the board's rules of practice and procedure, 199—Chapter 7, IAC. The proceeding for the issuance of certificate may be consolidated with the contested case proceeding for determination of applicable ratemaking principles under Iowa Code section 476.53.

Rescind and reserve subrule **24.8(6)**.

ITEM 16. Renumber rules **199—24.10(476A)** to **199—24.16(476A)** as **199—24.9(476A)** to **199—24.15(476A)**.

ITEM 17. Amend renumbered subrules 24.9(1), 24.9(3), and 24.9(4) as follows:

24.9(1) *By motion.* The board, upon its own motion or on the motion of the applicant, may order separate phases on particular issues of the proceeding. Each phase shall be addressed to issues involved in applying one or more of the facility siting criteria set forth in board subrule 24.14 10(2) and shall result in board findings with respect thereto.

24.9(2) *By agreement.* In accordance with agreements made pursuant to Iowa Code chapter 28E, with regulatory agencies, the board shall establish separate phases of the hearing process to determine whether the proposed facility will conform to the permit and licensing requirements of the regulatory agencies.

24.9(3) *Procedure.* Each such hearing phase shall be conducted in conformance with the requirements of 24.98(476A) or other rules of practice and procedure designated in the applicable chapter 28E agreement.

~~**24.9(4)** *Criteria.* In no event shall a certificate be issued unless and until the board has made appropriate findings with respect to all of the facility siting criteria set forth in board subrule 24.11(2).~~

ITEM 18. Amend renumbered subrules 24.10(2) and 24.10(5) as follows:

24.10(2) *Facility siting criteria.* In rendering its certification decision, the board shall consider the following criteria:

a. Whether the service and operations resulting from the construction of the facility are required by the present and future public convenience, use and

necessity consistent with the legislative intent as expressed in Iowa Code section 476.53 and the economic development policy of the state as expressed in Iowa Code Title I, subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service. Such determination shall include: whether the existing transmission network has the capability to reliably support the proposed additional generation interconnection to the network.

~~(1) The need for power based on electrical energy demands of each participant's service area and interconnected power pool considering current and projected impacts of energy conserving programs, policies and technology;~~

~~(2) The advantages, disadvantages, and risks associated with the proposed facility as compared to the advantages, disadvantages, and risks associated with alternative methods of meeting the established electric energy demand; and~~

~~(3) Economic advantages, disadvantages, and risks to the public of the replacement of or the placing on reserve of existing generation units.~~

b. Whether the construction, maintenance, and operation of the proposed facility will ~~cause minimum adverse~~ be consistent with reasonable land use, and environmental policies, ~~and aesthetic impact~~ and are consonant with reasonable utilization of air, land, and water resources, ~~for beneficial purposes~~ considering available technology and the economics of available alternatives. Such determination shall include:

(1) Whether all adverse impacts attendant the construction, maintenance and operation of the facility have been reduced to a reasonably acceptable level;

(2) Whether the proposed site represents a reasonable choice among available alternatives from a technical, social, and economic standpoint;

~~(3) Whether the proposed generating plant represents a reasonable choice among available alternatives for meeting the power from a technical, social, and economic standpoint;~~

(4 3) Whether the proposed facility complies with applicable city, county or airport zoning requirements, and if not, whether the location of the proposed facility at the proposed site is reasonably justified from an economic, technical, and social standpoint.

c. Whether the applicant is willing to ~~perform the services resulting from the construction of the facility and to~~ construct, maintain, and operate the facility pursuant to the provisions of the certificate and the Act.

d. Whether the proposed facility meets the permit and licensing requirements of regulatory agencies.

e. Requirement for good engineering practice.

~~(1) Whether the facility will be constructed, maintained and operated in accord with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, and safety of persons and property.~~

(2) The utility applicant shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board:

~~(a) (1) Iowa Electrical Safety Code, as defined in IAC[199], Chapter 25
199 IAC 25.~~

~~(b) (2) Rescinded effective 1/12/83.~~

~~(c) (3) National Electrical Code ANSI-C1-1975., as defined in 199 IAC 25.~~

~~(d) (4) Operation and Maintenance of Turbine Generators-ANSI standard
C50.30-1972.~~

~~(e) (5) Power Piping-ANSI standard B31.1-1977 1998.~~

~~(f) Nuclear Power Piping-ANSI standard B31.7-1969 and addendum thereto
including B31.7a-1972, B31.7b-1971 and B31.7C-1971.~~

~~f. Whether each participant, if a public utility as defined in Iowa Code section
476.1, has complied with Iowa Code section 476A.6(4).~~

~~g. Whether each participant, if a public utility as defined in Iowa Code section
476.1, has demonstrated to the board that the utility has considered sources for
long term electric supply from either purchase of electricity or investment in
facilities owned by other persons.~~

~~h. Whether each participant, if a public utility as defined in Iowa Code section
476.1, has complied with Iowa Code section 476A.6(5).~~

24.10(5) Application approval. If the board finds, after amendment or record reopening, or both, or otherwise, that affirmative findings are appropriate, the board shall approve the application and, in accordance with 24.13 12(476A), prepare a certificate of public convenience, use, and necessity for construction of the facility.

ITEM 19. Amend renumbered subrule 24.11(2) as follows:

24.11(2) In the event the board denies an application for a certificate or an amendment to a certificate, applicants who have received permission to begin site preparation pursuant to 24.42 11(1), shall restore the site, in accordance with the board order denying the application.

ITEM 20. Amend renumbered rule 199—24.12(476A) by adopting the following **new** subrules:

24.12(3) Certificate transfer. A certificate may be transferred, subject to the approval of the board, to a person who agrees to comply with the terms of the certificate including any amendments to the certificate. Certificates shall be transferable by operation of law to any receiver, trustee or similar assignee under a mortgage, deed of trust or similar instrument.

24.12(4) Application withdrawal. Pursuant to Iowa Code section 476.53, a rate-regulated utility shall have the option of withdrawing its application for issuance of a certificate.

ITEM 21. Amend renumbered rule 199—24.13(476A) as follows:

199—24.13(476A) Exemptions from certification application; application for amendment to certificate: Contents.

24.13(1) Application for amendment.

a. Each person or group of persons proposing a significant alteration to any facility, which was constructed pursuant to a certificate ~~of public convenience, use and necessity~~ issued by the board, shall file an application for an amendment to a certificate in lieu of an application for a certificate ~~of public convenience, use, and necessity.~~

b. Each person or group of persons proposing a significant alteration to any facility which was not constructed pursuant to a certificate of ~~public convenience, use, and necessity~~ issued by the board, must file an application for such certificate unless:

(1) The facility has not attained full commercial rating and has not operated in excess of 80 percent of its maximum nameplate megawatt rating for ten hours daily for 45 consecutive days; and

(2) The significant alteration requires no more land than was required for the facility, is within the scope of publicly announced plans for the facility's construction, and entails no additional contracts for major components than those let for the facility.

24.13(2) All applications for amendment to a certificate shall be filed in accordance with 24.3(476A) and shall include:

a. A complete identification and discussion of the nature of the amendment proposed; and

b. A complete enumeration of the effects the amendment has on the accuracy of the information contained in the application for a certificate of ~~public convenience, use and necessity~~ filed pursuant to 24.4(476A).

24.13(3) Upon board acceptance of the application in accordance with 24.44 13(1), the board shall establish a hearing schedule. At the board's discretion, the informational meeting and prehearing conference for this proceeding may be waived. Notice shall be in accordance with 24.6(2).

24.13(4) In the consideration of an application for a certificate, pursuant to 24.14 13(1)“b,” or amendment to a certificate, pursuant to 24.14 13(1)“a,” ~~for an addition of less than 100 megawatts in the maximum generator nameplate capacity of the facility,~~ there shall be a rebuttable presumption that the decision criteria of 24.1410(2) are satisfied.

24.13(5) Amendment to a certificate. In determining whether an amendment to a certificate will be issued to the applicant, the board will be guided by the criteria set forth in 24.1410(2) to the extent applicable and appropriate.

This rule is intended to implement Iowa Code sections 17A.3, 474.5, 476.1, and 476.2.

ITEM 22. Amend renumbered rule 199—24.15(476A) as follows:

199—24.15(476A) Waiver. The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter ~~for facilities with a maximum nameplate generating capacity of 100 megawatts or less.~~ In determining whether the public interest would not be adversely affected, the board will consider the following factors:

1. The purpose of the facility.
2. The type of facility.
3. If the facility is for the applicant’s own needs, ~~whether there are plans to sell excess capacity and, if so, to whom.~~
4. ~~If the applicant is other than a utility, the effect of the facility on any utility currently serving the applicant.~~

~~5. If the applicant is other than a utility, the effect of the facility on the customers of the utilities serving the applicant.~~

6 4. The effect of the facility on existing transmission systems.

7 5. Any other relevant factors.

This rule is intended to implement Iowa Code sections 476A.1, and 476A.2, and sections 476A.4, 476A.6, 476A.7 and 476A.15 as amended by 2001 Iowa Acts, House File 577.

February 15, 2002

/s/ Diane Munns

Diane Munns
Chairman