

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: MARK F. MILLER III | DOCKET NO. 199 IAC 15.19 |
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ORDER DENYING APPEAL AND PLACING APPLICATION ON WAITING LIST

(Issued April 6, 2007)

On August 11, 2005, Mark F. Miller III filed with the Utilities Board (Board) an application for certification of eligibility for renewable energy tax credits pursuant to Iowa Code chapter 476C and 199 IAC 15.19. By letter dated August 15, 2005, the Board's staff notified Mr. Miller that his application was placed on the Chapter 476C waiting list because the program was oversubscribed. On January 22, 2007, the Board's staff notified Mr. Miller that additional capacity was available, but that additional information was needed for his application to be processed. The letter stated the information must be provided by February 23, 2007. Mr. Miller was directed to provide, among other things, information regarding the legal status of each owner of the facility and a copy of a purchase power agreement. 199 IAC 15.19(1).

Mr. Miller did not provide any of the required information by February 23, 2007. On March 5, 2007, Mr. Miller was notified by letter that his application had been denied and removed from the waiting list. Mr. Miller filed a letter of appeal on March 22, 2007. Mr. Miller requested that his application be returned to the waiting

list with his original place in line, determined by his August 11, 2005, filing date. Mr. Miller's appeal included some, but not all, of the information requested in Board staff's January 22, 2007, letter. Mr. Miller expressed regret that the information had not been received by the Board earlier but offered no explanation for the delay.

Mr. Miller's appeal will be denied with respect to returning his application to the waiting list based on the original August 11, 2005, filing date. Mr. Miller not only failed to comply with the initial February 23, 2007, deadline, but when he did respond he did not file all the information required. Mr. Miller did not file a copy of a purchase power agreement or, if such an agreement is not finalized, a "binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; and this designation would not be subject to change." 199 IAC 15.19(1)"g." In addition, Mr. Miller did not file a statement that the applicant is an authorized limited liability company as defined in Iowa Code § 9H.1 or a statement that the applicant is a small business as defined in Iowa Code § 15.102. 199 IAC 15.19(1)"b"(2) and (6). Each of these items was delineated in staff's letter.

It would be unfair to other applicants on the waiting list to allow Mr. Miller additional time to comply and retain his place on the list based on his original August 11, 2005, application (which was never completed). The Board will, however, return Mr. Miller's application to the waiting list as of March 22, 2007, the date of his letter containing additional, but still incomplete, information. Because the Chapter 476C program is again oversubscribed, Mr. Miller will be notified if any additional

capacity becomes available. In the meantime, Mr. Miller may file the additional information requested by staff so that if capacity becomes available his application can be promptly processed and Mr. Miller will not risk again losing his place on the waiting list.

IT IS THEREFORE ORDERED:

1. The appeal filed by Mark F. Miller III on March 22, 2007, is denied.
2. Mr. Miller's application is placed on the waiting list for the Chapter 476C renewable energy tax credits as of March 22, 2007.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 6th day of April, 2007.