MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, April 12, 1977, 7:20 a.m.

Place of Meeting: Senate Committee Room 322, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chairman; Representative W. R. Monroe, Jr., Vice Chairman; Representatives Donald V. Doyle and Laverne Schroeder. Senators E. Kevin Kelly and Minnettee Doderer not present for roll call.
Also present: Joseph Royce, Administrative Co-ordinator.

LABOR BUREAU
Notice
OSHA Amendments

Walter Johnson, Deputy Commissioner of Labor, presented amendments to occupational safety and health rules, being 10.21, 26.1 and 28.1. No objections were voiced.

BEER AND LIQUOR
1.1(2)

Rolland Gallagher, Director, appeared for review of subrule 1.1(2) concerning bids for leasing of buildings or land. Said amendment was published under Notice 3/9/77.

Committee raised question as to clarity of the proposal and recommended that the procedure be "spelled out" in more detail, e.g. How much time will elapse between advertising for bids and letting contracts; what criteria will be used for accepting other than low bid.
It was recommended that ideas for flexible rules on the subject might be obtained from the General Services Department.

ARTS COUNCIL
2.1(5) f

Dwight Keller and Jack Halls represented the Arts Council for review of filed emergency amendment to 2.1(5)"f" pertaining to community grants made available to major arts organizations. Publication date was 3/9/77 IAC Supp.

7:35 a.m.

Doderer arrived.

Monroe questioned whether the provision would be in compliance with §304A.7 of the Code.
Priebe noted that the restrictive rule would eliminate new organizations.
Halls explained that for this particular program, the organization would be required to show they have a substantial impact in their regional community. He continued that it is not the intent of the agency to fund new organizations.

Monroe suggested that the second line of "f" could be clarified by adding "or may have" after "has".

ARTS COUNCIL Cont'd

In response to Doyle, department officials indicated the March 31 deadline would provide them ample time for receiv applications.
Halls was willing to review the rule and amend for clarity.

CONSERVATION Water Zones

Roy Downing, Lands and Waters Division, explained proposed rules 30.7 to 30.9 published IAC Supplement 3/23/77 relating to zoned areas for Red Rock, Coralville and Saylorville lakes which will be similar to rules governing Lake Rathbun.

Doderer brought up a matter not formally before the Committee in re swimming and was told that there are no restrictions in corps federally impounded waters but artificial lakes in the state parks have regulations.

June Review

Schroeder asked that the matter of swimming be reviewed at the June meeting of this Committee.
Preibe commented that he had received complaints concerning restrictions on nighttime fishing in the lakes and he requested that this matter be reviewed also in June.

Downing agreed to convey the request to the division responsible for regulating fishing and swimming.

Relocation

Robert Fagerland, Superintendent of Relocation, was present to answer questions concerning Chapter 65 of filed rules on relocation assistance published 4/6/77.

Fagerland pointed out that 65.2(4) b was intended to permit the self-mover to be reimbursed for moving expense.

Doderer questioned use of "actual moving costs" in 65.2(4)c. It seemed to leave the matter open to fraud, in her opinion.

Fagerland noted that their relocation rules are almost identical to those of the Transportation Department.

ENVIRONMENTAL QUALITY

David Bach, Hearing Officer, represented the Department of Environmental Quality for review of the following rules:

Odors, notice amended, chs 1, 3, 4, 14		3/9/77
Definitions, ch 15		3/23/77
Effluent limits, ch 17		3/23/77
Amendments, testing procedures, operation permits, chs 18, 19		3/23/77
Public water supply, 22.3, 22.4		3/23/77
Emission standards, 4.3(2)	Filed	3/23/77
Water treatment, certification of operators, 21.6	"	3/23/77
Water supplies, ch 22	"	3/23/77
Definitions, solid waste, 25.1	"	3/23/77
Solid waste disposal, ch 26	"	3/23/77
Permits, ch 27	"	3/23/77
Landfills, ch 28	"	3/23/77
Composting, ch 29	"	3/23/77
Recycling, ch 30	"	3/23/77
Recycling operations, ch 31	"	3/23/77
Rules of practice, 32.1, 32.3	"	3/23/77

ENVIRONMENTAL QUALITY Cont'd

George Osborn, Pork Producer and Air Quality Commission member spoke briefly on proposed amendments in re odorous substance sources. He agreed regulation is necessary until something is manufactured to control odors. Particularly troublesome are the anaerobic lagoons. Public hearings were scheduled for the proposals.

In re Item 4 amending 14.3(3), Priebe wondered if"percentage" should be substituted for "three or more citizens". Osborn commented that it is not difficult to obtain signatures for a formal complaint.

Osborn said that the Odor Advisory Committee would prefer that the matter of odor problems be referred to a local health board where hopefully they could be resolved.

Schroeder was concerned that 4.4(12) [Item 2] would prevent farmers from utilizing incinerators to dispose of carcasses. Bach pointed to 3.13(3)e which covered this area and provided an exemption.

Priebe noted that 4.5(2)--Exceptions [Item 3] lacked a date certain in referencing federal guidelines. He recommended that a date be inserted before the rules were filed.

Douglas True, Water Quality Management, told the Committee that 4.3(2) referred to as the "tall stack rule" was intended to comply with federal court decisions.

Bach stated that amendments to Chapters 15, 17, 18 and 19 were basically taken from federal regulations. In response to Priebe, he said 17.1 to .5 are more restrictive than federal. Provisions in 17.6 and 17.7 which deal with pretreatment standards are not found in the federal regulations. However, Bach continued, the Department takes the position they do not exceed restrictions set out in H.F. 1477 [66GA,ch 1204].

Monroe called attention to 17.2 wherein the agency provides for adoption of certain federal rules without notice and public participation. Bach indicated they do not anticipate complaints. He added that if EPA adopts an effluent limitation, the state cannot adopt a more stringent one.

In 18.14(1), Schroeder suggested that additional language--"bypass diversion necessary to prevent further damage" be added.

ENVIRONMENTAL QUALITY Cont'd

Schroeder questioned the time element in 19.3(2) in re application for an operation permit for a waste water disposal system. Department officials indicated they do not expect one hundred percent compliance--they are more concerned about violation of terms of the permit..

In response to further question by Schroeder Keith Bridson responded that 22.3 and 22.4 would have no affect upon large gatherings. The provisions were intended to be applicable to housing developments, schools, etc. which are occupied on yearly basis.

Deferred

Solid waste rules deferred temporarily.

GENERAL SERVICES Printing

Vernon Lundquist, Superintendent of Printing, explained proposed amendment 5.10(16) in re printing specifications and filed amendments to Chapter 5 relating to printing equipment, both published in IAC Supplement 4/6/77.

Doyle voiced opposition to to the last sentence of 5.4(5) pertaining to charges for copies produced on office copying machines which read: "The selling price of these copies will be equal to the current commercial price charged on co operated copiers installed in the lobbies of the U.S. post office." He did not want to "tie it to the postal price."

Lundquist did not want the burden of changing the rule each time a rate changed. Doyle recommended using "actual cost." Lundquist said that would be approximately ten cents per copy.

Discussion of 5.4(1) concerning printing equipment in Des Moines owned by the state. No recommendations were made.

Objection

Doyle moved the following objection to 5.4(5):

> The committee objects to subrule 5.4(5) of the printing division on the grounds that it arbitrarily pegs the charge for copies produced on office copiers to the price charged in U.S. post offices. The objection may be overcome by providing that the price charged shall be based on the actual cost of reproduction.

Doyle motion carried unanimously.

ENVIRONMENTAL QUALITY Cont'd

Peter Hamlin and David Bach answered questions concerning rules governing solid waste.

Doyle noted possible conflict between 26.2(1) and 26.6(1) which provide that open dumping be prohibited except for "rubble" and that all open dumps be closed by 7/1/75, respectively.

ENVIRONMENTAL QUALITY Cont'd

Doyle brought up the question of disposal of hazardous waste. He wondered if 27.14(3) exceeded the law and noted that "hazardous" was not included in definitions [Ch 25].
Bach commented that there is authority to write general rules on disposal of solid waste but perhaps additional legislation is needed. It was noted that the federal guidelines have not defined "hazardous."
Doyle asked if the telephone referred to 32.2 was in operation twenty-four hours a day. Bach responded that an emergency number is provided in 50.2(2) of their rules.
Doyle questioned officials as to the problem of sludge. They replied that it was preferable to spread sludge on land for fertilizer. As to disposal of hazardous waste, there is no disposal site in Iowa,

No recommendations were made by the Committee.

SOCIAL SERVICES

Present for review of rules of Social Services were: Judy Welp, Income Maintenance, Sue Tipton, Adoptions, Don Bice, Purchase of Service and Jan Hart, In-home Health Care. The following rules were before the Committee:

SOCIAL SERVICES[770]	
Riverview release, 21.5(1)	3/23/77
ADC (dates for oral presentation), Notice amended, ch 41	3/23/77
Adoptions, ch 139, filed emergency	3/9/77
Organization, 1.3	3/23/77
Work and training programs, 55.2, 55.9	3/23/77
Burial benefits, 56.2, 56.3	3/23/77
Home health agencies, 78.9	3/23/77
Medical assistance, 81.4(2)	3/23/77
Purchase of services, ch 145	3/23/77
In-home health care, ch 148	3/23/77

Monroe questioned Welp as to whether the new paragraph "a" in 21.5(1) would negate "b" and was told it would not.

Discussion of qualifications for investigators in re adoption services--139.2(3). Doderer took the position the standards were too high--not enough credit provided for those with work experience. It was her opinion it would be difficult to hire investigators who would meet the qualifications and this would delay adoption procedures. She recommended that 139.2(3) b be amended by adding "or formerly" after "currently". She further recommended that each case be reviewed on an individual basis.

Motion

Moved by Doderer to object to the rules as follows:

> The committee objects to rules 139.2(3) "a" and "b" on the grounds that these rules impose unreasonable educational requirements for the position of investigator and do not give adequate credit for experience in the field.

Motion carried unanimously.

SOCIAL SERVICES Cont'd

Schroeder voiced opposition to 56.2 and 56.3 in re burial allowances for supplemental assistance recipients. In his opinion, the provisions would be discriminatory, in some instances. He moved to object to the rules as follows:

Objection

> The committee objects to the amendment of rules 56.2(3)"g" and 56.3(4)"g" on the grounds that it is unreasonable. The committee feels that the transportation of a body from place of death to place of interment is a logical part of the burial expense and should be part of the benefits provided under chapter 56 .

Schroeder motion carried with 5 ayes. Doderer out of the room and not voting.

No recommendations were made concerning 78.9 and 81.4(2)

Monroe noted that 145.1(1) i made reference to a federal publication which contained no date. The Department agreed to supply one if it was determined to be necessary.

Monroe noted that 1.3 in re departmental organization was incomplete since it did not include the new medium security facility located at Mt. Pleasant.

No recommendations were made concerning 78.9 and 81.4(2).

In re purchase of service agreements, Welp said the rules set out the policy which has been followed by the department.
In response to question by Schroeder, Department officials indicated if the county enters into an agreement with Social Services, the rates would be those set by the Department.

Question was raised by Priebe as to lack of dates on forms.
Welp said the rule would be amended if the form were changed.

Discussion of Chapter 148. Priebe took the position that the minimum of every 60 days for review by physician to determine continuing need would entail considerable additional cost--148.6(3).

Monroe questioned 148.4(1) and the language "except for income."
Welp pointed out that the same criteria is used for other state supplementary assistance programs for adults.
Monroe thought it advisable to check with the Department in a year to determine if costs had been accelerated.

HOUSING FINANCE AUTHORITY

William McNarney, Director, Iowa Housing Finance Authority, explained proposed Chapters 1 and 2, published 4/6/77, intended to implement federally funded programs. A test case to establish the validity of their bonds was favorable in the district court. The Supreme Court will rule on the matter April 20, 1977.

HOUSING FINANCE Cont'd

Monroe challenged the requirement in 1.4 that petitions be typed. He would prefer that some discretion be allowed so long as the form was readable.

In response to Doderer, McNarney said that although the Act [Ch 220, Iowa Code] did not define "head of the house", they would consider the one with higher income to be the head.

Monroe recommended that parameters on foreclosure be set out in 2.7. McNarney said a uniform policy would be very difficult to follow since each case would be different. However, he agreed to review the provision and attempt to redraft it.

AGRICULTURE

Betty Duncan, Consultant, for Agriculture Department, appeared before the Committee for review of the following:

AGRICULTURE[30]	
Livestock movement, 18.4(10), filed emergency	3/9/77
Dairies, 30.20, without notice	3/9/77
Hotel and restaurant inspection, 37.12	4/6/77
AGRICULTURE[30]	
Pesticides, 10.22, 10.26	3/9/77
Eggs, ch 35	4/6/77
Weights and measures, 55.29, 55.33, 55.43	4/6/77

Discussion centered on 37.12(170) which would permit an inspector to file an affidavit, detailing efforts of two unsuccessful attempts to make an inspection of certain food establishments, and, if approved, would be accepted as an official inspection. Committee members took the position this would be contrary to the statute.
Duncan stated that seasonal establishments present quite a problem to the department.

Schroeder expressed an opinion that 10.26(7) regarding commercial pesticide applicator's record might be too restrictive.
Duncan indicated this provision was a carryover from previous rules

Other amendments before the Committee were acceptable.

PUBLIC INSTRUCTION

Frank Vance, Director of Special Education, and Dr. Joe Frilinger, Clinical Speech Consultant, and Chairman of the Committee which drafted rules pertaining to special education, being Chapter 12 published 3/23/77, appeared for Public Instruction Department.

Public hearing on the proposed rules was scheduled for this afternoon.

Schroeder and Doderer questioned the inclusion of "preschool handicapped"--12.3(13). Vance replied that they interpreted the statute to mandate them to provide services for handicapped from birth to age 21 and under certain circumstances this could be extended to age 24.

PUBLIC INSTRUCTION Cont'd

Doderer wondered what service could be offered to infants. It was her opinion that preschool would not start with infants. Vance quoted from §281.2 of the Code.
Doderer recommended that 12.3(13) be amended by striking the words "from birth" and inserting "or those children prior to compulsory school age who require special education."
Schroeder suggested using the language set out in the law and provide for aids and special services if it will permit the child to enter the educational process when the child attains school age.

Committee members indicated they would file formal objection it the rule is not amended.

In re administering medications by school personnel, Monroe recommended tha 12.29(4), line 3, be amended by striking "must" and inserting "shall". He voiced opposition to paragraph "a" contending that "b" would be sufficient. He didn't think implementation of "e" would be practical in requiring a picture on the medicine container. Paragraph "j" providing that medication be locked in the building administrator's office, seemed unworkable to Schroeder for schools with many buildings and only one administrator office. It was suggested that the Department review the procedures followed by care facilities.

Monroe requested that the Department provide him a copy of their revision of 12.29(4) before filing it with the Secretary of State.

REVENUE

John Schuster, Hearing Officer, and Michael Cox, Property Tax Division, appeared for review of the following:

REVENUE[730]	
Practice and procedures, ch 7	3/23/77
Assessment, ch 71	4/6/77

No recommendations were made for Chapter 7.

Ch 71 Economic Impact

After brief discussion of Chapter 71, Schroeder and Priebe requested that the Department prepare an economic impact statement under the provisions of §17A.4(1)"c" of the Code.
It was noted a hearing will be held on 5/4/77 concerning Ch 71.
In re 71.1(3), last paragraph, Monroe pointed out it did not specify which data would be used from Iowa State University. Department officials indicated this would be left to the assessor.

It was consensus of some members that more time was needed for study of the rules and that perhaps deferral was in order.

Doderer thought it only fair to the agency to point out the problem areas before taking any action.

No further action was taken.

COMMERCE
Ch 24

Patrick Cavanaugh, Commerce Counsel, represented the Commerce Commission for review of Chapter 24 of their rules relating to location and construction of electric power generating facilities. Said rules were published in IAC Supplement 3/9/77 to become effective 4/13/77.

Kelly questioned Cavanaugh as to the urgency of the rules. Cavanaugh responded that the rules would have an impact on many utility companies who are waiting with applications for certification for plants which are permitted under the Act.

Monroe suggested that persons present with adverse comments to be made should be heard before the Committee proceeded. Kelly thought additional time was needed for study of the rules. Chairman Priebe recognized Edward Williams, General Manager, Central Iowa Power Cooperative who read from a prepared statement and submitted the following specific comments concerning the rules.

EXHIBIT "A"

SPECIFIC COMMENTS

1. 24.1(3).

The Commission contemplates that there will be a consolidated hearing process and that, through Chapter 28E of the Iowa Code, cooperative agreements will be entered into with other agencies wherein the Commission "shall, at its discretion" delegate to the "various state agencies responsibility for the issuance of permits and licenses appropriate to the authority of the agency in assuring compliance with the steps in the certification process." There is no assurance provided in the rules or in Chapter 28E of The Code that Cooperative agreements can be reached with all other agencies which might be involved and there is a very good possibility that there could be duplicative licensing proceedings proceeding before various agencies at the same time. Also, it is noted that the Commission has the "discretion" to delegate authority to the various state agencies, however, there is no indication that there would be any uniformity in following such discretionary procedure.

2. 24.2(9).

CIPCO has a question as to what is meant by the reference to "* * * those associated transmission lines connecting the generating plant to either a power transmission system or an interconnected primary transmission system, or both.", while later in the same subsection it is noted that the transmission line is not included where " * * * but does include those transmission lines beyond the generation station substation." It would appear that there is a conflict in this definition which should be clarified.

3. 24.4(1).

D. It is contemplated by this subparagraph that the "proposed facility" will be fully engineered at the time an application for siting is made. We would call your particular attention to the requirement that the applicant provide " * * * the number and type of generating units and the type of fuel used by each, primary fuel source for each unit, the heat rate of each generating unit and BTU kilowatt hour over the range of its operating capacity, the function of each generating unit in

the applicant's generating system, etc.". It is virtually impossible to know all of these factors at the time of the siting hearing.

E. The requirement is also included in the rules indicating that the applicant provide "a general discription of all raw materials, including fuel used by the proposed facility in producing electricity and all waste created in the production process." While it seems somewhat unlikely, it is very possible that the applicant might be required to provide information relating to raw materials to be used in unit trains, to haul coal to a fossil-fired generating station and to provide other types of totally meaningless information.

H. Provides that the applicant must provide a statement of total cost to construct the proposed facility in a very specific manner. As you know, in this time of changing costs, it is nearly impossible to project with any accuracy the total cost which may be necessary to construct any facility. This section requires that specific costs of the plant, supply lines, etc., be included in the determination. These costs could be very difficult to determine and could be totally meaningless by the time the plant is completed.

I. The rules provide that the applicant must provide the names and addresses of "all owners of record and those lessees of record of real property of one acre or more located within one mile of the boundary of the proposed site." It is quite possible that an applicant could have offsite cooling in the form of a lake or other offsite facilities and it would, therefore, be necessary to notify all of the owners within the perimeter of the offsite facilities.

4. 24.4(3).

C. Provides that the applicant must provide specific operating data for each quarter of the ten years preceding the date of the application in each participant's service area. One particular provision of this rule provides that "the applicant shall provide capital costs and operating and maintenance expenses per kilowatt hour by plant for each quarter of the ten years preceding the date of application." This type of material would be very difficult to put together for a utility the size of CIPCO and would provide no meaningful information insofar as siting of a new generating facility.

5. 24.4(4).

Subsections A, B and C of 24.4 call for particularly meaningless, time-consuming, and costly data. Subsection A(1) requests that applicant provide "a description of projected plant mix and installed generating capacity for each year from the date of application through the proposed facility's life." This material could be prepared by computer run, which would be costly and meaningless. There is no way that any electric utility today can make meaningful projections for the life of an electric generation facility which is to be 35 to 45 years. Paragraph 2 of subparagraph A requests information of other sources of electricity available, or likely to be available, to supply the participant's service areas. The particular rule provides that "Such description shall include, but shall not be limited to, total kilowatts and kilowatt hours available for each year from the date of application through the proposed facility's life." This requirement is totally ridiculous. There is no way that a utility can provide any meaningful information to the Commission relating to this data. Paragraph B(1) also calls for data from the date of the application through the proposed facility's life. There is no way that meaningful data relating to conservation can be provided. Paragraph B(2) also calls for data which would be impossible to determine. Paragraph B(3) requests that the applicant provide the "forecast methodology" used by the applicant. I can tell this Committee that the forecast methodology would be by guess and pure speculation, which would be of no value. Of course if we were to make projections in this manner, our application would be in form to be rejected by the Commission so that we could start over with the whole process.

Paragraph 4 also requests information from the date of the application through the proposed facility's life. Paragraph C again calls for totally meaningless information which would be very costly and time-consuming to prepare, unless we were to do the preparation by pure speculation. This rule provides that the applicant must make a "projection of the number of consumers in each customer class, average customer consumption by customer class, and average price per kilowatt hour for each year from the date of application through the proposed facility's life. Applicants shall provide projections of capital cost and operating and maintenance cost per kilowatt hour for each plant in the participant's system and for the proposed facility for each year from the application through the proposed facility's life." Ladies and gentlemen, that would be like me making a

projection as to what it's going to cost for me to operate an automobile 35 to 45 years from now, if any automobile is still, in fact, available. It is totally inconceivable to me that the Commission could request such irrelevant information.

6. 24.4(5).

The Commission is requesting, in subparagraph A, that the applicant provide "estimated maximum, minimum and expected cash inflows, and maximum, minimum and expected cash outflows associated with the facility in each year from the date of application throughout the facility's life." Again, ladies and gentlemen, I say that this information, if provided, would be totally meaningless and of no value to the determination of whether or not a plant should be sited and where it should be sited.

Perhaps the most incredible provision included in this entire set of rules is that set out at 24.4(5)C which indicates that "The applicant must provide an overall evaluation of the facility using conventional capital budgeting techniques. The techniques used must include, but need not be limited to, net present value calculations and internal rate of return calculations. Applicant must also provide a graphical, present value profile indicating net present values for various discount rates. Applicant must explicitly evaluate, through sensitivity analysis, simulation or other appropriate method, the relative degree of uncertainty associated with the estimated data for each year." I wish that someone would explain to me what is meant by "explicit evaluation, through sensitivity analysis, or simulation, the relative degree of uncertainty, etc." It appears to us at CIPCO that we can relate the "relative degree of uncertainty" as to the data which will be submitted at this time by saying that the data will be totally meaningless.

7. 24.4(7).

In the section titled Site Section Methodology, 24.4(7), it is required at (B) that the applicant must identify two alternative sites and discuss the applicability of the site selection criteria to those sites. It appears from the discussion in 24.4(7) that the applicant must come into the Commission prepared to construct a plant on any one of three sites. While we recognize the need to protect the public interest in air and water pollution, radiation hazards and aesthetic considerations, the economic considerations do not seem to have been considered in adoption of these rules. We believe that the requirements set out by 24.4(7) are unreasonable.

8. 24.5(1), 24.6.

This section of the rules relates to "Application Acceptance." There are a number of dates set out insofar as application acceptance in 24.5, and there are procedural schedules adopted in 24.6 indicating that the application will be expeditiously handled. We believe that these particular dates explicitly set out provide the opportunity to reject the application without fully considering the information contained. We believe that the procedural schedule should be modified to provide more flexibility.

9. 24.7.

This particular section of the rules is simply legislation on the part of the Commerce Commission. There is no informational meeting required by the statute and we believe that this provision, as included in the rules, could further delay a determination to be made by the Commission.

10. 24.10(1).

Section 24.10(1) indicates that the Commission "upon its own motion or upon the motion of the applicant may order separate phases on particular issues of the proceeding." Section 24.10(4) provides that no certificate shall be issued until "the Commission has made appropriate findings with respect to all of the facility siting requirement set forth in the Commission rules." We can anticipate the situation wherein separate phases of hearings would be held and the siting application delayed indefinitely. We believe that there should be some limitation as to all phases of the time schedule for the siting hearing.

11. 24.11(2).

Provides the criteria which the Commission shall consider in making its certification decision. 24.11(2)b 1-4 indicates that the Commission must assess the "technical" choice of a site. This, in effect, gives the Commission authority to direct management of the Iowa utilities in the manner for construction of future generating facilities. We believe that the rules set out in this section should be modified so that the Commission will have the responsibility to make a review of the management decisions which have been made, but not to second guess the decision as to needed generation for the particular utility involved.

COMMERCE
cont'd

EXHIBIT "A" (Continued)

24.11(2)E provides particular standards by which a facility must be constructed, maintained and operated. We believe that this, again, is a management prerogative of the company insofar as construction, maintenance and engineering practice, and the rules concerning use of certain guidebooks should be eliminated.

12.

Section 24.15 provides for assessment of costs. This rule indicates that the applicant for a certificate shall pay all the costs and expenses incurred by the Commission in reaching a decision. There is no limitation whatsoever on the cost which can be incurred by the Commission, including the hiring of consultants and the costs thereof. We believe that there should be some reasonable limitation placed upon the Commission authority to incur cost which will be added to the rates charged to the consumers in the State of Iowa.

We, at CIPCO, could go through the rules on a point by point basis to illustrate the problems, substantial costs, voluminous application required, and the impact which promulgation of these rules would have upon the utility rate payers of the State of Iowa. It is our opinion that these rules, as proposed, are not in accord with the statute as adopted by the Iowa General Assembly, that they are totally unreasonable, unrealistic, arbitrary, capricious, and should be rejected by this Committee.

Lynn Vorbrich and Jack Loring appeared in behalf of Iowa Power. Vorbrich emphasized two points which he said were detailed in the written statement provided to Committee members and reproduced herein. He pointed out that the Act [66GA,ch 1206] provided that notice be given to persons living within 1,000 feet of a proposed site but Commerce rules expanded this to include those within one mile. Iowa Power taken the position this extension exceeds the statute. Secondly, much of the data required by the rules is unnecessary, in their judgment.

Schroeder brought up the question of tenancy change as to who would receive the notice in re hearing. This was a problem which was not addressed in the rules.

In answer to Doyle, Vorbrich said these points had been brought out at the hearings.

The following statement was submitted by Vorbrich:

6

IOWA POWER
666 Grand Avenue
Des Moines, Iowa 50309
515-281-2900

April 5, 1977

Lynn K. Vorbrich
Associate General Counsel

Iowa Administrative Rules
Review Committee
Room 318
Statehouse
Des Moines, Iowa 50319

Re: Commerce Commission Rules, Chapter 24, "Location and Construction of Electric Power Generating Facilities"

Gentlemen:

The purpose of this letter is to express Iowa Power and Light Company's concern about the Commerce Commission Rules regarding "Location and Construction of Electric Power Generating Facilities". Iowa Power believes that the following rules are unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the Commission, thus warranting this Committee's objection pursuant to Section 17A.4(4)(a), Code of Iowa, 1975, as amended.

1. COMMISSION INVASION OF STATE AGENCIES' JURISDICTION. Rule 24.1(3)a(3): This rule is beyond the authority delegated to the Commission under Chapter 1206, Acts of the Sixty-Sixth General Assembly (the "Act") in that it purports to retain for the Commission the discretion as to whether it will delegate to the various state regulatory agencies responsibility for issuance of permits and licenses appropriate to the authority of the agencies. No "regulatory agency", as defined in the Act, has been deprived of any of its regulatory authority provided it exercises its prerogatives within the statutory framework of the certification proceeding. That the authority of the regulatory agencies remains intact to that extent is implicit in the following sections of the Act: Section 5(1) (requiring regulatory agencies appearing on record at the proceeding to state whether the application meets their permit and licensing requirements, to recommend amendments to the application needed to bring the applicant in compliance with those requirements, and prohibiting the Commission from issuing a certificate for a facility which does not meet the regulatory agencies' permit and licensing requirements); Section 7(1)(a) (providing that a certificate authorizes construction of a facility according to the terms and conditions stated in licenses and permits issued by regulatory agencies during the proceeding); and Section 8 (providing that on issuance of a certificate a regulatory agency shall not require any further approval, permit or license for construction of the facility).

2. COMMISSION'S EXPANSION OF THE STATUTORY NOTICE REQUIREMENTS. Rules 24.6(2)d and 24.4(1)i: These rules represent a clear instance of attempted legislation by the Commission and are beyond the authority delegated to the Commission by the Act. Section 4(2)(c) of the Act specifically provides that the Commission shall serve notice of the proceeding on "owners of record of real property located within one thousand linear feet of the proposed site." The Commission attempts to multiply this distance by in excess of five times by requiring in Rule 24.4(1)i that the applicant set forth in its application the names and addresses of "all owners of record and those lessees of record of real property of one acre or more located within one mile of the boundary of the proposed site" and by providing in Rule 24.6(2)d that the Commission shall serve notice of the acceptance of the application and proceeding schedule upon "(a)ll owners of record and those lessees of record of real property of one acre or more located within one mile of the boundary of the proposed site as provided by the applicant pursuant to 24.4(1)3(sic)". These rules also represent a departure from the Act to the extent that they require the applicant to provide to the Commission the names and addresses of lessees of record of real property of one acre or more and require that notice of the proceeding be given by the Commission to such lessees of record.

The Commission's rules would expand vastly the number of persons entitled to notice and therefore would enhance greatly the chance of a costly jurisdictional failure. There is no basis in reason for such a Commission-imposed expansion of the notice mandate and in view of the foregoing considerations, these rules are not only beyond the Commission's delegated authority but are also objectionable as being unreasonable, arbitrary, and capricious.

3. OPPRESSIVE NOTICE REQUIREMENTS FOR INFORMATIONAL MEETING. Rule 24.7(7): Although nothing in the statute appears either to compel or authorize the use of an informational meeting preliminary to a certification proceeding, we believe that such a meeting may serve a useful purpose if it is not unreasonably cluttered with oppressive, Commission-imposed procedural requirements. Rule 24.7(7) exemplifies such a requirement to the extent that it compels the applicant to furnish notice of the meeting to all those persons specified in Rules 24.6(2)a through e by certified mail return receipt requested. This rule, by its reference to 24.6(2)d, would require that the applicant give such notice to all owners of record and those lessees of record of real property of one acre or more located within one mile of the boundary of the proposed site. The rules already require the applicant to furnish notice of the meeting by publication in a newspaper of general circulation in the pertinent counties. For purposes of an informational meeting not prescribed by statute, such notice by publication is sufficient. To the extent the rules require more, they are totally unnecessary and burdensome and they are beyond the authority delegated to the Commission and unreasonable, arbitrary, and capricious for all of the reasons set forth above in this paragraph and in paragraph 2.

4. THE INFORMATIONAL REQUIREMENTS AS UNREASONABLY ONEROUS FOR SMALL UTILITIES. Rules 24.4 and 24.2(15): The rules are objectionable to the extent that they require very small utilities to provide all the information required by Rule 24.4. As a practical matter, these small utilities would only come within the purview of the Act when they were "participants" in a project with a larger utility inasmuch as many small utilities do not have the resources or the need to construct a major electric power generating facility by themselves. One way for these small utilities to meet their energy needs is by assuming an ownership interest in a major project initiated by a larger utility. Unfortunately, the rules fail to give recognition to this fact by requiring even small utilities who are "participants" in a project to amass the vast quantities of detailed information called for by Rule 24.4, much of which will not be of substantial value in light of the small utility's limited economic scale. We believe the rules should exempt small utilities from burdensome informational requirements where their interest in a facility is not significant. Many smaller utilities do not maintain the historical data called for by these rules, and the information gathering burdens imposed by the rules are quite severe. Accordingly, Rules 24.4 and 24.2(15) are unreasonable, arbitrary and capricious to the extent their net effect is unnecessarily to impose upon such small utilities informational requirements which they are not reasonably able to satisfy.

5. THE PROBLEM OF UNNECESSARY DELAY AND EXPENSE. Rules 24.4 and 24.9(6): The rules are objectionable to the extent that they encourage unnecessary delay and expense in the construction and certification of electric power generating facilities. For example, Rules 24.4(4) and (5) require an applicant to make numerous economic projections, spanning the entire life of the proposed facility, with regard to the facility and the utility's system in general. As a practical matter, most facilities requiring a certificate will have a useful life of as much as 30 to 40 years. However, even the best forecast methodology can only be expected to produce reliable information for a 15-20 year period. Any economic evaluations made beyond this period of time would amount to pure speculation, and yet the cost of compiling this useless data is high.

Another example of a rule which unnecessarily adds to the cost of the certification proceeding is Rule 24.9(6), which requires the applicant to serve copies of the application for a certificate upon all persons who intervene in the proceeding. For many facilities, a utility will have to prepare a massive, multi-volume application containing highly detailed and technical data, most of which would only be meaningful to the various agency staffs that will be evaluating the proposed project and other technically trained persons. For example, Section 24.4(3) calls for system load level information for the 10 years prior to an application and for each year of the proposed facility's life consisting of duration curves, load curves and integrated energy curves with supporting data for each curve. A sample of one such curve and supporting data for a one month period is enclosed. For a jointly owned facility having 5 owners the application will have to include approximately 4800 pages of such curves and data.

In view of the ease of intervention under these rules, a utility, in all likelihood, will have to bear substantial costs in preparing and serving copies of the voluminous application upon a large number of persons whose interests in the proceeding do not require that they have their own personal copy of such a lengthy and largely technical document. To this extent, Rules 24.4 and 24.9(6) are unreasonable, arbitrary and capricious.

Finally, we think it must be pointed out to this Committee that the approval process being implemented by the proposed plant siting rules will not only be complex and cumbersome, it will be long and expensive. We assume that the Legislature had an efficient proceeding in mind when the siting legislation was passed, but we see little hope that the Commission can render a decision in an "expeditious manner" as Section 6 of the statute directs under the rules that have been promulgated.

As an electric utility, Iowa Power is acutely aware of the problems involved with the location and construction of electric power generating facilities and of the need for administrative rules which provide a thorough, yet expeditious review of such facilities. We thank the Committee for affording Iowa Power this opportunity to comment on the Commerce Commission Rules.

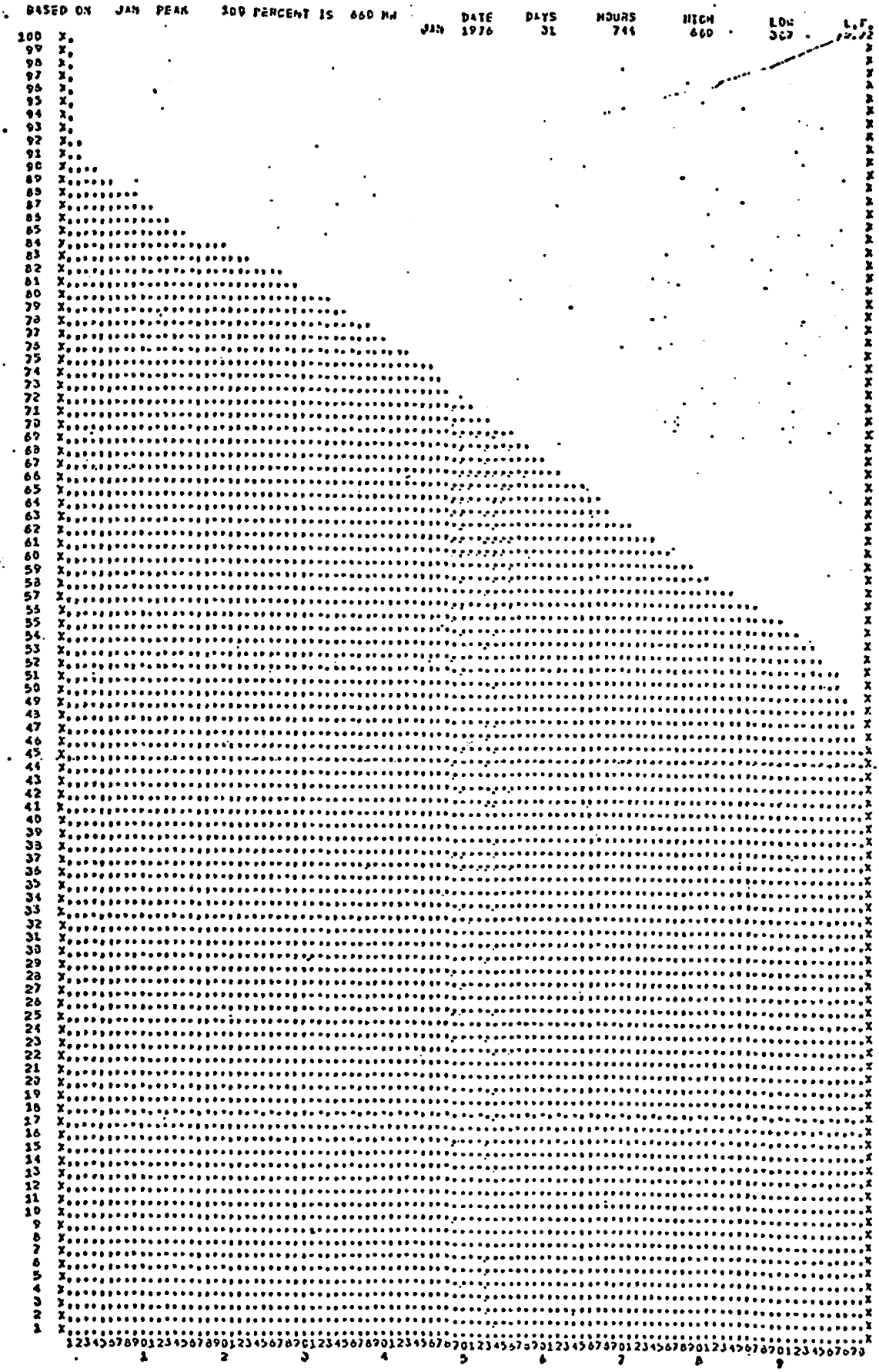
Respectfully submitted,

Lynn K. Vorbrich

Lynn K. Vorbrich
Associate General Counsel

eb

Enclosure


BASED ON JAN PEAK 100 PERCENT IS 660 MW
DATE DAYS HOURS HIGH LOW L.F.
JAN 1976 31 744 660 307 92.72

MEGAWATTS

DAY	HOUR 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	379	354	341	325	325	329	333	341	345	377	397	419	420	415	415	419	447	468	464	456	445	427	400	359
2	340	329	321	322	326	344	390	439	479	504	521	531	522	516	503	499	509	559	558	540	526	502	472	426
3	403	384	373	366	370	380	398	428	456	477	495	500	486	463	475	471	489	561	563	541	531	508	482	453
4	422	405	392	384	388	384	396	406	416	435	443	449	457	445	439	437	462	525	532	519	520	499	464	424
5	407	398	393	386	393	412	465	542	570	577	582	573	558	555	543	539	552	611	606	586	570	528	476	431
6	403	382	374	374	379	386	441	527	554	554	567	565	562	564	576	584	596	651	646	638	620	590	543	496
7	470	453	446	439	452	463	519	568	600	611	615	613	599	600	593	590	599	652	660	639	620	590	550	500
8	474	457	453	449	455	465	517	561	595	598	614	595	589	581	573	565	582	635	645	621	613	578	532	492
9	464	449	437	430	436	444	495	559	580	582	583	569	560	555	540	539	536	589	592	572	558	527	480	435
10	412	393	388	376	378	389	399	440	469	494	506	501	489	475	464	466	478	528	526	502	482	470	438	407
11	380	373	358	346	347	350	361	374	397	409	423	432	429	416	402	399	410	478	486	480	481	462	437	405
12	365	379	368	367	370	390	439	518	543	556	560	550	537	523	518	515	533	581	571	550	530	503	459	414
13	388	370	357	356	361	373	426	513	542	542	552	546	534	535	521	512	519	577	586	573	557	535	480	443
14	410	393	387	391	392	410	443	510	524	527	529	513	498	492	477	482	481	560	559	542	532	501	443	393
15	363	361	355	357	367	372	427	502	526	532	531	519	492	509	494	501	526	577	571	558	546	512	467	411
16	411	399	391	393	393	411	467	532	563	575	574	573	556	554	553	545	545	584	583	561	546	516	479	440
17	409	389	377	378	376	386	408	446	469	486	499	504	485	480	468	460	469	526	543	529	505	488	454	416
18	391	376	363	363	358	365	377	389	400	416	424	427	429	415	409	404	413	470	491	480	472	452	427	384
19	368	367	359	353	359	370	435	511	541	558	556	550	548	552	541	544	554	596	612	592	588	558	519	468
20	433	418	416	404	412	446	494	567	578	589	584	574	564	555	551	540	554	594	599	575	559	524	474	420
21	397	379	375	373	372	395	447	531	558	558	556	557	553	556	550	545	555	595	601	579	554	520	468	420
22	383	373	365	361	369	386	440	523	537	540	550	553	529	520	511	499	502	550	572	551	539	506	461	410
23	385	367	366	361	371	383	443	517	543	532	530	530	506	507	499	487	473	523	550	525	508	479	443	393
24	373	352	338	343	334	348	369	408	429	455	456	465	447	433	427	412	436	475	496	478	460	441	408	378
25	348	334	314	312	307	314	328	342	360	366	401	413	419	423	420	420	431	481	505	501	490	475	442	404
26	396	383	383	380	385	409	475	553	561	583	589	580	568	566	556	540	542	586	612	598	589	551	505	460
27	430	418	414	412	421	440	497	562	582	586	582	576	559	558	543	541	543	592	617	598	590	560	504	453
28	428	403	397	396	401	417	467	541	555	549	552	544	527	518	515	504	510	561	580	560	548	514	457	413
29	364	369	364	362	368	387	446	519	536	546	542	534	524	517	513	499	498	535	568	549	533	507	455	410
30	373	361	355	349	367	379	439	502	539	544	554	544	531	532	526	523	534	563	574	559	534	504	460	420
31	382	363	354	347	346	360	377	410	442	466	471	468	455	435	436	435	442	491	508	476	467	441	400	371

PEAK 660 - DAY 7, HOUR 19

IOWA POWER AND LIGHT COMPANY
HOURLY LOAD DATA
JANUARY 1976

TABLE 3.1-12 (PAGE 1 OF 12)

12

304

Data Documents, Inc

COMMERCE
Cont'd

Turse Toyn, General Manager, Corn Belt Power, Humboldt, shared t sentiments of other utility representatives.

Earl King, Executive Vice President, Iowa Association of Electri Cooperatives, directed his comments to agricultural statistics.

He continued that lifetime projections referred to in the rules would extend to forty-five years and could not be realisti in regard to irrigation and grain drying projects, for example. The following is complete text of the King prepared statement:

Comments regarding Iowa State Commerce Commission rules, Chapter 14, Location and Construction of Electric Power Generating Facilities.

The stated purpose of these rules under discussion is to provide guidelines for the determination of whether construction of major electric generation facilities, or alterations to existing facilities, should be issued a certificate of public convenience, use and necessity, and to establish procedures for determining compliance with permit and licensing requirements of other state regulatory agencies. The rules contain policy statements which purport to recognize the obligation of the utility to provide electric energy to the consuming public, although there is no expressed statement of policy to this extent. There is, however, a reference to the Commission's "fundamental obligation of protecting the public interest". If this "public interest" is extended to include a requirement of the utility to furnish electric energy, the full meaning of "public interest" is met. Recognition is also given to the uncontested fact that delay in time increases the cost of construction of the facility and, therefore, the cost of electricity generated at that facility.

Rather than commenting on these rules paragraph by paragraph, my comments will be pointed towards the overall impact on the agricultural based Iowa community. There is no question but that the economy of Iowa has its foundation in the agricultural community and in the production of food and fibers. Various reports of the United States Department of Agriculture, the Iowa Secretary of Agriculture, the Agriculture Division of the Iowa Development Commission and many other state, federal and local agencies bear this out. On a broad average, the American farmer feeds about 56 people. This nationwide average, however, is clearly too low for the average Iowa farmer when it is considered that the average Iowa pork producer provides enough meat for about 800 people and the average Iowa cattleman raises enough beef for about 700 people. In 1976, the state of Iowa was rated first in cash receipts in the marketing of livestock, not an unusual position. Also in 1976, Iowa was the leader in the total number of acres devoted to principal crops, having nearly 22 million

acres of land in production of corn, soy beans, oats and other grain products. As in previous years, the state of Iowa in 1976 has been in the top 2 or 3 states in national ranking in total cash receipts, number of fed cattle marketed and corn and soy bean production. There is no reason to believe that this extensive reliance upon agriculture will change in the foreseeable future. In short, Iowa is dedicated to and relies upon the farmer and his efforts.

The agricultural community is energy intensive, taking about 5 calories of energy to produce 1 calorie of food according to reports of the United States Department of Agriculture. When it is realized that the average American has a caloric intake of about 3,000 calories per day in the form of food, it becomes more apparent that the production of this food consumes tremendous amounts of energy. The energy requirement takes many forms of course, including oil and electricity. In this era of decreased reliance upon oil as a primary energy source, it will be necessary to rely increasingly upon electricity as a primary energy source for the production of food. It is estimated that from 22 to 25 gallons of oil are needed per acre to operate the machinery to plant, cultivate and harvest grain products. Based on acreage, nearly 7 million barrels of oil are required merely to run the machinery. As oil resources become more restricted, oil usage will be reserved for those areas such as machinery operation where alternate forms of energy are presently not able to be used economically. One such example is corn drying and another is irrigation. The Commerce Commission rules under consideration call for future system projections by the applicant and require the submission of data projected at least 30 years in the future, "through the proposed facilities life". The ability to make meaningful projections of this nature is in doubt and, therefore, the requirement for such projections. Agriculture in Iowa is weather dependent. It is as meaningful to predict the weather on a 30 year projection as it is to predict energy comsumption on such basis. The first electric grain drying system was installed on an Iowa farm in 1968. Presently there are in excess of 55,000 grain dryers located in Iowa, nearly 20% of which are fueled by electricity. As you are aware, grain drying is essential in those years where the weather requires it. As temperature and humidity conditions vary during the harvest season, the requirement for drying will vary. It is estimated that up to 2 watts per bushel is required to dry the corn together with the necessary energy to run the various fans, augers

and elevators associated with corn drying. The energy requirements would be enormous in a "wet" year to dry the one billion bushels of corn which Iowa can produce. On the other hand, under ideal crop conditions, very little corn would need to be dried and very little energy therefore used. The electrical utility, of course, does not have the capability of preparing for the average year and rapidly expanding on several weeks notice to meet the requirements of a "wet" year. The ability to provide energy for a "wet" year must be built into the existing electric utility plant.

A similar situation exists for irrigation of cropland, although the experienc in irrigation is not nearly as extensive as in corn drying. The typical farm irrigator will have at least one 75 to 100 horsepower electric motor used to pump the water and to operate the overhead irrigation equipment. Again, the requirement to irrigate depends upon the weather and with it the energy usage In a "typical" year, it may be necessary only to irrigate on a few occasions during the months of July and August. On the other hand, if the temperature and humidity are adequate, the growing conditions correct and rainfall is received at the proper times, very little irrigation may be required. Obviously, if a "dry" season is encountered as during 1976, it will be expect that extensive use will be made of irrigation. It becomes again obvious that it is as difficult to predict energy usage because of irrigation as it is to predict what the weather will be. In addition, the difficulty in predicting irrigation usage is that it is a rapidly expanding concept which has had relatively little use in the state of Iowa in past years. To restric its use is to restrict the productivity of the land.

It is overly simplistic to believe that all expansion of the use of electric energy can be curtailed and that a "zero growth rate" will be attained. It i obvious that in the production of agricultural products there will be increas reliance upon electricity as the primary alternate energy source to fossil fuels, principally oil. Historically, this growth has been from 6 to 7% annually, which results in doubling the load about every 10 years. A record rural electric peak of 703 megawatts was established in January of 1977; whereas 10 years ago the peak was 355 megawatts. There is little reason to believe nor indication that a growth of this nature will not continue.To delay the construction of the generation and transmission facilities to serve these loads will seriously jeopardize the ability of the Iowa farmer to produce the products upon which the state and the nation rely. It is essential that the policies of the Commerce Commission recognize this obliga- tion as part of its "fundamental obligation of protecting the public interest" The public interest is not served by unnecessary delay in the guise of pro- jecting and forecasting where such projections and forecasts cannot be highly accurate. It is incumbent upon the Committee and upon the Commerce Commissio to recognize this and build in procedural safeguards against unnecessary and unwarranted delay to the end that the energy needs of the Iowa farmer be met.

COMMERCE
Cont'd

The following statement was submitted by Eastern Iowa Light and Power Cooperative:

STATEMENT OF DONALD R. NORRIS
TO THE IOWA LEGISLATIVE RULES AND REVIEW COMMITTEE
REGARDING RULES IDENTIFIED AS CHAPTER 24
"LOCATION AND CONSTRUCTION OF ELECTRIC POWER GENERATING FACILITIES"
AS PROPOSED TO BE ADOPTED BY THE IOWA STATE COMMERCE COMMISSION

My name is Donald R. Norris. I am General Manager of Eastern Iowa Light and Power Cooperative, with headquarters at Wilton, Iowa. I have been involved with one facet or another of the rural electric program since 1949.

Our Cooperative has branch offices at DeWitt, Wapello and Lone Tree, Iowa and serves its members from a 65 megawatt coal-fired generating station on the Mississippi River near Montpelier, Iowa. Our Cooperative also owns a 3.8% (25 MW) undivided share of the 650 MW Council Bluffs No. 3 unit now under construction near Council Bluffs, Iowa, which is planned to be in commercial operation in June, 1978. Eastern Iowa Light and Power Cooperative owns and operates its own generation, transmission and distribution systems. It is one of only five REC's in the nation with this "self-sufficient" capability and complete utility responsibility.

The Cooperative serves the rural areas of eight counties and parts of four other counties in the most highly industrialized, agriculturally productive and fastest growing area of Iowa. On February 28, 1977 Eastern Iowa REC had 16,850 services in place and is connecting 40 to 50 new services per month.

The Board of Directors of Eastern Iowa Light and Power Cooperative, who are elected by the members, requested me to submit this data to you on behalf of the nearly 17,000 member-consumers of this Cooperative.

We are very cognizant of the need for plant siting regulations in Iowa. We had felt that Chapter 1206 of the Acts of the 66th General Assembly would

result in "one stop" siting which would eliminate the need to have a proposed generating facility and associated transmission lines obtain permits and licenses from a multitude of Iowa regulatory agencies.

We are concerned that will not be the case because of Section 24.1(3)a(3) the Iowa State Commerce Commission "shall at its discretion delegate to the various state agencies responsibilities for the issuance of permits and licenses appropriate to the authority of the agency in assuring compliance with the steps in the certification process."

We are also very concerned that Section 24.4 will result in the proliferation of long term data, much of which will not be meaningful or accurate. Specifically I refer to Section 24.4 (1) d wherein one requirement is to furnish the primary fuel source to be used during the life of the proposed generating unit as well as by all generating units in the utility's system also for the life of those units. This data could be very nebulous and would be subject to challenge by any person or group opposed to the project. For instance, a large coal-fired generating unit (650 MW) will require 8 to 10 years to construct and place in operation. It's useful life would normally be an additional 35 years. This would mean that the coal source and price to the year 2022 would need to be provided. In today's inflationary economy this just isn't practical since absolutely no one knows what future inflation rates will be, and how they will affect mining costs, transportation costs and labor and maintenance costs for the next 45 years. If, for instance, we wished to use Iowa coal for a portion of the fuel supply who knows what its delivered price will be in 10, 20, or 45 years based on all the possible problems and contingencies that could exist.

A similar argument can be made for the data required in Section 24.4(c) regarding projections of number of customers by class, the average customer consumption by class, and the average price per kilowatt hour for each year from the date of application through the proposed facilities life. Again that means estimates for the next 45 years, or through the year 2022 for a 1977 application and to use that just isn't practical.

Historically, this Cooperative's estimates have been made in accordance with guidelines developed by the Rural Electrification Administration during their 40 year existence. Our "Power Requirements Studies" have been for a future 10 to 20 year period and at most five years past the "in service" date of a major generating facility to see what effect it might have on power costs and the financial stability of our Cooperative. These power requirements studies and financial forecasts have then been updated at least every two years and often annually to factor in changes that have since occurred in inflation, fuel, labor, materials and any other items we use at our REC. We feel that data such as this would be much more practical to present and would be much more meaningful to those who must evaluate the site or the need for the proposed facilities.

I could go on with several other specific references and requirements outlined in Section 24.4 but my reasons for objecting to those would be the same as I have just described. It is difficult to see the value of this volume of information and it could certainly be subject to debate as to the validity of estimates made 45 years into the future.

Eastern Iowa Light and Power Cooperative would respectfully request that this committee not adopt the rules as presented, but instead recommend that the Iowa State Commerce Commission revise Chapter 24 to include more practical and more meaningful estimated data to be included in the application. We believe that method will result in a more timely "site license" and ultimately in a less costly facility which in turn will mean lower electric energy costs to our consumer-members.

COMMERCE
Cont'd

The following written statement was prepared by Northwest Iowa Power Cooperative:

STATEMENT TO BE SUBMITTED AT HEARINGS ON "LOCATION AND CONSTRUCTION OF ELECTRIC POWER GENERATING FACILITIES" TO BE HELD AT DES MOINES, IOWA, ON APRIL 12, 1977 - SUBMITTED BY CARL D. PAULSON, GENERAL MANAGER.

This statement is being submitted by Northwest Iowa Power Cooperative (NIPCO), Box 240, Le Mars, Iowa 51031, on behalf of our ten rural and one municipal electric cooperative distribution members serving approximately 27,000 meters in Western Iowa. At the present time all of our power supply comes from outside the state, with about one-half coming from the Missouri River Dams and the remaining half coming from Basin Electric Power Cooperative in North Dakota. We are also a partner in the Neal #4 generating plant being constructed on the Missouri River south of Sioux City, Iowa, which is scheduled for commercial operation about May 1, 1979, and is expected to meet our total needs to 1985. We are presently looking at various alternative power supplies, both within and outside the state, that will be operable in about 1985 and able to meet our supplemental needs. Projections indicate that by the year 2000 about 54% of our power supply will have to come from sources not yet known to us. NIPCO's system loads are practically all related to agricultural production and our annual growth in kilowatt hour sales for the last twenty years has been near seven per cent with a noticeable percentage increase in recent years. We expect the growth rate to accelerate due to the high price or lack of alternate fuels in our area in spite of conservation measures which we have already taken and those we plan to take in the future.

We have read and discussed the proposed regulations regarding the siting of new generating plants and associated facilities in Iowa. We are greatly concerned as to the effect it will have on the construction of much needed new generating plants in Iowa - particularly so since Iowa is already an energy poor state. It must be recognized that electric utilities never have or never could afford to build generating plants which are not needed and do not have a safe assurance their output can be readily sold. To do otherwise would be utter folly and they would not be in business very long. It should also be recognized that the need for electricity is developed thru human needs, new industries and new jobs for Iowans If the intent of the new siting regulations is to restrict or prohibit the construction of new generating plants then the increasing population, new industries and new jobs should be restricted because they are the cause of the ultimate need for new generating plants. It should also be recognized there are already enough hearings, permit applications and other procedures required when building a new generating plant to take up about five of the ten years required to build a new plant. The proposed siting regulations will not replace or eliminate any of those procedures but instead will duplicate and overlap causing an even greater delay in much needed new construction. This has been adequately shown in the East where New York State passed a siting law almost identical to the proposed Iowa Law

COMMERCE
Cont'd

in 1972 and since that time eight applications have been filed but not even one proceeding has been concluded. This has been an important deterrent for the present power supply shortage and extremely high cost of electricity in the northeast today. Practically all of the new proposed Iowa Siting Law is a duplication of studies, reports, etc., which are already required by the Environmental Protection Agency, Department of Environmental Quality, the Corps of Engineers and/or some other agencies having jurisdiction. It does not combine or even recognize that those studies and reports must be made.

In addition, the proposed Iowa regulation requires projections which are in some cases readily available from the Federal Census Records or other sources and in other cases the proposed new law requires a great deal of speculation that cannot be made with any degree of accuracy and will only result in increased paper work. It would seem logical that for the good of the people from a state that is already naturally energy deficient, the state laws and regulations should be written in such a manner so as to eliminate duplication and unnecessary paper work in an effort to secure adequate and low cost energy for the citizens. Anything short of that would be a disservice to the people and is not the purpose for which the Iowa Commerce Commission was formed.

It must also be observed that to make the proposed siting law operable will require a substantial increase in the number of people employed by the Iowa Commerce Commission as well as the utilities which are regulated, all adding to the ultimate cost of service to the consumer. It must be made obvious to all Iowa rate payers that any additional cost brought on by the new siting regulations will be paid by the electric customer in his bill and if Iowa utilities cannot be competitive with our neighbors we will lose industries, jobs and population making the tax burden of those remaining even greater. It should be obvious to all that in order to encourage industrial growth, jobs and a growing tax base in the state, we must provide for an adequate and reliable supply of electricity at an economically feasible cost.

We believe the proposed siting regulation may put the utility involved in a position where they cannot adequately represent the utility side of an argument in a site hearing since they are also rate regulated by the same body making judgments on a specific site. Logic would seem to dictate that the people hearing and judging on the siting arguments should not be the same ones handling rate hearings. Furthermore, the state legislature should clearly define the rule-making power of administrative agencies. It appears the practice of granting unrestricted and undefined rule-making powers to regulatory bodies destroys the long standing concept of separation of powers.

After a thorough study of the proposed siting regulations, it is our belief their implementation will discourage, if not prevent, any further construction of generating plants in Iowa which will result in discouraging new industry, increasing taxes and increasing the cost of electric service for our people. We should learn from what has happened in New York and not make the same mistake. We believe that existing siting regulations are already more than adequate and any change should be made with great care and with full consideration given to the economic impact on the consumer and our great state of Iowa.

Doyle wondered if opponents were objecting to the law as written.

Motion to Delay

Moved by Monroe to delay the effective date of the rules for seventy days. Discussion followed.

COMMERCE Cont'd

Cavanaugh commented that admittedly the area was complex. Prior to the Act, utility groups made all decisions, the public now has opportunity for input. He took the position the rules were reasonable and reflected the intent of the legislation. He considered comments from opponents as being objections to the statute not the rules.

Priebe recommended that the Chairmen of State Government Committees--who are members of this Committee also--work with the two factions to study and hopefully resolve the differences.

Doyle raised question concerning 24.2(9) and 24.4(6).

He also thought the law was clear regarding the 1,000 feet requirement.

Cavanaugh took the position the Act provided for a minimum of 1,000 feet.

Motion to defer the rules carried unanimously.

The following rules were acceptable as published:

MERIT EMPLOYMENT[570]	
Force-layoff, 11.1(3), Notice amended	3/23/77
Performance evaluation, 13.5	3/23/77
INSURANCE[510]	
Unfair claims settlement, 15.90—15.98	4/6/77
Surplus lines requirements, 21.1 to 21.5	4/6/77
REGENTS[720]	
Procedures. 2.7, 12.1, 12.7	4/6/77

VOTER REGISTRATION

Terry Swanson and Dale Nelson, Voter Registration Commission, explained the following rules:

Economic impact statement, 4.3, 4.4	4/6/77
Registration lists, ch 3	3/9/77
Election registers, ch 5	3/9/77

It was noted that the date of 3/19/77 in the folio line for Chapter 5 should be "3/9/77".

Schroeder recommended that 3.1(5) regarding deposits upon request for voter registration lists should be clarified.

In re 3.1(3), it was noted that the county commissioner of elections may ask for the social security number at the time of registration for the election register.

Doderer expressed opposition to the "implication of the rule that the social security number must be supplied."

Discussion of the economic impact statement. Committee heard from Marcia Hellum, Attorney representing Iowa Data who distributed the following comments concerning the impact statement:

IOWA DATA'S COMMENTS
RELATIVE TO
ECONOMIC IMPACT STATEMENT
SUBMITTED BY
VOTER REGISTRATION COMMISSION
TO
ADMINISTRATIVE RULES REVIEW COMMITTEE

> Rules 4.3 and 4.4 of the Voter Registration Commission of the Iowa Administrative Code deal with the specifications for data processing contracts between a county and a private vendor as required by section 47.5(3), Code 1977. This economic impact statement therefore deals only with the 7 private vendors holding data processing contracts for voter registration maintenance with 57 counties.

The economic impact statement is incomplete in that it does not assess the impact of these services if provided by the state registrar or county data processing facilities. More significantly, it does not assess the increased cost to the county by placing additional responsibilities on the county commissioner of elections. As will be discussed in greater detail below, these rules may require the county commissioners to perform additional tasks, purchase new supplies, and retrain personnel; all at additional cost to the county and the taxpayer. Nonetheless, no comments were solicited from the counties as to the impact of these rules on them nor were any estimates of the county costs included in the state's report.

> "Reformatting" merely means writing a computer program which transforms information from one format into another. The cost of creating the "reformat program" is not dependent upon the number of records to be reformatted. The cost of preparing a program is the same for a vendor handling 1,000 records as it is for a vendor working with 400,000 records. Once the program is prepared, only the cost of using the computer (CPU time) is determined by the number of records involved.

Reformatting includes more than the mere writing of a computer program. It also includes the testing of the program, necessary

to assure that the program works properly. While it is correct to state that, in general, costs of reformatting bear little relation to the number of records, it is incorrect to state that the only cost related to the number of records is computer time. The handling of the records is an additional element of the record cost which must be included in any cost estimate, unless the vendor has no overhead or personnel.

> Six of the vendors based their charges to the counties to provide the original input on the number of hours required to reformat and the computer time used to test those programs and convert the records to the new format. Iowa Data based their charges on the number of records furnished for the input. This charge is $40 per 1,000 records. According to a memorandum from counsel for Iowa Data, dated March 3, 1976, this charge is "... based upon actual cost... plus a margin of profit and are 'justified' by the operations of supply and demand within the market place." In a verbal conversation with Terry Swanson of the Data processing Department in the Comptroller's Office and in a letter to the Marion County Auditor on June 30, 1976, the charge of $40 per 1,000 records for a magnetic tape was said to be based on the "value of the data."

This paragraph contains several items requiring clarification:

1. Iowa Data makes no direct charge to the county for preparing a program or a reformat of a program. The cost of programming and reformatting are absorbed by Iowa Data.

2. Iowa Data's charges are based on six years of experience and, to quote more completely from the March 3, 1976, memorandum referred to above, are based on "cost (including administration, computer time, and other overhead costs) plus a margin of profit." These are standard charges used by Iowa Data which, given sufficient volume of business, are geared toward covering the cost of operation.

3. Why are Iowa Data's charges singled out? There is no similar discussion concerning any other service bureau's justification of their charges.

4. What does "value of the data" mean? Why is not this

term defined? Is it meant to imply that it is something other than cost-plus?

5. It is highly improper to quote from private correspondence between a vendor and a client concerning a matter of no relevance to the economic impact of proposed rules. The communication was neither addressed to nor sent to anyone other than the individual client concerned. The comment refers to a transaction which precedes the promulgation of the rules at hand by greater than 6 months and does not involve any subject covered by Rule 4.3 or 4.4. It has no relevance to this impact statement.

The chart below shows the charges to counties by the vendor for (1) providing a magnetic tape of their master file as it existed prior to the promulgation of these rules, and (2) the one time charge for providing the master file in the reformatted sequence.

VENDOR	1	2
Council Bluffs Bank	$110	$500
Bi-State	$114	$1,000
Iowa Data	$18,000	$18,000
City of Ames	$35	$524
MBST (No request for a tape was finalized)		$900
Northeast Iowa Data (Vendor receives a flat monthly rate for all data processing services)		
Ida Grove Bank (Not a vendor prior to these rules)		No Charge

This chart is revamped considerably from the original draft of the economic impact statement. The original chart compared total cost as well as program hours, cost per hour, and conversion costs per thousand records. Both charts fail to distinguish these service providers by the number of counties involved and as such are not very informative. The cost figure for Iowa Data is for 49 counties and represents an average per county cost of less than $370.00. Further, the chart is incomplete in that no figures

are presented for Northeast Iowa Data or for Ida Grove Bank.

> The state has attempted to implement these statutory requirements for input in the most flexible and economic manner possible consistent with legislative intent to create and maintain an accurate and up-to-date file of registered voters at the state level.
>
> For example, Iowa Data, a major vendor of voter registration data processing services, routinely creates a master file tape to make microfiche records for all client counties prior to an election. This process takes place in Des Moines and the tape contains all necessary data required by the state. On October 22, 1976, a letter of request was sent to Iowa Data offering to duplicate this master file and accept the records therein as their client counties initial submission of information, since the tape file was already physically in Des Moines. The effect of this request was that Iowa Data could submit to the state the master file with no reformatting. Since Iowa Data would have had neither the expense of reformatting the data nor copying the tape (the state offered to copy it for them), it was hoped the only charge to the counties would have been the small cost charged by the state for copying the tape, less than $50 for all counties. (The state charges $0.076 per 1,000 records to copy a magnetic tape, assuming the record length fixed at approximately 200 characters.) Iowa Data did not honor this request and has stated their intent to charge the counties in excess of $18,000.

1. Iowa Data could not legally have provided the state the data per the above-mentioned request. The data remains the property of each individual client county and any use of the data must be authorized by the county either by contract or by special permission. For Iowa Data to have provided the state with the data as requested would have constituted a breach of contract with each client. Providing the state with the data is a new requirement of the law imposed after the negotiation of the contracts and, hence, is not included in the contracts as an authorized service. Any request for data not covered in the contract must be specially authorized by the client county before it can be released. Iowa Data had no such authorization prior to November 2, 1976.

2. Even if Iowa Data could have legally allowed the state to copy the data, it would not have saved any reformatting. The law requires that once the initial data is submitted to the state, it must be updated at least every two weeks. The data would have had to have been reformatted anyway in order to provide the state with updated information. Further, no determination had been made by the state as to the information that was to be submitted, nor the proper format, until November 30, 1976 (96 column) and December 15, 1976 (magnetic tape).

3. The cost to the county would have been $40 per 1,000 records regardless of the date on which it was submitted to the state.

4. We are unable to find any basis for the state cost figure which is quoted. The standard charges adopted by the Voter Registration Commission do not make any mention of the cost of providing a magnetic tape nor of its availability. When comparing the rate to costs of other services, the figure appears to be inaccurate. For example, the motor vehicle records of licensed drivers are available for $0.15 per 1,000. That price is based only on the cost of the computer (Iowa Administrative Code, §820-(07,c)15.1(10)). The data carried for each drivers license record is less than that on a voter registration record and the data is merely copied. The voter registration record, on the other hand, must base its charges on actual cost (personnel, overhead, computer time, etc.) and not merely the computer time involved.

> By providing the state with input and bi-weekly updates, as required by law, the economic impact to counties is a substantial savings. County and state statutory political committees are provided three free lists. The counties would have to absorb the cost of producing these lists and could not pass it on to the user if the state did not provide the lists. The county using the most expensive vendor would have incurred charges of $40 per 1,000 records to provide a magnetic tape. The state will provide the same magnetic tape at a cost of only $0.076 per 1,000 records which is a savings to taxpayers of 99.81%.

1. There is no basis in this report for stating that counties will save by providing their data and updates to the state.

a) No economic costs of providing the updates to the state have been included in this report.

b) The cost of providing the state with a complete master list plus updates every two weeks most certainly does not appear to be cheaper than providing the political parties with three free lists every two years. However, the economic impact statement is incomplete and does not allow this determination to be made.

2. The most expensive vendor, according to the cost information in the original economic impact statement accepted by the Voter Registration Commission, charges $43 per 1,000 records.

3. The state cost figure is not in its standard charges adopted by the Voter Registration Commission. The objections made above concerning this figure apply here as well.

Each vendor was contacted and asked if it would be necessary to increase the per unit charges to the counties to meet the specifications of the edit requirements. The City of Ames presently uses edit systems which meet these specifications. They indicated no increase of charges would be necessary. The Council Bluffs Bank and the Ida Grove Bank both bid or are bidding on the edit specifications of these rules. They both indicated their charges would not be increased. Bi-State indicated the increase would be more than $0.015 per record and a one time reprogramming charge not to exceed $600 which would be amortized over the four counties they serve or an additional one time charge of $150 per county. Iowa Data indicated what the increased costs would be to them, but not what the charges would be to the counties. Iowa Data indicated their cost increase would be at least $0.105 per record plus reprogramming expenses as follows:

Prevent duplication	$ 5,000 at least
Uniform street spellings	$ 2,500
Entry for street table at $0.75 for each street or synonym (50 cities x 920 average table x $0.75)	$34,500
Precinct validation	$ 5,000
Purge of records	$ 2,000

Update reflecting all word received within 48 hours	$25,000
Update pads (49 counties, 10 each at $2.00)	$ 980

Iowa Data indicated, however, that the above figures were based on reprogramming for each edit requirement and that "...the programming costs of all edit functions would be considerably less than the sum of each part". "Considerably less" was not quantified so the economic impact to each county cannot be ascertained. Furthermore, Iowa Data maintains it makes no direct charges to counties for preparing or reformatting a program.

1. Council Bluffs Bank and Ida Grove Bank bid on the edit specifications required by these new rules. Consistent with the intent of this statement to determine the economic impact of these rules, the difference between what was bid and what the charge to the county would have been if they were not required to perform these additional services, should be ascertained.

2. Only a small portion of the expenses to Iowa Data listed above are reprogramming expenses. The cost estimates also include training, overtime, additional personnel, computer costs, costs to the county, and so on. Because of the significance of these additional requirements, we will explain each one in detail.

a) "Prevent duplication based upon social security number, date of birth, and sex." Iowa Data's systems are already programmed to detect duplications based upon name and social security number. All of the 49 clients have invested in forms and personnel training using this method. While we are unable to estimate county costs for training, for our own part, we believe that the systems redesign and reprogramming necessary to meet such a change of concept would cost at least $5,000. Three forms (special, correction, and deletion) would have to be revised and new ones purchased by the counties. The pads would cost $2 each (100 forms per pad) if the county purchased them from Iowa Data.

b) "Assure uniform spellings of street names without returning forms to auditor's office." This provision will require that the computer have a street-name table for each of the more than 500 cities contained in Iowa Data's file. The cost of the time put in by the counties to gather the information, compile a table, send it to Iowa Data, enter it into the computer through a special program, test the table, correct the table, and retest it would probably average at least $0.75 per street or synonym street name. Systems design, development, and testing costs are estimated at $2,500. The additional cost of checking each transaction against the proper table is estimated at $0.02. These figures are the cost to Iowa Data and not the charge to the client.

c) "Edit check to assure correct precinct assignment in cities which have more than one precinct and which have house numbers and street addresses." This would involve approximately 50 cities in Iowa Data's file. It would require the creation of a more sophisticated file than that used for uniform street name spellings. The file must be set up on a per street segment basis as compared to a per street name basis under the uniform spelling scheme above. The systems design, development and testing costs would probably reach $5,000. The increased cost of checking all transactions to discover those few in error would increase the cost of every transaction by at least $0.075. This figure includes the $0.02 transaction cost noted under the uniform spelling scheme. Iowa Data has checked into this procedure in the past and had concluded that the benefits would not justify the additional costs of implementing it. Again, it should be noted that these figures are costs to Iowa Data and not charges to the county. This procedure will be more expensive for the multi-county service provider in that the discs would have to hold all the different city tables or all transactions would have to be sorted by county. Neither procedure is necessary now.

d) "Between January 1 and January 15 of the year, purge voter registration records based on four-year participation factor." This requirement would impose added overtime expenses because of the large volume of November votes and the regularity of post-Christmas special elections in recent years. The cost of performing the voting date update so quickly would add approximately $2,000 to Iowa Data's costs for overtime and extra help.

e) "The update shall reflect at least all of the transactions received by the vendor prior to 48 hours before the update." Because the statutes allow 10 days working time before an election, and up to 30 days time to prepare a list, Iowa Data's employment schedules and charges are geared to a thorough verification of the accuracy of the work with updates on a two-week cycle. To perform all of these checks and cross-checks within 48 hours after receipt would require the addition of a second shift of at least 3 more persons to the staff, requiring an additional cost of $25,000 per year. The present schedule allows transactions received as late as Monday to be updated on Thursday (within 96 hours) at a significant financial savings to the counties.

f) "Assure that data entry using key punch, key disk, or key tape machines is key verified. Other methods of data entry shall use a verification process approved by the state registrar." Key verification would add between 3 and 4 cents to the cost of a transaction and result in a delay of processing. No estimate can be given of the costs of another, unstated, method that may be approved by the state registrar until such a method is revealed. Iowa Data has used key verification in the past and found that the increase in accuracy of data was less than a one percent improvement from the verification methods built into the Iowa Data system. It was felt that the slight increase in accuracy would not justify the additional expense.

The present charges per record for a one year contract and anticipated increases are as follows:

VENDOR	Present Rate Structure Add	Change	Delete	Increase
Council Bluffs Bank	$0.05	0.05	0.05	($25 minimum per update) No Charge
Bi-State	0.17	0.12	0.12	0.015 charge to counties
Iowa Data	0.276 to 0.325 for each			0.105 cost to vendor
City Ames	0.15	0.12	0.11	None
Ida Bank	0.10	0.10	0.10	None
MBST	0.15	0.10	0.05	($5 Minimum) New Contract to be let
Northeast Iowa Data	Unit charges not specified--vendor works under monthly retainer for all services. New contract to be let			

Most of the present Iowa Data contracts allow no more than 20% increase due to additional requirements imposed by law. Although Iowa Data estimates their cost increase would be at least $0.105 ($0.03 to 0.04 for key verification and at least $0.075 for precinct validation), the Voter Registration Commission assumes this increased cost, if passed on as a charge to the counties, would apply only to new and renegotiated contracts and if any increased charges were made to present contract holders, it would be only the 20% maximum allowable increase or $0.043* to $0.065*.
*Presently there are nultiple year contracts in existence in which the rate structure varies from $0.325 to 0.219 per record.

The maximum increase of the cost per transaction due to additional requirements of the law allowed under existing contracts is 20 percent. Transaction costs charged to the clients in the present contracts average $0.233 per record with a range of $0.18 to $0.333 per record depending on the length of the contract and the number of transactions. This means that the maximum cost that could be passed on to the county would be an average of $0.0466, with a range of $0.036 to $0.0666.

The rule 4.3(1)a(5) requiring election registers to be delivered to the county auditor no later than the Thursday preceding the election enables the auditor to use regular personnel as opposed to overtime or additional personnel to check

the election registers and package them for hand-out at the training sessions held on Friday for precinct election officials. If a later delivery date were allowed, additional expense of overtime for personnel and delivery would be incurred.

1. It is the practice of Iowa Data to send out the election registers Thursday evening (by currier) for delivery Friday morning. Such a practice gives the auditor two working days on which to hold training sessions. To guarantee delivery on Thursday would result in additional overtime expenses to Iowa Data.

2. No overtime or additional personnel should ever be required of the county commissioner of elections with a Friday delivery date. The commissioner only needs to put the election register in binders and insert an instruction page for the precinct election officials.

3. Training sessions are not necessarily held on Friday. The practice varies from county to county. Many hold their schools on Monday while other counties do not hold schools except as required by law. Delivery on Friday morning would not adversely effect any of the above practices.

After assessing the economic impact of the rules requiring cancellation notices to be mailed every 7 days and election records to reflect the date of last vote within 20 days of the election, the Voter Registration Commission will consider amending these rules to allow the cancellation notice to be mailed every 14 days to coincide with the 14 day requirement for updates and allow additional time for updating the date of last vote, if a notice of contested election has been filed.

This paragraph addresses itself to two of the proposed rules. Since these are presently in effect under the emergency rules, their impact should be assessed.

1. Proposed rule 845-4.3(1)a(6): "Vendor shall record election participation of each elector on the voter registration file and provide an update reflecting same to the state system as per 4.3(1)'a'(3) within thirty days after each election."

Iowa Data Comments Concluded

In order to provide this updated election register within the stated period of time, the county must be able to finish its processing first. The county is allowed a week to canvass the votes. If an election is contested, the county may not be able to release the register for proper notation. The additional expense of meeting this short time period will primarily be born by the county auditor's office. Iowa Data could incur considerable overtime expense if registers were not received in a sufficient amount of time before the expiration of the 30-day period.

2. Proposed rule 845-4.3(1)a(7): "If vendor contracts for cancellation of registration notice, such shall be sent to voter pursuant to law within seven days of receipt of deletion notice from the county."

Cancellation notices are printed from the voter's record at the time it is removed from the file. To provide this notice within 7 days would require either that an update be run every week or that cancellation notices be done by hand. Either procedure would result in considerable expense.

Recess

Chairman Priebe recessed the meeting at 12:10 p.m. to be reconvened Wednesday, April 13 at 7:30 a.m.

RECESSED MEETING RECONVENED

Reconvened: Chairman Priebe reconvened the recessed meeting at 7:50 a.m. in Room 322. Senators Doderer and Kelly not present.

RECORDS MANAGEMENT Chs 1, 2

Christine Badeke represented the Records Commission for review of filed rules, being Chapters 1 and 2 on organization and the departmental manual. Badeke indicated the Commission had incorporated recommendations of this Committee by providing that the charge for the manual be $9.50 and they clarified availability and distribution of the manual. The rules were acceptable.

TRANSPORTATION

Julie Fitzgerald, Management Review, and John Smythe, Traffic Engineering, represented DOT for filed rule [06,K]3.1 relating to signs on primary roads. Smythe pointed out that under the new provision, it would not be mandatory for secondary roads to be numbered. Schroeder thought the numbers were helpful and was concerned about possible confusion since some counties have already numbered their roads.

Priebe expressed opposition to 3.1(1)c(3) in re the DOT map referred to therein. He declared it should contain a date certain.

Monroe asked the Department to point out the rule which provides for erection of hospital signs on primary roads. They were unable to locate it at that time.

Doyle commented that a table showing Code sections which are being implemented by rules would be very useful. Committee members concurred and the Secretary agreed to begin compilation of such a table to be published in conjunction with the Administrative Code. All state agencies would be urged to co-operate in the endeavor.

Discussion of DOT rule[06,K]3.1 continued. Schroeder took the position that all cities should be shown on the transportation maps.

Monroe moved the following objection to [06,K] 3.1(1)"c"(3):

> The committee objects to DOT rule 3.1(1)"c"(3) on the grounds that it is unreasonable in that it refers to the state transportation map without specifying which version of the map is being used. The objection may be overcome by adding a date certain to 3.1(1)"c"(3) to clearly identify which version of the state transportation map is being refered to.

Motion carried with 4 ayes.

PUBLIC SAFETY

Rules of the fire marshal, being 5.11 on condemnation proceedings 3/9/77 and fire escape, 5.200, 3/23/77, were before the Committee.

Wilbur Johnson, fire marshal, apologized to the Committee, for failing to incorporate their recommendations for changes in the rules before they were filed. Johnson emphasized that they would amend 5.200 by deleting the last line of 5.200(1) which read "Business, factory and workroom ..... 100 gross". They lacked sufficient statutory authority for it.
The other change would be to strike provisions concerning signs reading "NOT AN EXIT".

Monroe moved that the Department be petitioned under §17A.8 of the Code to make the two changes in rule 5.200. Carried.

HEALTH
Care Facility
Podiatry

Chapters 57, 58, 59, 61, 63 and 64 in re care facilities were before the Committee but upon request of the Health Department review was postponed until the May meeting of this Committee.

No recommendations were made concerning amendment to the podiatry rules, being 139.1, 139.2 and 160.2 published 3/23/77.

NURSING BOARD

Lynne Illes, Executive Secretary, Board of Nursing, was present for review of the following amendments:

NURSING BOARD[590]	
Publishing of license suspensions, 1.2(1)	4/6/77
Felony applicants, 1.2(2)	4/6/77
Temporary license, 3.1(4)	4/6/77

Brief discussion of procedure for suspension of licenses. No recommendations were made.

PUBLIC INSTRUCTION

Larry Bartlett, Consultant for Public Instruction, appeared for review of the following:

PUBLIC INSTRUCTION[670]	
Approved schools and districts, 3.2—3.4	3/23/77
Interscholastic competition, 9.15(3)	3/23/77
Organization, ch 49	3/23/77
Adoption of rules, ch 52	3/23/77

Monroe raised a question concerning the department's authority to recognize the athletic associations referred to in their rules. The matter was not officially before the Committee but question was raised as to whether the associations should promulgate rules under Chapter 17A of the Code.

Monroe asked if there were rules on the procedure to follow in order to form a new athletic association. Bartlett was unaware of any rules of this nature.

DPI Cont'd

Monroe moved that the Department of Public Instruction be requested to appear before this Committee for review of Chapter 9 of their rules relating to Interscholastic Competit. Such appearance to be at the convenience of the agency after adjournment of the General Assembly. In particular, review policy with respect to §280.13 of the Code as to registration and eligibility requirements. Further, that copies of the registrations provided in §280.13 be forwarded to Committee members.
Motion carried.

MINUTES

Schroeder moved to dispense with reading of minutes of the March 8 meeting and that they stand approved. Carried.

There was brief discussion of correspondence from Jane Boofter, a former employee of IEBN who was in the process of appealing her dismissal.

Royce reported that he had been in contact with the Auditor of State and learned that the agency [IEBN] was being audited. There was a possibility that two sets of employee grievance rules of the agency may be in existence. Royce indicated he would follow up on the matter.

Agencies Noncompliance

Schroeder moved that approximately fifty agencies who appear not to be in compliance with Chapter 17A of the Code be requested to review the statute and, if it is applicable, promulgate rules accordingly.

Chairman Priebe adjourned the meeting at 8:50 a.m. Next regular meeting to be held Tuesday, May 10, 1977, at 7:30 a.m.

Respectfully submitted,

Phyllis Barry

(Mrs.) Phyllis Barry, Secretary

APPROVED

_____

DATE _____