

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NOTICE OF GENERATION SITING WAIVER REQUESTS	DOCKET NO. RMU-03-16
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ORDER COMMENCING RULE MAKING

(Issued November 24, 2003)

Pursuant to the authority of Iowa Code §§ 17A.4, 476A.1, 476A.2, and 476A.15, the Utilities Board (Board) proposes to adopt the amendment to the Board's administrative rules attached hereto and incorporated by reference. The proposed amendment adds a new sentence to the end of 199 IAC 24.15. The proposed amendment would give notice to adjoining landowners of requests for waiver of the electric generation siting requirements in Chapter 476A and 199 IAC 24. The reasons for proposing this amendment are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-03-16, is commenced for purposes of receiving comments upon the proposed rule attached to this order.

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/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 24th day of November, 2003.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476A.1, 476A.2, and 476A.15, the Utilities Board (Board) gives notice that on November 24, 2003, the Board issued an order in Docket No. RMU-03-16, In re: Notice of Generation Siting Waiver Requests, “Order Commencing Rule Making.” The Board is proposing an amendment to 199 IAC 24.15 to provide that notice be given to adjoining landowners of record of waiver requests involving the electric generation siting statutes, Iowa Code chapter 476A.

The proposed amendment is in a response to a recent waiver proceeding before the Board. The applicant requested a waiver of the siting statutes with respect to a 90 MW peaking facility in Audubon County. Two families that owned land adjoining the proposed facility contested the waiver request. However, the families were not served by the applicant with notice of the waiver, but became aware of the request through their own investigation. The proceeding highlighted the necessity of providing adjoining landowners with notice of such waiver requests. Western Minnesota Municipal Power Agency, “Proposed Decision and Order” and “Order Affirming Proposed Decision and Order,” Docket No. WRU-03-19 (8/20/03, 9/17/03). Under the current rule, generally only the Consumer Advocate Division of the Department of Justice is required to be served with notice.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 13, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendment will be held at 10 a.m. on January 27, 2004, in the Board's hearing room at the address listed above. The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3 is applicable to this rule.

This amendment is intended to implement Iowa Code section 476A.15.

The following amendment is proposed.

Amend rule 15.1 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. 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 the facility.
3. If the facility is for the applicant's own needs.

4. The effect of the facility on existing transmission systems.
5. Any other relevant factors.

In addition to other service requirements, a copy of the waiver request must be served on all owners of record of real property that adjoins the proposed facility site.

November 24, 2003

/s/ Diane Munns

Diane Munns
Chairman