

shall not be members of health care delivery systems. A majority of the members of the board constitutes a quorum.

Approved April 14, 1999

CHAPTER 20

UTILITIES — COST OF BOARD PROCEEDINGS — COMPETITIVE UTILITY SERVICES

S.F. 224

AN ACT relating to proceedings before the utilities board and the provision of competitive utility services by allocating costs incurred by the utilities board and the office of consumer advocate to certain persons in certain proceedings related to providing competitive utility services, and by providing for the certification of competitive natural gas providers and aggregators, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 475A.6, Code 1999, is amended to read as follows:

475A.6 CERTIFICATION OF EXPENSES TO UTILITIES DIVISION.

The consumer advocate shall determine the advocate's expenses, including a reasonable allocation of general office expenses, directly attributable to ~~participation in proceedings~~ the performance of the advocate's duties involving specific utilities persons subject to direct assessment, and shall certify the expenses to the utilities division not less than quarterly. The expenses shall then be includable in the expenses of the division subject to direct assessment under section 476.10.

The consumer advocate shall annually, within ninety days after the close of each fiscal year, determine the advocate's expenses, including a reasonable allocation of general office expenses, attributable to ~~participation in proceedings involving public utilities~~ the performance of the advocate's duties generally, and shall certify the expenses to the utilities division. The expenses shall then be includable in the expenses of the division subject to remainder assessment under section 476.10.

The consumer advocate is entitled to notice and opportunity to be heard in any utilities board proceeding on objection to an assessment for expenses certified by the consumer advocate. Expenses assessed under this section shall not exceed the amount appropriated for the consumer advocate division of the department of justice.

The office of consumer advocate may expend additional funds, including funds for outside consultants, if those additional expenditures are actual expenses which exceed the funds budgeted for ~~utilities investigations and directly result from investigations of utilities~~ the performance of the advocate's duties. Before the office expends or encumbers an amount in excess of the funds budgeted ~~for investigations~~, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the ~~investigation~~ expenses exceed the funds budgeted by the general assembly to the office of consumer advocate and that the office does not have other funds from which ~~investigation~~ such expenses can be paid. Upon approval of the director of the department of management, the office may expend and encumber funds for excess ~~investigation~~ expenses. The amounts necessary to fund the excess ~~investigation~~ expenses shall be collected from those utilities ~~being investigated~~ or persons which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 8.

Sec. 2. NEW SECTION. 476.86 DEFINITIONS.

As used* this section and section 476.87, unless the context otherwise requires:

1. "Aggregator" means a person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services.

2. "Competitive natural gas provider" means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa. "Competitive natural gas provider" includes an affiliate of an Iowa gas utility.

"Competitive natural gas provider" does not include the following:

a. A public utility which is subject to rate regulation under chapter 476.

b. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in section 437A.3, subsection 19, paragraph "a", subparagraph (1), in which the municipally owned utility is located.

Sec. 3. NEW SECTION. 476.87 CERTIFICATION OF COMPETITIVE NATURAL GAS PROVIDERS.

1. The board shall certify all competitive natural gas providers and aggregators providing natural gas services in this state. In an application for certification, a competitive natural gas provider or aggregator must reasonably demonstrate managerial, technical, and financial capability sufficient to obtain and deliver the services such provider or aggregator proposes to offer. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance. The board shall adopt rules to establish specific criteria for certification. The board shall make a determination on an application for certification within ninety days of its submission, unless the board determines that additional time is necessary to consider the application, in which case the board may extend the time for making a determination for an additional sixty days.

2. The board may resolve disputes involving the provision of natural gas services by a competitive natural gas provider or aggregator.

3. The board shall allocate the costs and expenses reasonably attributable to certification and dispute resolution in this section to persons identified as parties to such proceeding who are engaged in or who seek to engage in providing natural gas services or other persons identified as participants in such proceeding. The funds received for the costs and the expenses of certification and dispute resolution shall be remitted to the treasurer of state for deposit in the general fund of the state as provided in section 476.10.

Sec. 4. Section 476.101, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In a proceeding associated with the granting of a certificate under section 476.29, approving maps and tariffs for competitive local exchange providers provided for in this section, or in resolving a complaint filed pursuant to subsection 8 and proceedings under 47 U.S.C. § 251-254, the board shall allocate the costs and expenses of the proceedings to persons identified as parties in the proceeding who are engaged in or who seek to engage in providing telecommunications services or other persons identified as participants in the proceeding. The funds received for the costs and the expenses shall be remitted to the treasurer of state for deposit in the general fund of the state as provided in section 476.10.

Sec. 5. CODE EDITOR DIRECTIONS. The Code editor shall codify new sections 476.86 and 476.87, as enacted in this Act, as a new division in chapter 476 relating to competitive natural gas providers.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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* See chapter 208, §57 herein