

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CAPITAL INFRASTRUCTURE INVESTMENTS AND COST OF CAPITAL CHANGES [199 IAC 7.4(6) AND 7.4(11)]	DOCKET NO. RMU-03-14
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ORDER ADOPTING AMENDMENTS

(Issued April 8, 2004)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 476.3, 476.6, 476.33, and 2003 Iowa Acts, Senate File 458, section 134, the Utilities Board (Board) is adopting the amendments attached hereto and incorporated herein by reference. This proceeding has been identified as Docket No. RMU-03-14. The adopted amendments implement the provisions of Senate File 458, section 134, which amended Iowa Code § 476.33 by adding a new subsection as follows:

5. a. The board shall adopt rules that require the board, in a rate regulatory proceeding under sections 476.3 and 476.6, to consider both of the following for inclusion in rates:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to section 476.53.

b. This subsection is repealed effective July 1, 2007. However, any utilities board proceeding that is pending on

July 1, 2007, that is being conducted pursuant to section 476.3 or 476.6 shall be completed as if this section had not been repealed. Upon repeal, the board may still consider the adjustments addressed in this subsection, but shall not be required to consider them.

A "Notice of Intended Action" was published in IAB Vol. XXVI, No. 8 (10/15/03) p. 703, as ARC 2883B, proposing amendments to implement Senate File 458.

Comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), MidAmerican Energy Company (MidAmerican), and Interstate Power and Light Company (IPL).

The comments and revisions to the proposed amendments adopted by the Board are discussed below.

MidAmerican

MidAmerican stated that it supports the proposed amendments. MidAmerican stated that it is concerned the amendments may be used as a way to keep the Board from considering other changes in costs and revenues of types that are not specifically identified in Senate File 458. MidAmerican suggested the amendments provide clarity to the Board's obligation to look outside of the test period costs and revenues when it is fixing a utility's revenue requirement.

MidAmerican requested the Board clarify that these are optional rate filing requirements and are in no way intended to restrict the Board's authority to consider other evidence under Iowa Code § 476.33(4) and subrule 199 IAC 7.11(2).

MidAmerican suggested certain revisions to correct typographical errors and requested clarification of the application of the amendments to interim rates.

MidAmerican also suggested that as long as the capital costs of the variety defined in Senate File 458, section 134, are to be in service prior to the time that the interim rates go into effect, the costs should be eligible for interim rate treatment.

IPL

IPL stated that it supports the proposed amendments with one exception. IPL suggests amending paragraph 7.4(6)"g" as follows:

g. Additional evidence. The applicant may submit any other testimony, schedules, exhibits, and data which it deems pertinent to the application. Testimony, schedules, exhibits, and data related to the following may be filed at any time prior to the record closing at hearing.

IPL stated that the additional language makes it clear a utility may update evidence concerning capital infrastructure costs and cost of capital changes that occur within nine months of the test year in a general rate proceeding up until the time the record is closed at the hearing. IPL suggested the Board cannot consider these costs unless the utility has the opportunity to update the record.

Consumer Advocate

Consumer Advocate supported the proposed amendments to carry out the purpose of Senate File 458 with one clarification. Consumer Advocate suggested that the Board revise paragraph 7.4(6)"g" to require the utility to timely provide verification of updated information to allow other parties the opportunity to investigate and review such information as soon as possible. The suggested revision to subparagraph 7.4(6)"g"(2) is as follows:

(2) The utility shall specifically identify and support the information, including providing an estimate of the time of filing and addressing prudence issues, regarding changes that will be verifiable ~~prior to the closing of the record at the hearing~~ within nine months of the test year, with such verification provided as soon as available.

Board Analysis

The Board understands that the provisions in Senate File 458, section 134, require the Board to consider certain changes in costs and revenues that occur within nine months after the test year in general rate proceedings filed pursuant to Iowa Code §§ 476.3 and 476.6. The provisions amend Iowa Code § 476.33 by adding a new subsection 5. The Board does not consider the new requirements established in Senate File 458, section 134, as limiting the Board's existing rate making authority under Iowa Code § 476.33(4), although it does require the Board to consider costs it has not historically considered for purposes of establishing rates. The Board also agrees with MidAmerican that interim rates may include the costs specified in Senate File 458, section 134, if those costs meet the requirements of Iowa Code § 476.6(13).

In setting interim rates, the Board will now consider these changes as long as the capital costs are associated with plant that will be in service prior to the time that the interim rates go into effect. The Board cannot determine in advance what costs may be allowed in interim rates until it sees the proposal of the utility. The Board also cannot determine prior to a request for interim rates which previously established regulatory principles will be applicable to reflect the costs associated with capital infrastructure investment and capital costs described in Senate File 458, section 134.

In response to IPL's requested clarification, the Board has determined that it will not be able to consider all relevant information for the costs described in Senate File 458, section 134, unless the updated information is admitted into the record at the hearing in the proceeding. The Board's proposed amendment to paragraph 7.4(6)"g" establishes that the infrastructure investments and cost of capital changes that are proposed for consideration pursuant to Senate File 458, section 134, must be supported by testimony and other evidence filed when the proposed rate increase is filed. Further, the Board included in subparagraph 7.4(6)"g"(2) a requirement that the utility shall identify at the hearing those changes that will be verifiable prior to the closing of the record at the hearing. IPL has suggested that these proposals do not make it clear that a utility may submit the verifiable data at any time prior to the closing of the record.

In contrast, Consumer Advocate suggested that the language in subparagraph 7.4(6)"g"(2) referring to the closing of the record should be deleted and that other language should be added to ensure that the other parties have time to review any updated information. Consumer Advocate suggested adding language to the subparagraph to require that the utility provide the updated information as soon as it is available.

The Board agrees with IPL that the amendments should be clear that the utility can offer into evidence the updated verifiable data at any time prior to the closing of the record at the hearing. However, the revision suggested by IPL is not appropriate in paragraph 7.4(6)"g," but should be added to subparagraph 7.4(6)"g"(2).

Paragraph "g" applies to any additional evidence the utility may deem relevant, not just to the evidence required pursuant to Senate File 458, section 134.

The Board also agrees with Consumer Advocate that other parties must receive the updated verifiable data as soon as possible in order to review and prepare testimony and cross-examination concerning the data. The Board will adopt Consumer Advocate's proposed revision and then add a new sentence to subparagraph 7.4(6)"g"(2) to make the clarification suggested by IPL. The adopted subparagraph 7.4(6)"g"(2) will read as follows:

(2) The utility shall specifically identify and support the information, including providing an estimate at the time of filing and addressing prudence issues, regarding the changes that will be verifiable within nine months of the test year with such verification provided to other parties as soon as possible. To be considered, the verifiable data must be offered into the record prior to the closing of the record at the hearing in the proceeding.

The Board will also adopt language in paragraph 7.11(2)"b" to indicate that the verifiable data must be offered into the record prior to the closing of the record at the hearing in the proceedings to be considered by the Board. This makes the two amendments adopted by the Board consistent and ensures that the intent of the amendments is clear.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-03-14, is adopted.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached hereto 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 8th day of April, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 476.3, 476.6, and 476.33 and 2003 Iowa Acts, Senate File 458, section 134, the Utilities Board (Board) on April 8, 2004, issued an order in Docket No. RMU-03-14, In re: Capital Infrastructure Investments and Cost of Capital Changes [199 IAC 7.4(6)"g" and 7.11(2)], "Order Adopting Amendments." In the order, the Board adopted amendments to implement the provisions of 2003 Iowa Acts, Senate File 458, section 134. On September 26, 2003, the Board caused a "Notice of Intended Action" to be published in IAB Vol. XXVI, No. 8 (10/15/03) p. 703, as ARC 2883B.

Comments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), MidAmerican Energy Company (MidAmerican), and Interstate Power and Light Company (IPL). The comments and the support of the revisions made to the proposed amendments are set out in the order and can be found on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Record Center, 350 Maple Center, Des Moines, IA 50319.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.3, 476.6, 476.33, and 2003 Iowa Acts, Senate File 458, section 134.

These amendments will become effective June 2, 2004.

The following amendments are adopted.

Item 1. Amend paragraph **7.4(6)"g"** as follows:

g. Additional evidence. The applicant may submit any other testimony, schedules, exhibits, and data which it deems pertinent to the application.

(1) Additional evidence may include:

1. Testimony, schedules, exhibits, and data concerning the cost of capital infrastructure investments that will not produce significant revenues and will be in service in Iowa within nine months of the test year.

2. Testimony, schedules, exhibits, and data concerning cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(2) The utility shall specifically identify and support the information, including providing an estimate at the time of filing and addressing prudence issues, regarding the changes that will be verifiable within nine months of the test year, with such verification provided to other parties as soon as available. To be considered, the verifiable information must be offered into the record prior to the closing of the record at the hearing in the proceeding.

(3) A utility electing to file additional evidence under this paragraph shall include in the reports required in subparagraph 7.4(6)"e"(1) any capital infrastructure investments that will not produce significant revenues and have been placed in service in Iowa, or capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(4) A utility electing to file additional evidence under this paragraph shall provide additional schedules as required by subparagraphs 7.4(6)"e"(13), (14), and (15) related to capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(5) Subparagraphs 7.4(6)"g"(1) through (4) are repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if subparagraphs 7.4(6)"g"(1) through (4) had not been repealed. Upon repeal of subparagraphs 7.4(6)"g"(1) through subparagraphs 7.4(6)"g"(1) through (4), the board may still consider the adjustments addressed in those subparagraphs, but shall not be required to consider them.

Item 2. Amend subrule **7.11(2)** as follows:

7.11(2) Known and measurable changes. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider:

a. ~~verifiable~~ Verifiable data, existing as of the date of commencement of the proceedings, respecting known and measurable changes in costs not associated with a different level of revenue and known and measurable revenues not associated with a different level of costs, that are to occur within 12 months after the date of commencement of the proceedings.

b. Data which becomes verifiable prior to the closing of the record at the hearing respecting known and measurable:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(3) Verifiable data filed pursuant to paragraph 7.11(2)"b" shall be provided to other parties as soon as available. Other parties must have a reasonable opportunity to verify the data for it to be considered by the Board.

Paragraph 7.11(2)"b" is repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if paragraph 7.11(2)"b" had not been repealed. Upon repeal of paragraph 7.11(2)"b," the board may still consider the adjustments addressed in the paragraph, but shall not be required to consider them.

April 8, 2004

/s/ Diane Munns

Diane Munns
Chairman