

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN RE: THE PETITION OF INTERSTATE POWER AND LIGHT COMPANY FOR A DECLARATORY ORDER ON CHAPTER 476A OF THE IOWA CODE	DOCKET NO. DRU-2016-_____ PETITION FOR DECLARATORY ORDER
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**REQUEST FOR A DECLARATORY ORDER
ON CHAPTER 476A OF THE IOWA CODE**

COMES NOW Interstate Power and Light Company (IPL) and, pursuant to Iowa Administrative Code § 4.1, requests a declaratory order concerning the applicability of Chapter 476A of the Iowa Code to the cessation of coal-fired generation at Unit 4 of IPL's Prairie Creek Generating Station. In support of this request for a declaratory order, IPL states as follows:

I. INTRODUCTION

1. The Board must issue a certificate before any person may commence construction on (among other things) an electric power generating plant with a total capacity of greater than 25 megawatts (MW).¹ The Board must also issue a certificate (or amend an existing Board-issued certificate) before any "significant alteration" to the location, construction, maintenance, or operation of such a plant can occur.² A "significant alteration" includes a change in the type of fuel used at an electric power generating plant.³

¹ See Iowa Code § 476A.2(1).

² *Id.* § 476A.2(2).

³ *Id.*; see also Iowa Admin. Code r. 199—24.2.

2. On or before the end of calendar year 2017, IPL will cease using coal as an electric generating fuel at Prairie Creek Unit 4 and will operate that unit solely on natural gas. For the reasons discussed below, IPL does not believe that this action qualifies as a “significant alteration” that is subject to the Board’s jurisdiction under Chapter 476A.⁴

II. BACKGROUND

3. IPL owns and operates the Prairie Creek Generating Station in Cedar Rapids, Iowa, which consists of three electric generating units (1A, 3, and 4) that have a collective net summer and winter capacity of approximately 163 MW.

4. Prairie Creek Unit 4 was originally placed into service in 1968 and has a net summer and winter capacity of approximately 116 MW. As mentioned above, this unit is currently capable of combusting coal or natural gas to produce electricity. Historically, the unit has operated as a baseload facility, but will likely operate as an intermediate or peaking facility once it begins running exclusively on natural gas.

5. In 2015, to resolve allegations that IPL violated provisions of the Prevention of Significant Deterioration program under the federal Clean Air Act⁵ at various power plants and consistent with IPL’s proactive, collaborative approach to meeting environmental standards, IPL entered into a Consent Decree with the

⁴ If the Board believes IPL’s cessation of coal use at Prairie Creek Unit 4 is a “significant alteration” and, thus, rules that Chapter 476A is applicable here, then IPL anticipates that it will request a waiver of the Board’s rules related to Chapter 476A which govern the location and construction of electric generation facilities. See Iowa Admin. Code r. 199—24.1-24.15. If the Board determines there is no “significant alteration” and thus, no need for IPL to file an application for a generation certificate here, then the Board’s precedent instructs that a request for waiver is also unnecessary. In a previous declaratory order concerning the cessation of coal use at IPL’s Dubuque Generating Station (DGS) Units 3 and 4 and Sutherland Generating Station (SGS) Units 1 and 3, the Board determined that, because IPL was not required to file an application for generation certificate, IPL’s alternate request for waiver of Iowa Code chapter 476A and Iowa Administrative Code chapter 199—24 was moot. See *In Re Interstate Power and Light Co.*, Docket No. DRU-2012-0002, *Declaratory Ruling and Order Denying Request for Waiver as Moot*, at 10-11 (Apr. 23, 2012) [hereinafter “DGS/SGS Declaratory Order”].

⁵ See 42 U.S.C. §§ 7470-7492.

United States, the State of Iowa, Linn County, Iowa, and the Sierra Club. The Consent Decree, which has been entered by the U.S. District Court for the Northern District of Iowa, is federally enforceable. During negotiations over the Consent Decree, IPL endeavored to find a resolution that benefitted IPL's customers, and that was consistent with and complemented its pre-existing, long-term plans. The Consent Decree did not significantly change IPL's emissions control plans; rather, it just memorialized them and made them concrete requirements. The Consent Decree requires IPL to refuel or retire several of its coal-fired units. Refueled units must cease burning coal and can only burn natural gas to generate electricity. Retired units must be shut down and cannot—physically or legally—burn any fossil fuels. Under the Consent Decree, IPL must refuel or retire Prairie Creek Unit 4 no later than June 1, 2018. By entering into this Consent Decree, IPL did not admit to any liability under the Clean Air Act; rather, the company sought to avoid the costs and uncertainties associated with litigating these allegations.

6. Even before entering into the Consent Decree, IPL was considering converting or refueling Prairie Creek Unit 4 to run on natural gas.

7. IPL ultimately decided to refuel the unit because the company believes this approach is in its customers' best interests. Operating Prairie Creek Unit 4 exclusively on natural gas will reduce carbon dioxide (CO₂), sulfur dioxide (SO₂), and mercury (Hg) emissions from that unit and will avoid the need to retrofit the unit's bottom ash handling system. Transitioning the unit to natural gas will also continue to provide customers with a valuable capacity resource that can be called upon, and is part of the company's long-term planning process, which is designed to ensure

that its generating fleet can efficiently comply with current and emerging environmental regulations.

8. Accordingly, by the end of calendar year 2017, IPL will cease burning coal and will only burn natural gas to generate electricity at Prairie Creek Unit 4. As noted above, this is not only necessary to comply with the terms of the Consent Decree, but is also in the best interests of IPL's customers. IPL will not have to incur any capital expenses or make any physical modifications to facilitate the exclusive use of natural gas at Prairie Creek Unit 4.

III. REQUEST FOR A DECLARATORY ORDER ON CHAPTER 476A OF THE IOWA CODE

9. IPL requests that the Board issue a declaratory order finding that IPL's decision to cease burning coal as an electric generating fuel at Prairie Creek Unit 4 is not a "significant alteration" and is therefore not subject to the Board's jurisdiction under Iowa Code § 476A.2(2).

10. As noted above, the Board must issue a certificate before any person can commence construction on or conduct a "significant alteration" to any "facility."⁶ A "facility" is defined to include "any electric power generating plant . . . owned by any person, with a total capacity of [25 MW] of electricity or more . . ."⁷ Thus, Prairie Creek Unit 4 is a "facility" within the meaning of Chapter 476A of the Iowa Code.

11. The question, then, is whether IPL's decision to cease burning coal as an electric generating fuel at Prairie Creek Unit 4 is a "significant alteration" within the meaning of Iowa Code § 476A.2(2). IPL believes that, based on the facts described above, the answer is "no."

⁶ Iowa Code § 476A.2(1)-(2).

⁷ *Id.* § 476A.1(5).

12. In a previous declaratory order concerning the cessation of coal use at IPL's Dubuque Generating Station (DGS) Units 3 and 4 and Sutherland Generating Station (SGS) Units 1 and 3 (hereinafter "DGS/SGS Declaratory Order"), the Board indicated that two factors must be considered when determining whether a "significant alteration" has occurred. The first is whether there is any substantial physical alteration to the electric generation facility in question, and the second is whether there has been a change in the type of fuel used at the facility.⁸ Neither of these factors is present in this case.

13. No capital expenditures or physical modifications are necessary to run Prairie Creek Unit 4 exclusively on natural gas.⁹ In the DGS/SGS Declaratory Order, the Board determined that the replacement of a boiler door at a cost of \$300,000 "is not of such a level to constitute a 'significant alteration.'"¹⁰ If installing a new boiler door did not qualify as a "significant alteration," then it follows that the same determination is appropriate here, where no physical modifications or capital expenditures will be necessary to operate Prairie Creek Unit 4 exclusively on natural gas.

14. Second, there will be no change in the type of fuel used at Prairie Creek Unit 4. As noted above, this unit has historically operated on both coal and natural gas, and the air permit for the Prairie Creek Generating Station currently authorizes the combustion of both fuels. After 2017, Unit 4 will no longer run on coal, but will continue to utilize natural gas as a fuel for electric generation. IPL has

⁸ See *In Re Interstate Power and Light Co.*, Docket No. DRU-2012-0002, *Declaratory Ruling and Order Denying Request for Waiver as Moot*, at 8 (Apr. 23, 2012) [hereinafter "DGS/SGS Declaratory Order"].

⁹ IPL is currently replacing valves and piping on the boiler to Prairie Creek Unit 4, but this is to ensure that the unit is compliant with the National Fire Protection Association's NFPA 85, not to facilitate the cessation of coal use.

¹⁰ *DGS/SGS Declaratory Order*, at 8.

applied for a modification to the air permit for the Prairie Creek Generating Station such that, as of December 31, 2017, Unit 4 is only permitted to burn natural gas.

15. In the DGS/SGS Declaratory Order, the Board also considered several other factors in determining whether the cessation of coal use qualified as a “significant alteration” within the meaning of Iowa Code § 476A.2(2). These factors included the size of the DGS and SGS units relative to IPL’s generation fleet and the environmental impact of the change in fuel use.¹¹

16. In this case, these factors weigh in favor of the Board finding that the change in fuel use at Prairie Creek Unit 4 is not a “significant alteration.” First, Prairie Creek Unit 4 has a net summer capacity of approximately 116 MW, which is only 3.3 percent of the net summer generating capacity of IPL’s entire generating fleet.¹² Indeed, this represents an even smaller share of IPL’s generating fleet than the units at issue in the DGS/SGS Declaratory Order.¹³

17. Second, as with the fuel changes at issue in the DGS/SGS Declaratory Order, the cessation of coal use at Prairie Creek Unit 4 does not implicate land use or environmental factors because “there is no change in the [facility’s] footprint, the capability of burning a new category of fuel is not being added, and there are positive environmental ramifications in terms of emissions and carbon reductions and elimination of coal piles.”¹⁴ In this way, operating Unit 4 exclusively on natural

¹¹ *Id.* at 9.

¹² Prairie Creek Unit 4 has a nameplate capacity of approximately 148.8 MW. The unit’s net summer capacity (approximately 116 MW) is based on the most recently conducted performance test at Prairie Creek Generating Station. IPL’s fleet-wide net summer generating capacity was calculated based on the Form 860 data that IPL reported to the Energy Information Administration for calendar year 2015 and includes the anticipated net summer capacity for Marshalltown Generating Station, which is scheduled to go into service in the second quarter of 2017.

¹³ Collectively, the four units at issue in the DGS/SGS Declaratory Order had a nameplate capacity of approximately 148 MW. *Id.* at 3-4.

¹⁴ *Id.* at 9.

gas is likely to have a positive impact on the environment and surrounding community.

18. IPL is not currently a party to any other proceeding involving the questions at issue and, to the best of IPL's knowledge, the questions IPL has raised have not been decided by, nor are they pending determination by, or are under investigation by, any other governmental entity.

19. IPL customers and persons who own real property that directly adjoins the Prairie Creek Generating Station may be interested in the questions presented by this request for a declaratory order.

IV. CONCLUSION

20. The Board should grant IPL's request for a declaratory order and find that Chapter 476A of the Iowa Code is not applicable to the cessation of coal-fired generation at Prairie Creek Unit 4.

WHEREFORE, Interstate Power and Light Company respectfully requests the Iowa Utilities Board grant the relief outlined above.

Dated this 15th day of December 2016.

Respectfully submitted,

INTERSTATE POWER AND LIGHT
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