

**STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD**

<b>IN RE:</b>  <b>WIND AND RENEWABLE ENERGY TAX CREDITS</b>	<b>DOCKET NO. NOI-2015-0001</b>
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**ADDITIONAL COMMENTS**

**COMES NOW**, Interstate Power and Light Company (IPL), provides its Additional Comments pursuant to the Order Soliciting Additional Comments (November 3<sup>rd</sup> Order), by the Iowa Utilities Board (Board).

IPL provides the following comments in response to the Board's questions contained in its November 3<sup>rd</sup> Order as follows:

**INQUIRY QUESTIONS**

- 1. In determining whether the ownership limits in Chapter 476C are met, does the statute allow or require the Board to consider not only the legal entity that owns the utility (if not a natural person) but also the equity owners of the legal entity? Explain your legal analysis in reaching your conclusion.**

**Response:**

Renewable energy tax credits serve an important purpose in incenting the development of renewable energy projects, but abusing the opportunity to obtain renewable energy tax credits should be prohibited because it limits other Project Owners from availing themselves of this incentive. IPL has concerns that certain natural persons, legal entities or equity owners may be using ownership structures to circumvent the limits set forth in Chapter 476C. It would be beneficial – to the extent permissible – for the Board to further clarify the degree

to which ownership limits apply within the context of Chapter 476C. A clear understanding of the ownership limits would benefit all of the stakeholders.

At the federal level, IPL has raised similar concerns regarding the potential to abuse certain limitations that the Public Utility Regulatory Policies Act of 1978 (PURPA) imposes on Qualified Facilities (QF).<sup>1</sup> For example, PURPA limits the size of the QF; however, an entity might divide a larger project into multiple smaller projects in order to circumvent the PURPA sizing restrictions. With the goal of eliminating – or reducing – the potential for abuse that currently exists under PURPA in mind, IPL believes a similar objective is appropriate here.

- 2. If the equity owners of a chapter 476C facility are not natural persons but another legal entity, does the statute allow or require the Board to drill down through the various legal entities to determine whether the Chapter 476C ownership limits are violated? Explain your legal analysis in reaching your conclusion.**

**Response:**

See response to Question 1.

- 3. If the Board determines it has the obligation or authority to consider equity owners of the legal entity, what kind of documentation should be required as part of the filing requirements for certification of eligibility in 199 IAC 15.19 to establish who the equity owners are? For example, do you believe an attestation for the equity owners would be sufficient to establish that the ownership limits are satisfied?**

**Response:**

See response to Question 1.

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<sup>1</sup> IPL is working with other stakeholders in proposing PURPA reforms.

4. **Concerns have been expressed about entities that apply for eligibility but do not appear to be moving forward with their projects. Does the statute allow the Board to require evidence of the applicant's capability to complete the project and to use this evidence in the Board's initial determination of eligibility? Explain your legal analysis. If your answer is yes, what should the additional filing requirements be? Also, comment on whether the following should be made part of those requirements:**
- a. **Financial statements or other documentation to establish the owner's financial capability to complete the project.**
  - b. **A timeline for completion of the project.**
  - c. **Information regarding the contractors or others working on the project to establish the owner's operation capability to complete the project.**
  - d. **Information on project steps taken prior to filing the eligibility application.**

**Response:**

Iowa Code §476C.3(3)(a) requires a facility to be operational within 30 months, but if it "is not operational within eighteen months due to the unavailability of necessary equipment," it shall be given an additional 24 months to complete the project. Given the statute, the Project Owner should be required to show the Board evidence of project viability at, or prior to, 18 months post project approval. A signed contract to purchase equipment for the operation of an eligible renewable facility should be required by that time. Furthermore, the Project Owner should show the expected delivery date of such equipment to either demonstrate the project will be completed on time or that the equipment will be delayed and thus requires the offered extension of 24 months.

Concerning specific requirements, IPL suggests that financial statements, timelines for project completion and information on project steps taken prior to filing an application may all provide value as additional filing requirements. IPL

suggests that it is unclear whether requiring information regarding contractors or others working on the project would provide any clarity beyond the Interconnection Agreement.

5. **Should the determination of initial eligibility be conditioned upon the applicant demonstrating a minimum level of progress prior to the application? If yes, what minimum level of progress should be required? Note that the minimum level of progress should relate to any additional filing requirements you identified in response to the prior question.**

**Response:**

Yes, the Project Owner should, in addition to the items already enumerated in 476C.3, be able to provide items such as, but not limited to, a statement of contract with the facility supplier, estimated milestones from the start throughout completion of the project, accepted interconnection application to host utility, and easements or other land contracts required for the Project Owner to develop, construct and operate the wind or other eligible generator set on the site selected.

**WHEREFORE**, IPL requests that the Board accept IPL's Additional Comments to the questions found in the Board's November 3, 2015, Order.

Dated this 23<sup>rd</sup> day of November, 2015.

Respectfully Submitted,

Interstate Power and Light Company

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