

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: WIND AND RENEWABLE ENERGY TAX CREDITS	DOCKET NO. NOI-2015-0001
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ORDER OPENING INQUIRY AND SOLICITING COMMENTS

(Issued August 21, 2015)

I. INTRODUCTION

In 2005, the Iowa General Assembly adopted Iowa Code chapter 476C, which provided for tax credits for energy produced by smaller wind and renewable energy facilities. Among other things, the chapter provided that a facility must be operational within 18 months after receiving preliminary eligibility approval from the Utilities Board (Board) and that all facilities must be operational by January 1, 2011. Subsequent legislation extended the 18-month deadline to 30 months and various amendments allowed for successive 12-month extensions of the operational deadline; now, all facilities must be operational by January 1, 2017. The Board adopted 199 IAC 15.19 to implement Iowa Code chapter 476C.

A total of 363 megawatts (MW) of capacity has subscribed to the 476C program, with 48 facilities totaling 80.05 MW receiving preliminary approval and becoming operational. Over 140 projects that received preliminary approval have been discontinued because the owners withdrew eligibility approval or allowed the

operational deadline to lapse without requesting an extension. If there is a waiting list at the time a facility relinquishes its eligibility, the next application in line is processed.

As of August 19, 2015, there were 113 facilities in the Chapter 476C wind program that have received eligibility but are not operational. Of these facilities, 37 received eligibility approval in 2009 but have received successive 12-month extensions of the operational deadline. As of August 19, 2015, there were 19 facilities on the Chapter 476C waiting list.

In the Chapter 476C program for renewables other than wind, three facilities have received eligibility approval and become operational and one received its preliminary approval in 2011 but has not become operational. There is one facility on the waiting list. Study bills regarding operational deadlines were proposed during the 2015 legislative session (Senate Study Bill 1193 and House Study Bill 243) but no legislation regarding operational deadlines was passed.

II. INITIATING INQUIRY

The Board is concerned that there are proposed facilities on the waiting list that cannot receive preliminary eligibility because there are eligible projects that have had up to 78 months to become operational, but have not yet commenced operation. Extensions have been granted based upon a verified statement by the applicant that it intends the facility to become operational. 199 IAC 15.19(4)(c). The Board is opening this inquiry to solicit comments on options that would provide additional

requirements in the administrative rules for granting 12-month extensions to the facility's operational deadline.

In addition, the Iowa Department of Revenue (IDOR), which shares responsibility for administering tax credits with the Board, has expressed an interest in moving towards electronic administration of all tax credit awards. The Board wants to explore the option of Board staff forwarding tax credit applications electronically to IDOR through IDOR's secure filing system, rather than forwarding information on paper.

The Board will commence the inquiry by inviting participants to comment on several questions related to extensions of the operational deadline and electronic administration of tax credits. The Board invites the Consumer Advocate Division of the Department of Justice, the investor-owned electric utilities, environmental groups, the Iowa Association of Electric Cooperatives, the Iowa Association of Municipal Utilities, Chapter 476C applicants (both those that have receive preliminary approval and those on the waiting list), and any others with an interest in these issues to participate in this inquiry.

Following receipt of the initial information and comments, the Board will determine what additional steps, if any, should be taken to continue or conclude this inquiry. The Board will review the comments to determine whether any topics warrant further discussion and may request that participants respond to more specific questions on some topics or schedule a workshop. The Board notes that if it

ultimately determines that a change to some or all of the administrative rules pertaining the Chapter 476C tax credits should be formally considered, a rule-making process will be commenced. While changes to the rules can be recommended in the inquiry process, those changes cannot be made without going through the formal rule-making process.

Participants must submit their responses electronically through the Board's electronic filing system (EFS). Instructions for making an electronic filing can be found on the Board's EFS Web site at <https://efs.iowa.gov>.

The Board is appointing Ellen Shaw, Senior Utility Analyst, as the Inquiry Manager for this docket. Questions regarding this docket should be addressed to Ms. Shaw, (515) 725-7348, or via e-mail at Ellen.Shaw@iub.iowa.gov.

III. INQUIRY QUESTIONS

Participants are invited to respond to some or all of the questions. Participants may also provide any additional comments or information that they believe are relevant to this inquiry.

Responses to the following questions and other comments from participants will assist the Board in determining the next steps for this inquiry:

1. Should the Board set conditions or milestone requirements upon which a 12-month extension of the operational deadline would be granted? Explain.
2. Does the Board have the authority to adopt criteria for 12-month extensions without modifying its rules? Explain.

3. Comment on the following possible criteria to evaluate requests for a 12-month extension:
 - a. Signed contracts to sell production
 - b. Signed contracts to purchase equipment
 - c. A copy of the interconnection agreement
 - d. Estimated cost of the facility and actual expenses to date
 - e. Identification of barriers that are delaying installation and activities that are underway to overcome the barriers
 - f. Demonstration that a tax credit transfer agreement (if applicable) is in place.
 - g. Any additional or different criteria you would suggest.
4. Should the Board limit the number of 12-month extensions for a facility? If so, how many extensions? How should the Board address those that have exceeded this number of extensions?
5. Board rule 199 IAC 15.19(6) provides that each applicant on the waiting list shall annually provide the Board a statement of verification attesting that the information contained in the applicant's eligibility application remains true and correct, or stating that the information has changed and providing the new information. Should the rule be modified in such a way that it would only pertain to applicants on the waiting list who have not provided a periodic update during the previous 12 months?
6. The Board's rules in 199 IAC 15.20 and 15.21 require that the tax credit applications are filed in paper format. Should the rules be modified to allow for electronic filing with the Board via e-mail, as an alternative to paper, which would allow the Board to forward information to the Iowa Department of Revenue via its secure filing system?
7. Provide other suggestions for modification of chapter 15.19 rules.

IV. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A notice of inquiry is opened to address the Chapter 476C tax credit rules, 199 IAC 15.19. The inquiry is identified as Docket No. NOI-2015-0001.

Participants are invited to provide the information identified in this order on or before September 25, 2015.

2. All filings in this docket shall be made using the Board's electronic filing system. The rules for filing are in 199 IAC 14.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 21st day of August 2015.