

Flynn
Johnson
Schuerer

SSB-1140
Commerce

SENATE/HOUSE FILE SF/HF 224
BY (PROPOSED DEPARTMENT OF
COMMERCE/UTILITIES DIVISION
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to proceedings before the utilities board and the
2 provision of competitive utility services by allocating costs
3 incurred by the utilities board and the office of consumer
4 advocate to certain persons in certain proceedings related to
5 providing competitive utility services, and by providing for
6 the certification of competitive natural gas providers and
7 aggregators, and providing an effective date.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1.7 Section 475A.6, Code 1999, is amended to read
2 as follows:

3 475A.6 CERTIFICATION OF EXPENSES TO UTILITIES DIVISION.

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

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

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

28 The office of consumer advocate may expend additional
29 funds, including funds for outside consultants, if those
30 additional expenditures are actual expenses which exceed the
31 funds budgeted for ~~utilities-investigations-and-directly~~
32 result-from-investigations-of-utilities the performance of the
33 advocate's duties. Before the office expends or encumbers an
34 amount in excess of the funds budgeted ~~for-investigations~~, the
35 director of the department of management shall approve the

1 expenditure or encumbrance. Before approval is given, the
 2 director of the department of management shall determine that
 3 the investigation expenses exceed the funds budgeted by the
 4 general assembly to the office of consumer advocate and that
 5 the office does not have other funds from which investigation
 6 such expenses can be paid. Upon approval of the director of
 7 the department of management, the office may expend and
 8 encumber funds for excess investigation expenses. The amounts
 9 necessary to fund the excess investigation expenses shall be
 10 collected from those utilities being-investigated or persons
 11 which caused the excess expenditures, and the collections
 12 shall be treated as repayment receipts as defined in section
 13 8.2, subsection 8.

14 Sec. 2. NEW SECTION. 476.86 DEFINITIONS.

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

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

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

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

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

29 b. A municipally owned utility which provides natural gas
 30 service only within its designated territory.

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

33 1. The board shall certify all competitive natural gas
 34 providers and aggregators providing natural gas services in
 35 this state. In an application for certification, a

1 competitive natural gas provider or aggregator must reasonably
2 demonstrate managerial, technical, and financial capability
3 sufficient to obtain and deliver the services such provider or
4 aggregator proposes to offer. The board may establish
5 reasonable conditions or restrictions on the certificate at
6 the time of issuance. The board shall adopt rules to
7 establish specific criteria for certification. The board
8 shall make a determination on an application for certification
9 within ninety days of its submission, unless the board
10 determines that additional time is necessary to consider the
11 application, in which case the board may extend the time for
12 making a determination for an additional sixty days.

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

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

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

27 NEW SUBSECTION. 10. In a proceeding associated with the
28 granting of a certificate under section 476.29, approving maps
29 and tariffs for competitive local exchange providers provided
30 for in this section, or in resolving a complaint filed
31 pursuant to subsection 8 and proceedings under 47 U.S.C. §
32 251-254, the board shall allocate the costs and expenses of
33 the proceedings to persons identified as parties in the
34 proceeding who are engaged in or who seek to engage in
35 providing telecommunications services or other persons

1 identified as participants in the proceeding. The funds
2 received for the costs and the expenses shall be remitted to
3 the treasurer of state for deposit in the general fund of the
4 state as provided in section 476.10.

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

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

11 EXPLANATION

12 This bill amends provisions related to proceedings before
13 the utilities board, the provision of competitive utility
14 services, and the allocation of costs incurred by the
15 utilities board and the office of consumer advocate to
16 participants in certain proceedings before the utilities
17 board.

18 New Code sections 476.86 and 476.87 are created and provide
19 for the certification of competitive natural gas providers and
20 aggregators. A competitive natural gas provider is defined as
21 a person who takes title to natural gas and sells for
22 consumption to retail end users. A competitive natural gas
23 provider does not include a rate regulated gas utility or a
24 municipal utility which provides natural gas service only
25 within its designated territory.

26 The bill also provides for the allocation and assessment of
27 costs incurred by the office of consumer advocate directly
28 attributable to the performance of the advocate's duties
29 involving persons subject to direct assessment by the
30 utilities division.

31 The bill takes effect upon enactment.

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TERRY E. BRANSTAD, GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

To: Members of the General Assembly
From: Iowa Utilities Board
Date: January 11, 1999
Re: LSB No. TLSB 1316DP 78

The emerging competitive environment in both the telecommunications and gas industries has caused two new categories of providers to appear in proceedings before the Utilities Board. In this legislation the Board is requesting authority to directly assess competitive telecommunications service providers for the costs of proceedings before the Board. Secondly the Board is seeking authority to certify competitive natural gas marketers providing natural gas services in Iowa, to resolve disputes involving competitive natural gas marketers and end-use consumers, and to directly assess the costs attributable to these proceedings. Authority for the Consumer Advocate to charge expenses associated with these proceedings is also being requested.

In 1995 the Board was authorized (§476.101) to certify competitive local exchange service providers. In this legislation, the Board is requesting authority to directly assess these competitive service providers for the costs associated with the granting of certification, approval of maps and tariffs, and proceedings under the federal Telecommunications Act of 1996 which involve local exchange competitors.

Competition in the natural gas industry has evolved over the past fifteen years. In the mid-1980s, the Federal Energy Regulatory Commission (FERC) began opening interstate natural gas pipelines to competitive gas suppliers. The Congress has fully deregulated sales of natural gas, but the interstate transportation of natural gas is still regulated by the FERC. As a result, gas can be obtained competitively at hundreds of delivery points in Iowa. For over ten years, industrial customers in Iowa have been purchasing gas in the open competitive market. Because of certain cost and practicality barriers, most small commercial and residential customers have not taken advantage of the open market. Rules adopted by the Board in 1997 required gas utilities to file plans by February 1, 1999, to provide access to the competitive market for their small volume and residential customers. As a protection to small volume customers, the Board is requesting authority to certify all competitive natural gas marketers providing competitive natural gas services in Iowa. Certification would not be required for a consumer-owned utility choosing to serve only within its service territory. The Board is also requesting authority to receive and resolve disputes involving competitive natural gas marketers and end-use consumers. Authority is also requested to directly assess the costs and expenses attributable to certification and dispute resolution.

The legislation also requests authority for the Consumer Advocate to charge expenses associated with the proceedings described above.

The Utilities Board is funded entirely through the assessment of certain public utilities. Currently direct assessments are made to rate regulated utilities for duties imposed upon the Board in Chapter 476 of the IOWA CODE. Applicants for pipeline permits and electric line franchises are also directly assessed for the costs of their proceedings. The total amount that may be assessed directly to a public utility may not exceed two-tenths of one percent of the total gross operating revenues of the utility derived from intrastate public utility operation during a calendar year. The rest of the Board's funding is from remainder assessment. The Board ascertains the total of the division's expenditures plus the expenses of the Consumer Advocate. Assessments that have been directly assessed are subtracted from this total. The remainder of this amount is assessed by the Board to public utilities in proportion to their respective gross operating revenues. The total remainder assessment to a utility may not exceed two-tenths of one percent of the total gross operating revenues from intrastate public utility operations. The total amount, direct or remainder, assessed to any single utility may not exceed three-tenths of one percent of the gross operating revenues from intrastate public utility operations.

This legislation would allow the Utilities Board to directly assess two new categories of competitors in the telecommunications and natural gas markets. The legislation would not increase the budget of the Utilities Board. The amount of direct assessments would increase, while the amount of remainder assessments should decrease. The total of the combined assessments would remain the same. The legislation allows the Board to directly assess the costs of these proceedings to parties who are seeking to provide service.

REPRINTED

FILED FEB 24 1999

SENATE FILE 224
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1140)

Passed Senate, Date ^(p.486) 3/3/99 Passed House, Date ^(p.1060) 4/6/99
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved 4/14/99

A BILL FOR

1 An Act relating to proceedings before the utilities board and the
2 provision of competitive utility services by allocating costs
3 incurred by the utilities board and the office of consumer
4 advocate to certain persons in certain proceedings related to
5 providing competitive utility services, and by providing for
6 the certification of competitive natural gas providers and
7 aggregators, and providing an effective date.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

9

SENATE FILE 224

S-3033

1 Amend Senate File 224 as follows:
2 1. Page 2, by striking line 30 and inserting the
3 following: "service within its incorporated area or
4 within the municipal natural gas competitive service
5 area, as defined in section 437A.3, subsection 19,
6 paragraph "a", subparagraph (1), in which the
7 municipally owned utility is located."

By TOM FLYNN
JOHN W. JENSEN

adopted 3/3/99 (p.485)

S-3033 FILED MARCH 2, 1999

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SF 224

RECEIVED

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

3 475A.6 CERTIFICATION OF EXPENSES TO UTILITIES DIVISION.

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

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

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

28 The office of consumer advocate may expend additional
29 funds, including funds for outside consultants, if those
30 additional expenditures are actual expenses which exceed the
31 funds budgeted for utilities-investigations-and-directly
32 result-from-investigations-of-utilities the performance of the
33 advocate's duties. Before the office expends or encumbers an
34 amount in excess of the funds budgeted for-investigations, the
35 director of the department of management shall approve the

1 expenditure or encumbrance. Before approval is given, the
2 director of the department of management shall determine that
3 the ~~investigation~~ expenses exceed the funds budgeted by the
4 general assembly to the office of consumer advocate and that
5 the office does not have other funds from which ~~investigation~~
6 such expenses can be paid. Upon approval of the director of
7 the department of management, the office may expend and
8 encumber funds for excess ~~investigation~~ expenses. The amounts
9 necessary to fund the excess ~~investigation~~ expenses shall be
10 collected from those utilities ~~being-investigated~~ or persons
11 which caused the excess expenditures, and the collections
12 shall be treated as repayment receipts as defined in section
13 8.2, subsection 8.

14 Sec. 2. NEW SECTION. 476.86 DEFINITIONS.

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

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

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

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

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

29 b. A municipally owned utility which provides natural gas
30 service only within its designated territory.

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

33 1. The board shall certify all competitive natural gas
34 providers and aggregators providing natural gas services in
35 this state. In an application for certification, a

1 competitive natural gas provider or aggregator must reasonably
2 demonstrate managerial, technical, and financial capability
3 sufficient to obtain and deliver the services such provider or
4 aggregator proposes to offer. The board may establish
5 reasonable conditions or restrictions on the certificate at
6 the time of issuance. The board shall adopt rules to
7 establish specific criteria for certification. The board
8 shall make a determination on an application for certification
9 within ninety days of its submission, unless the board
10 determines that additional time is necessary to consider the
11 application, in which case the board may extend the time for
12 making a determination for an additional sixty days.

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

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

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

27 NEW SUBSECTION. 10. In a proceeding associated with the
28 granting of a certificate under section 476.29, approving maps
29 and tariffs for competitive local exchange providers provided
30 for in this section, or in resolving a complaint filed
31 pursuant to subsection 8 and proceedings under 47 U.S.C. §
32 251-254, the board shall allocate the costs and expenses of
33 the proceedings to persons identified as parties in the
34 proceeding who are engaged in or who seek to engage in
35 providing telecommunications services or other persons

1 identified as participants in the proceeding. The funds
2 received for the costs and the expenses shall be remitted to
3 the treasurer of state for deposit in the general fund of the
4 state as provided in section 476.10.

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

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

11 EXPLANATION

12 This bill amends provisions related to proceedings before
13 the utilities board, the provision of competitive utility
14 services, and the allocation of costs incurred by the
15 utilities board and the office of consumer advocate to
16 participants in certain proceedings before the utilities
17 board.

18 New Code sections 476.86 and 476.87 are created and provide
19 for the certification of competitive natural gas providers and
20 aggregators. A competitive natural gas provider is defined as
21 a person who takes title to natural gas and sells for
22 consumption to retail end users. A competitive natural gas
23 provider does not include a rate regulated gas utility or a
24 municipal utility which provides natural gas service only
25 within its designated territory.

26 The bill also provides for the allocation and assessment of
27 costs incurred by the office of consumer advocate directly
28 attributable to the performance of the advocate's duties
29 involving persons subject to direct assessment by the
30 utilities division.

31 The bill takes effect upon enactment.

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

3 475A.6 CERTIFICATION OF EXPENSES TO UTILITIES DIVISION.

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

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

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

28 The office of consumer advocate may expend additional
29 funds, including funds for outside consultants, if those
30 additional expenditures are actual expenses which exceed the
31 funds budgeted for utilities-investigations-and-directly
32 result-from-investigations-of-utilities the performance of the
33 advocate's duties. Before the office expends or encumbers an
34 amount in excess of the funds budgeted for-investigations, the
35 director of the department of management shall approve the

1 expenditure or encumbrance. Before approval is given, the
2 director of the department of management shall determine that
3 the investigation expenses exceed the funds budgeted by the
4 general assembly to the office of consumer advocate and that
5 the office does not have other funds from which investigation
6 such expenses can be paid. Upon approval of the director of
7 the department of management, the office may expend and
8 encumber funds for excess investigation expenses. The amounts
9 necessary to fund the excess investigation expenses shall be
10 collected from those utilities being-investigated or persons
11 which caused the excess expenditures, and the collections
12 shall be treated as repayment receipts as defined in section
13 8.2, subsection 8.

14 Sec. 2. NEW SECTION. 476.86 DEFINITIONS.

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

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

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

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

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

29 b. A municipally owned utility which provides natural gas
30 service within its incorporated area or within the municipal
31 natural gas competitive service area, as defined in section
32 437A.3, subsection 19, paragraph "a", subparagraph (1), in
33 which the municipally owned utility is located.

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

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

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

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

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

30 NEW SUBSECTION. 10. In a proceeding associated with the
31 granting of a certificate under section 476.29, approving maps
32 and tariffs for competitive local exchange providers provided
33 for in this section, or in resolving a complaint filed
34 pursuant to subsection 8 and proceedings under 47 U.S.C. §
35 251-254, the board shall allocate the costs and expenses of

1 the proceedings to persons identified as parties in the
2 proceeding who are engaged in or who seek to engage in
3 providing telecommunications services or other persons
4 identified as participants in the proceeding. The funds
5 received for the costs and the expenses shall be remitted to
6 the treasurer of state for deposit in the general fund of the
7 state as provided in section 476.10.

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

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

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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.

Senate File 224, p. 5

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

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 224, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 14, 1999

THOMAS J. VILSACK
Governor