

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

WIND AND RENEWABLE ENERGY TAX CREDITS

DOCKET NO. NOI-2015-0001

COMMENTS OF THE IOWA ASSOCIATION OF MUNICIPAL UTILITIES

The Iowa Association of Municipal Utilities (IAMU) submits these comments in response to the Board’s Order opening this Inquiry. IAMU members include all of the state’s 136 municipal electric utilities that are impacted by this rulemaking. IAMU also represents all of the states 51 municipal gas utilities, 28 municipal broadband utilities and 540 water utilities.

IAMU appreciates the Board’s willingness to address the important issues raised in this Inquiry. IAMU supported House File 645 that passed during the 2015 General Assembly. That legislation made municipal utilities eligible for renewable energy tax credits under 476C, increased the maximum capacity of eligible non-wind generation from 53 to 63 MW, and reserved 10 MW of this capacity for solar energy conversion facilities that are owned by or contracted for by utilities.

Responses to Board questions:

Question 1: Should the Board set conditions or milestone requirements upon which a 12-month extension of the operational deadline would be granted? Explain.

As outlined in the Board’s Order, there are 113 wind facilities and 7 other generation facilities that have been granted eligibility under 476C that have not become operational. The waiting lists include 19 wind facilities, and 3 other generation facilities. Only 80.5 MW of the approved 361.55 MW of approved wind facilities have become operational, and only 22.6 MW of the approved 53.0 MW of the other generation facilities have become operational. While it is important to allow projects sufficient time to be developed and built, projects should not be allowed to reserve capacity indefinitely while more viable projects are prevented from being granted eligibility. The purpose of the 476C tax credits is to incentivize the construction of renewable energy facilities in the State of Iowa, but the current system may present barriers.

Iowa Code Section 476C, subsection 3, provides a thirty month period after the issuance of an approval for a facility to become operational. Iowa Code Section 476.C, subsection 3, paragraph b states that the Board “shall” grant a 12 month extension if notified prior to the expiration of the time periods in the preceding paragraph a. Changing these timelines or adding criteria would require legislation to amend the Iowa Code Section. Iowa Code Section 476.C, subsection 3, paragraph b goes on to state, “An

extension may be renewed for succeeding twelve-month periods if the board is notified prior to the expiration of the extension of the continued intention to become operation during the succeeding period of extension.” It appears that the Board has the authority to provide criteria that must be met for a facility to receive the second and subsequent extensions to the operational deadline.

Question 2: Does the Board have the authority to adopt criteria for 12-month extensions without modifying its rules? Explain.

Any additional criteria the Board establishes for granting the second and subsequent 12-month extensions should be clear and transparent. The criteria should not introduce uncertainty on how the Board will review and grant the extensions. Providing the criteria in Board rules will help facilitate transparency.

Question 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.***

The criteria for granting the second and subsequent 12 month extensions should require factors to show that operation is imminent. Any of the above proposed criteria could be used to demonstrate this.

Question 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?

The board should not limit number of 12-month extensions; however criteria for extensions should be narrow enough that multiple extensions are limited.

Question 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?

The Board should modify rule 199 IAC 15.19(6) to only require an annual report from applicants if they have not provided a periodic update in the previous 12 months. This will reduce the administrative burden for applicants to remain on the waiting list.

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?

IAMU agrees that updating the process to make it easier administratively is appropriate.

7. Provide other suggestions for modification of chapter 15.19 rules.

The Board should clarify that facilities are evaluated on AC nameplate capacity and not on DC rated capacity. Many solar photovoltaic generators provide both a DC and AC nameplate capacity. However, evaluating solar photovoltaic generators based on DC nameplate capacity is inconsistent with how other generation sources are evaluated, and would decrease the total amount of AC capacity that would be eligible for the tax credit.

In addition to the above discussed changes to chapter 15.19, IAMU would like to provide additional comments relevant to this inquiry:

Municipal utilities are currently evaluating and developing utility solar photovoltaic generation projects. Because of the array of the state and federal incentives, various ownership options are being examined to determine which would provide the lowest cost energy. The major scenarios include:

1. Direct ownership of the solar photovoltaic generator by the municipal utility
2. Ownership of the solar photovoltaic generator by a separate party with a purchase power agreement to sell the output to the municipal utility.
3. Initial ownership of the solar photovoltaic generator by a separate party. After several years the municipal utility purchases the generation facility.
4. Ownership of the solar photovoltaic generator by a separate party, with the municipal utility leasing the facility.

While scenarios 1 and 2 clearly fall within the eligibility requirements of Iowa Code Section 476C, IAMU maintains that scenarios 3 and 4 also allow a municipal utility to claim eligibility for the tax credit. In scenario 3 the municipal utility would change from purchaser to producer of renewable energy. However, if the municipal utility is initially designated as the entity eligible to apply for the tax credit, they should remain eligible for the tax credit when they purchase the solar generator.

In scenario 4, the municipal utility leases the solar photovoltaic generator. Because they are leasing the generator, they are the energy producer and thus eligible to receive the tax credit.

IAMU respectfully requests that the Board move ahead with evaluating applications for solar generating facilities under the new ten megawatts of capacity reserved for solar generating facilities owned or contracted for by utilities as established by House File 645. While the issues identified in this Order are important, the review of these applications should not wait until the issues raised in this Notice of Inquiry are resolved. The current deadline for an eligible facility to be in-service is prior to January 1, 2017. Delaying evaluating applications may jeopardize viable projects.

Respectfully submitted,

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