
IOWA UTILITIES BOARD
Energy Section

Docket No.: RMU-2015-0001
Utility: AMENDMENTS TO
RENEWABLE ENERGY TAX
CREDIT REQUIREMENTS

File Date/Due Date: N/A
Memo Date: July 2, 2015

TO: The Board

FROM: Ellen Shaw

SUBJECT: Proposed Rule Changes for Renewable Energy Tax Credits Under Iowa Code Chapter 476C

I. Background:

In 2005, Iowa enacted legislation creating two separate tax credit programs for energy produced by wind facilities (Iowa Code chapter 476B), and smaller wind and other and renewable energy facilities (Iowa Code chapter 476C). In early 2006, the Board issued final rules in the Iowa Administrative Code (IAC) that addressed the first stage of the tax credit process – processing the applications for facility eligibility (Docket No. RMU-05-8). Later in 2006, in response to additional legislation, the Board modified the facility eligibility rules (199 IAC 15.18 and 15.19), and adopted new rules (15.20 and 15.21) to implement the second stage of the tax credit process – processing the annual applications for tax credits (Docket No. RMU-06-7). Changes to the statute in 2008, 2009, 2011, and 2014 resulted in Board rule changes (Docket Nos. RMU-08-4, RMU-2009-0005, RMU-2011-0003, and RMU-2014-0005, respectively).

On June 26, 2015, House File 645 was signed into law, making the latest changes to Iowa Code chapter 476C. Appendix A contains the legislation.

II. Legal Standards:

House File 645 made the following changes to Iowa Code chapter 476C:

1. Added the following to the list of options for facility ownership:
 - a. A municipally-owned city utility as defined in Iowa Code § 362.2
 - b. A public utility subject to rate regulation pursuant to Iowa Code chapter 476

2. Increased the total eligible capacity for non-wind facilities by ten megawatts (MW) (from 53 MW to the current 63 MW). This ten MW increase of eligible capacity is reserved for solar facilities with a generating capacity of 1.5 MW or less and that are owned or contracted for by an electric cooperative association,¹ a municipally-owned city utility, or a public utility subject to rate regulation. (This portion of legislation does not require a change to Board rules.)
3. Prior to the legislation, the maximum eligibility for all refuse conversion facilities was 167 billion British thermal units (BTU) of heat for a commercial purpose, with a single facility limited to a maximum of 55 billion BTU. The legislation provides that these limits are now annual maximums.² (This portion of legislation does not require a change to Board rules.)

III. Analysis:

Board staff proposes the following rule changes in order to implement the modification to facility ownership in House File 645 and to update the Iowa Code chapter reference for limited liability companies:

Item 1. Amend the eligibility application filing requirements under subrule 199—15.19(1)(b)(7) as follows:

(7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499, a municipally-owned city utility as defined in Iowa Code section 362.2, or a public utility subject to rate regulation pursuant to Iowa Code chapter 476;

Item 2. Amend the eligibility application filing requirements under subrule 199—15.19(1)(b)(8) to update the chapter reference as follows:

(8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter ~~490A~~ 489 whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or

¹ AKA rural electric cooperative

² Iowa Code § 476C.5 provides for applicants to receive renewable energy tax credits for a ten-year period.

IV. Recommendation:

Board staff recommends that the Board direct General Counsel to commence a rule making in accordance with the proposed amendments as described in this memo. A draft "Notice of Intended Action" is attached for submission to the Governor's Office.

RECOMMENDATION APPROVED

IOWA UTILITIES BOARD

/es

/s/ Geri D. Huser 7-7-15
Date

/s/ Elizabeth S. Jacobs 7-6-15
Date

/s/ Nick Wagner 7-7-15
Date

Appendix A: House File 645

Board staff note: Sections 5, 6 and 7 of the legislation pertain to Iowa Code chapter 476C.

House File 645

AN ACT

AN ACT MODIFYING AND ENACTING PROVISIONS RELATING TO SPECIFIED RENEWABLE ENERGY TAX CREDITS, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 422.11L, subsection 1, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding paragraphs “a” and “b” of this subsection, for installations occurring on or after January 1, 2016, the applicable percentages of the federal residential energy efficiency property tax credit related to solar energy and the federal energy credit related to solar energy systems shall be fifty percent.

Sec. 2. Section 422.11L, subsection 4, paragraph a, Code 2015, is amended to read as follows:

a. The cumulative value of tax credits claimed annually by applicants pursuant to this section shall not exceed four five million ~~five hundred thousand~~ dollars. Of this amount, at least one million dollars shall be reserved for claims associated with or resulting from residential solar energy system installations. In the event that the total amount of claims submitted for residential solar energy system installations in a tax year is an amount less than one million dollars, the remaining unclaimed reserved amount shall be made available for claims associated with or resulting from nonresidential solar energy system installations received for the tax year.

Sec. 3. Section 422.33, subsection 29, paragraph a, Code 2015, is amended to read as follows:

a. The taxes imposed under this division shall be reduced by a solar energy system tax credit equal to sixty percent of the federal energy credit related to solar energy systems provided in section 48(a)(2)(A)(i)(II) and section 48(a)(2)(A)(i)(III) of the Internal Revenue Code, not to exceed twenty thousand dollars. For installations occurring on or after January 1, 2016, the applicable percentage of the federal energy credit related to solar energy systems shall be fifty percent.

Sec. 4. Section 422.60, subsection 12, paragraph a, Code 2015, is amended to read as follows:

a. The taxes imposed under this division shall be reduced by a solar energy system tax credit equal to sixty percent of the federal energy credit related to solar energy systems provided in section 48(a)(2)(A)(i)(II) and section

48(a)(2)(A)(i)(III) of the Internal Revenue Code, not to exceed twenty thousand dollars. For installations occurring on or after January 1, 2016, the applicable percentage of the federal energy credit related to solar energy systems shall be fifty percent.

Sec. 5. Section 476C.1, subsection 6, paragraph b, subparagraph (4), Code 2015, is amended to read as follows:

(4) An electric cooperative association organized pursuant to chapter 499 that sells electricity to end users located in this state, a municipally owned city utility as defined in section 362.2, or a public utility subject to rate regulation pursuant to chapter 476.

Sec. 6. Section 476C.3, subsection 4, paragraph b, Code 2015, is amended to read as follows:

b. The maximum amount of energy production capacity equivalent of all other facilities the board may find eligible under this chapter shall not exceed a combined output of ~~fifty-three~~ sixty-three megawatts of nameplate generating capacity and, annually, one hundred sixty-seven billion British thermal units of heat for a commercial purpose.

(1) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, no more than ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be allocated to any one facility.

(2) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, fifty-five billion British thermal units of heat for a commercial purpose shall be reserved annually for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area. The maximum amount of energy production capacity the board may find eligible for a single refuse conversion facility is, annually, fifty-five billion British thermal units of heat for a commercial purpose.

(3) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, ten megawatts of nameplate generating capacity or energy production equivalent shall be reserved for solar facilities with a generating capacity of one and one-half megawatts or less owned or contracted for by utilities described in section 476C.1, subsection 6, paragraph "b", subparagraphs (4) and (5).

Sec. 7. Section 476C.5, Code 2015, is amended to read as follows:

476C.5 Certificate issuance period.

A producer or purchaser of renewable energy ~~may~~ shall receive renewable energy tax credit certificates for a ten-year period for each eligible renewable energy facility under this chapter. The ten-year period for issuance of the tax credit certificates begins with the date the purchaser of renewable energy first purchases electricity, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for commercial purposes from the eligible renewable energy facility for which a tax credit is issued under this chapter, or the date the producer of the renewable energy first uses the energy produced by the eligible renewable energy facility for on-site consumption. Renewable energy tax credit

certificates shall not be issued for renewable energy purchased or produced for on-site consumption after December 31, 2026.

Sec. 8. Section 533.329, subsection 2, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. The moneys and credits tax imposed under this section shall be reduced by a solar energy system tax credit allowed under section 422.11L.

Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 10. RETROACTIVE APPLICABILITY.

1. Except as provided in subsection 2, the sections of this Act amending section 476C.3, subsection 4, paragraph "b", and section 476C.5, apply retroactively to January 1, 2014, for tax years beginning on or after that date.

2. The section of this Act amending section 476C.1, subsection 6, and section 476C.3, subsection 4, paragraph "b", unnumbered paragraph 1, and enacting section 476C.3, subsection 4, paragraph "b", subparagraph (3), applies retroactively to January 1, 2015, for tax years beginning on or after that date.

3. The section of this Act amending section 422.11L, subsection 4, paragraph "a", applies retroactively to January 1, 2015, for tax years beginning on or after that date.

4. The section of this Act enacting section 533.329, subsection 2, paragraph "l", applies retroactively to January 1, 2015, for tax years beginning on or after that date.

KRAIG PAULSEN
Speaker of the House

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 645, Eighty-sixth General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2015

TERRY E. BRANSTAD
Governor

UTILITIES DIVISION[199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476.1, Iowa Code chapter 476C, and House File 645, the Utilities Board (Board) gives notice that on August 5, 2015, the Board issued an order in Docket No. RMU-2015-0001, In re: Renewable Energy Tax Credits, "Order Commencing Rule Making." The Board is noticing for public comment proposed amendments to 199 IAC 15.19. The proposed amendments reflect legislative changes to chapter 476C contained in House File 645, which was signed by the Governor on June 26, 2015.

The proposed changes to 199 IAC 15.19 are in response to legislative changes contained in House File 645. The legislation amended chapter 476C to expand the list of options for chapter 476C facility ownership to include a municipally-owned city utility and a rate-regulated public utility. The Board's rules must be changed to reflect this amendment.

House File 645 made two other changes to chapter 476C. First, the legislation increased the total eligible capacity for non-wind facilities from 53 MW to 63 MW, reserving this 10 MW increase for solar facilities with a generating capacity of 1.5 MW or less that are owned or contracted for by an electric cooperative association, a municipally-owned city utility, or a public utility subject to rate regulation. Second, the legislation changed the maximum eligibility for refuse conversion facilities to annual

maximums or limits. These two legislative changes do not require changes to the Board's rules.

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 September 22, 2015. The statement should be filed electronically through the Board's Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

Because the changes to the rules merely conform the list of options for facility ownership to the changes made in House File 645, a public hearing on the proposed changes will not be scheduled. A public hearing may be requested pursuant to the procedures set forth in Iowa Code § 17A.4(1)"b."

The Board does not find it necessary to propose a separate waiver provision in this rule making. While the Board has a general waiver provision in 199 IAC 1.3, the amendments in House File 645 did not give the Board the authority to waive the statutory deadlines so no waiver provision for these rules is necessary.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 476.1, chapter 476C, and House File 645.

The following amendments are proposed.

ITEM 1. Amend subrule **15.19(1)(b)(7)** as follows:

(7) An electric cooperative association organized pursuant to Iowa Code chapter 499 that sells electricity to end users located in Iowa or has one or more members organized pursuant to Iowa Code chapter 499, a municipally-owned city utility as defined in Iowa Code section 362.2, or a public utility subject to rate regulation pursuant to Iowa Code chapter 476;

ITEM 2. Amend rule **15.19(1)(b)(8)** as follows:

(8) A cooperative corporation organized pursuant to Iowa Code chapter 497 or a limited liability corporation organized pursuant to Iowa Code chapter 490A 489 whose shares and membership are held by an entity that is not prohibited from owning agricultural land under Iowa Code chapter 9H; or

August 5, 2015

/s/ Geri D. Huser

Geri D. Huser

Chair