

that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling. To facilitate the natural parents in filing ~~such an~~ affidavit, the department shall, upon request of ~~such a~~ natural parent, file an affidavit in the court in which the adoption records have been sealed.

Sec. 8. Section 624.23, subsection 2, Code 1989, is amended to read as follows:

2. Judgment liens described in subsection 1 ~~shall do not~~ remain a lien upon real estate of the defendant, platted as a homestead pursuant to section 561.4, unless execution is levied within thirty days of the time the defendant or the defendant's agent has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived ~~therefrom~~ from the lien as to the real estate platted as a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure. A copy of the written demand and proof of service ~~thereof of the written demand~~ shall be filed recorded in the office of the county recorder of the county where the real estate platted as a homestead is located.

Approved May 2, 1989

CHAPTER 103

PUBLIC UTILITIES AND AFFILIATES

S.F. 373

AN ACT relating to public utilities and their affiliates, with civil penalties applicable.

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

Section 1. Section 476.10, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the board deems it necessary in order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to review the operations or annual reports of the public utility under section 476.31 or 476.32, or to evaluate a proposal for reorganization under section 476.73, the public utility shall pay the expense reasonably attributable to the investigation, appraisal, service, or review. The board shall ascertain the expenses including certified expenses incurred by the consumer advocate division of the department of justice directly chargeable to the public utility under section 475A.6, and shall render a bill, by certified mail, to the public utility, either at the conclusion of the investigation, appraisal, services, or review, or from time to time during its progress, which bill is notice of the assessment and shall demand payment. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two-tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

Sec. 2. **NEW SECTION. 476.67 PURPOSE.**

It is the intent of the general assembly that a public utility should not directly or indirectly include in regulated rates or charges any costs or expenses of an affiliate engaged in any business other than that of utility business unless the affiliate provides goods or services to the public utility. The costs that are included should be reasonably necessary and appropriate for utility business. It is also the intent of the general assembly that a public utility should only

provide nonutility services in a manner that minimizes the possibility of cross-subsidization or unfair competitive advantage.

Sec. 3. NEW SECTION. 476.68 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Public utility" includes only gas or electric rate-regulated public utilities and rate-regulated telephone utilities providing local exchange telecommunication service.
2. "Affiliate" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.
3. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.
4. "Utility business" means the generation or transmission of electricity or furnishing of gas or furnishing electricity or furnishing rate-regulated communications services to the public for compensation.
5. "Nonutility service" includes the sale, lease, or other conveyance of commercial and residential gas or electric appliances, interior lighting systems and fixtures, or heating, ventilating, or air conditioning systems and component parts or the servicing, repair, or maintenance of such equipment.

Sec. 4. NEW SECTION. 476.69 AFFILIATE RECORDS.

1. **ACCESS TO RECORDS.** Every public utility and affiliate through the public utility shall provide the board with access to books, records, accounts, documents, and other data and information which the board finds necessary to effectively implement and effectuate the provisions of this chapter.
2. **SEPARATE RECORDS.** The board may require affiliates of a public utility to keep separate records and the board may provide for the examination and inspection of the books, accounts, papers, and records, as may be necessary to enforce this chapter.
3. **ALLOCATION PERMITTED.** The board may inquire as to and prescribe, for ratemaking purposes, the allocation of capitalization, earnings, debts, and expenses related to ownership, operation, or management of affiliates.

Sec. 5. NEW SECTION. 476.70 AFFILIATE INFORMATION REQUIRED TO BE FILED.

1. **GOODS AND SERVICES.** All contracts or arrangements providing for the furnishing or receiving of goods and services including but not limited to the furnishing or receiving of management, supervisory, construction, engineering, accounting, legal, financial, marketing, data processing, or similar services made or entered into on or after July 1, 1989, between a public utility and any affiliate shall be filed annually with the board.
2. **SALES, PURCHASES, AND LEASES.** All contracts or arrangements for the purchase, sale, lease, or exchange of any property, right, or thing made or entered into on or after July 1, 1989, between a public utility and any affiliate shall be filed annually with the board.
3. **LOANS.** All contracts or arrangements providing for any loan of money or an extension or renewal of any loan of money or any similar transaction made or entered into on or after July 1, 1989, between a public utility and any affiliate, whether as guarantor, endorser, surety, or otherwise, shall be filed annually with the board.
4. **VERIFIED COPIES REQUIRED.** Every public utility shall file with the board a verified copy of the contract or arrangement referred to in this section, or a verified summary of the unwritten contract or arrangement, and also of all the contracts and arrangements or a verified summary of the unwritten contracts or arrangements, whether written or unwritten, entered into prior to July 1, 1989, and in force and effect at that time. Any contract or agreement determined by the board to be a confidential record pursuant to section 22.7 shall be returned to the public utility filing the confidential record within sixty days after the contract or agreement is filed.
5. **EXEMPTION.** The provisions of this section requiring filing of contracts or agreements

with the board shall not apply to transactions with an affiliate where the amount of consideration involved is not in excess of fifty thousand dollars or five percent of the capital equity of the utility, whichever is smaller. However, regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount shall not be broken down into a series of transactions to come within this exemption. In any proceeding involving the rates, charges or practices of the public utility, the board may exclude from the accounts of the public utility any unreasonable payment or compensation made pursuant to any contract or arrangement which is not required to be filed under this subsection.

6. **CONTINUING JURISDICTION.** The board shall have the same jurisdiction over modifications or amendments of contracts or arrangements in this section as it has over the original contracts or arrangements. Any modification or amendment of contracts or arrangements shall also be filed annually with the board.

7. **SANCTION.** For ratemaking purposes, the board may exclude the payment or compensation to an affiliate or adjust the revenue received from an affiliate associated with any contract or arrangement required to be filed with the board if the contract or arrangement is not so filed.

8. **ALTERNATIVE INFORMATION.** The board shall consult with other state and federal regulatory agencies for the purpose of eliminating duplicate or conflicting filing requirements and may adopt rules which provide that comparable information required to be filed with other state or federal regulatory agencies may be accepted by the board in lieu of information required by this section.

9. **REASONABLENESS REQUIRED.** In any proceeding, whether upon the board's own motion or upon application or complaint involving the rates, charges, or practices of any public utility, the board, for ratemaking purposes may exclude from the accounts of the public utility or adjust any payment or compensation related to any transaction with an affiliate for any services rendered or for any property or service furnished or received, as described in this section, under contracts or arrangements with an affiliate unless and upon inquiry the public utility shall establish the reasonableness of the payment or compensation.

10. **EXEMPTION BY RULE OR WAIVER.** The board may adopt rules which exempt any public utility or class of public utility or class of contracts or arrangements from this section or waive the requirements of this section if the board finds that the exemption or waiver is in the public interest.

Sec. 6. NEW SECTION. 476.71 AUDITS REQUIRED.

The board may periodically retain a nationally or regionally recognized independent auditing firm to conduct an audit of the transactions between a public utility and its affiliates. An affiliate transaction audit shall not be conducted more frequently than every three years, unless ordered by the board for good cause. The cost of the audit shall be paid by the public utility to the independent auditing firm and shall be included in its regulated rates and charges, unless otherwise ordered by the board for good cause after providing the public utility the opportunity for a hearing on the board's decision.

Sec. 7. NEW SECTION. 476.72 REORGANIZATION DEFINED.

For purposes of this division unless the context otherwise requires, "reorganization" means either of the following:

1. The acquisition, sale, lease, or any other disposition, directly or indirectly, including by merger or consolidation, of the whole or any substantial part of a public utility's assets.
2. The purchase or other acquisition or sale or other disposition of the controlling capital stock of any public utility, either directly or indirectly.

Sec. 8. NEW SECTION. 476.73 TIME AND STANDARDS FOR REVIEW.

1. A reorganization shall not take place if the board disapproves. Prior to reorganization, the applicant shall file with the board a proposal for reorganization with supporting testimony and evidence to establish that the reorganization is not contrary to the interests of the public utility's ratepayers and the public interest.

2. A proposal for reorganization shall be deemed to have been approved unless the board disapproves the proposal within forty-five days after its filing. However, the board shall not disapprove a proposal for reorganization without providing for notice and opportunity for hearing. The notice of hearing shall be provided no later than twenty-one days after the proposal for reorganization has been filed.

3. In its review of a proposal for reorganization, the board may consider all of the following:

a. Whether the board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.

b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.

c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.

d. Whether ratepayers are detrimentally affected.

e. Whether the public interest is detrimentally affected.

4. **EXEMPTION BY RULE OR WAIVER.** The board may adopt rules which exempt any public utility or class of public utility or class of reorganization from this section if the board finds that with respect to the public utility or class of public utility or class of reorganization review is not necessary in the public interest. The board may adopt rules necessary to protect the interest of the customers of the exempt public utility. These rules may include, but are not limited to, notification of a proposed sale or transfer of assets or stock. The board may waive the requirements of this section, if the board finds that board review is not necessary in the public interest.

Sec. 9. NEW SECTION. 476.74 CROSS-SUBSIDIZATION PROHIBITED.

A rate-regulated gas or electric public utility shall not directly or indirectly include any costs or expenses attributable to providing nonutility service in regulated rates or charges.

Sec. 10. NEW SECTION. 476.75 PROVISION OF NONUTILITY SERVICE.

1. A rate-regulated gas or electric public utility providing any nonutility service to its customers shall keep and render to the board separate records of the nonutility service. The board may provide for the examination and inspection of the books, accounts, papers, and records of the nonutility service, as may be necessary, to enforce any provisions of this chapter.

2. The board shall adopt rules which specify the manner and form of the accounts relating to providing nonutility services which the rate-regulated gas or electric utility shall maintain.

Sec. 11. NEW SECTION. 476.76 ADDITIONAL REQUIREMENTS.

A rate-regulated gas or electric public utility which engages in a systematic marketing effort as defined by the board, other than on an incidental or casual basis, to promote the availability of nonutility service from the public utility shall make available at reasonable compensation on a nondiscriminatory basis to all persons engaged primarily in providing the same competitive nonutility services in that area all of the following services to the same extent utilized by the public utility in connection with its nonutility services:

1. Access to and use of the public utility's customer lists.

2. Access to and use of the public utility's billing and collection system.

3. Access to and use of the public utility's mailing system.

Sec. 12. NEW SECTION. 476.77 AUDIT REQUIRED.

The board may periodically retain a nationally or regionally recognized independent auditing firm to conduct an audit of the nonutility services provided by a rate-regulated gas or electric public utility subject to the provisions of section 476.76. A nonutility service audit shall not be conducted more frequently than every three years, unless ordered by the board for good cause. The cost of the audit shall be paid by the public utility to the independent auditing firm and shall be included in its regulated rates and charges, unless otherwise ordered by the board for good cause after providing the public utility the opportunity for a hearing on the board's decision.

Sec. 13. NEW SECTION. 476.78 EXEMPTION – ENERGY EFFICIENCY.

Notwithstanding any language to the contrary, nothing in this division shall prohibit a public utility from participating in or conducting energy efficiency projects or programs established or approved by the board or required by statute. A public utility participating in or conducting energy efficiency projects or programs established or approved by the board or required by statute shall not be subject to the provisions of sections 476.76 and 476.77 for those energy efficiency projects or programs.

Sec. 14. NEW SECTION. 476.79 COMPLAINTS.

Any person may file a written complaint with the board requesting the board to determine compliance by a rate-regulated gas or electric utility with the provisions of section 476.74, 476.75, or 476.76 or any validly adopted rules to implement those sections. If the board determines there is any reasonable ground to investigate the complaint, the board shall promptly initiate formal complaint proceedings. The formal proceeding may be initiated at any time by the board on its own motion.

Sec. 15. Sections 476.67 through 476.79 created under this Act shall be a separate division of chapter 476.

Approved May 2, 1989

CHAPTER 104

MEDICAL ASSISTANCE REQUIREMENTS

S.F. 117

AN ACT relating to medical assistance requirements and providing for eligibility of certain recipients of federal medicare.

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

Section 1. Section 249A.2, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 8. "Medicare cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal Medicare as required by Title XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. sec. 1396d(p)(3).

Sec. 2. Section 249A.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:
The extent of and the limitations upon eligibility for assistance under this chapter ~~shall be as is~~ prescribed by this section, subject to federal requirements, and by laws appropriating funds ~~therefor for assistance provided pursuant to this chapter.~~

Sec. 3. Section 249A.3, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

In determining the eligibility of an individual for medical assistance under this chapter, for resources transferred to the individual's spouse before October 1, 1989, or to a person other than the individual's spouse before July 1, 1989, the department shall include, as resources still available to the individual, those nonexempt resources or interests in resources, owned by the individual within the preceding twenty-four months, which the individual gave away or sold at less than fair market value for the purpose of establishing eligibility for medical assistance under this chapter.

Sec. 4. Section 249A.3, Code 1989, is amended by adding the following new subsections: