

CHAPTER 475A

CONSUMER ADVOCATE

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475A.1 Consumer advocate.

1. *Appointment.* The attorney general shall appoint a competent attorney to the office of consumer advocate, subject to confirmation by the senate, in accordance with section 2.32. The consumer advocate is the chief administrator of the consumer advocate division of the department of justice. The advocate's term of office is for four years. The term begins and ends in the same manner as set forth in section 69.19.

2. *Vacancy.* If a vacancy occurs in the office of consumer advocate, the vacancy shall be filled for the unexpired term in the same manner as an original appointment under the procedures of section 2.32.

3. *Disqualification.* The existence of a fact which disqualifies a person from election or acting as utilities board member under section 474.2 disqualifies the person from appointment or acting as consumer advocate.

4. *Political activity prohibited.* The consumer advocate shall devote the advocate's entire time to the duties of the office; and during the advocate's term of office the advocate shall not be a member of a political committee or contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund or take part in political campaigns or be a candidate for a political office.

5. *Removal.* The attorney general may remove the consumer advocate for malfeasance or nonfeasance in office, or for any cause which renders the advocate ineligible for appointment, or incapable or unfit to discharge the duties of the advocate's office; and the advocate's removal, when so made, is final.

83 Acts, ch 127, §8, 46; 86 Acts, ch 1245, §742, 743

475A.2 Duties.

The consumer advocate shall:

1. Investigate the legality of all rates, charges, rules, regulations, and practices of all persons under the jurisdiction of the utilities board, and institute civil proceedings before the board or any court to correct any illegality on the part of any such person. In any such investigation, the person acting for the office of the consumer advocate shall have the power to ask the board to issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents, at the discretion of the board.

2. Act as attorney for and represent all consumers generally and the public generally in all proceedings before the utilities board.

3. Institute as a party judicial review of any decision of the utilities board, if the consumer advocate deems judicial review to be in the public interest.

4. Appear for all consumers generally and the public generally in all actions instituted in any state or federal court which involve the validity of a rule, regulation, or order of the utilities board.

5. Act as attorney for and represent all consumers generally and the public generally in proceedings before federal and state agencies and related judicial review proceedings and appeals, at the discretion of the consumer advocate.

6. Appear and participate as a party in the name of the office of consumer advocate in the performance of the duties of the office.

83 Acts, ch 127, §9

475A.3 Office — employees — expenses.

1. *Office.* The office of consumer advocate shall be a separate division of the department

of justice and located at the same location as the utilities division of the department of commerce. Administrative support services may be provided to the consumer advocate division by the department of commerce.

2. *Employees.* The consumer advocate may employ attorneys, legal assistants, secretaries, clerks, and other employees the consumer advocate finds necessary for the full and efficient discharge of the duties and responsibilities of the office. The consumer advocate may employ consultants as expert witnesses or technical advisors pursuant to contract as the consumer advocate finds necessary for the full and efficient discharge of the duties of the office. Employees of the consumer advocate division, other than the consumer advocate, are subject to merit employment, except as provided in section 8A.412.

3. *Salaries, expenses, and appropriation.* The salary of the consumer advocate shall be fixed by the attorney general within the salary range set by the general assembly. The salaries of employees of the consumer advocate shall be at rates of compensation consistent with current standards in industry. The reimbursement of expenses for the employees and the consumer advocate is as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation from the department of commerce revolving fund created in section 546.12.

83 Acts, ch 127, §10, 46; 86 Acts, ch 1244, §59; 86 Acts, ch 1245, §744; 89 Acts, ch 158, §1; 94 Acts, ch 1107, §79; 2003 Acts, ch 145, §267; 2009 Acts, ch 181, §44

[T] 2011 repeal of 2009 Acts, ch 181, §44, amendment to subsection 3 stricken pursuant to 2011 Acts, ch 127, §57, 89

[T] Section not amended; footnote revised

475A.4 Utilities division records.

The consumer advocate has free access to all the files, records, and documents in the office of the utilities division except:

1. Personal information in confidential personnel records of the utilities division.
2. Records which represent and constitute the work product of the general counsel of the utilities board, and records of confidential communications between utilities board members and their general counsel, where the records relate to a proceeding before the board in which the consumer advocate is a party or a proceeding in any state or federal court in which both the board and the consumer advocate are parties.
3. Customer information of a confidential nature which could jeopardize the customer's competitive status and is provided by the utility to the division. Such information shall be provided to the consumer advocate by the division, if the board determines it to be in the public interest.

83 Acts, ch 127, §11; 88 Acts, ch 1134, §91; 89 Acts, ch 158, §2

475A.5 Service.

The consumer advocate is entitled to service of all documents required by statute or rule to be served on parties in proceedings before the utilities board and all notices, petitions, applications, complaints, answers, motions, and other pleadings filed pursuant to statute or rule with the board.

83 Acts, ch 127, §12

475A.6 Certification of expenses to utilities division.

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

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

The consumer advocate is entitled to notice and opportunity to be heard in any utilities board proceeding on objection to an assessment for expenses certified by the consumer

advocate. Expenses assessed under this section shall not exceed the amount appropriated for the consumer advocate division of the department of justice.

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

83 Acts, ch 127, §13; 90 Acts, ch 1247, §10; 99 Acts, ch 20, §1, 6

475A.7 Consumer advisory panel.

The attorney general shall appoint five members and the governor shall appoint four members to a consumer advisory panel to meet at the request of the consumer advocate for consultation regarding public utility regulation. A member shall be appointed from each congressional district with the appointee residing within the congressional district at the time of appointment. The remaining appointees shall be members at large. No more than five members shall belong to the same political party as provided in section 69.16. Not more than a simple majority of the members shall be of the same gender. The members appointed by the attorney general shall serve four-year terms at the pleasure of the attorney general and their appointments are not subject to confirmation. The members appointed by the governor shall serve four-year terms at the pleasure of the governor and their appointments are not subject to confirmation. The governor or attorney general shall fill a vacancy in the same manner as the original appointment for the unexpired portion of the member's term. Members of the consumer advisory panel shall serve without compensation, but shall be reimbursed for actual expenses from funds appropriated to the consumer advocate division.

83 Acts, ch 127, §14, 47; 86 Acts, ch 1244, §60; 86 Acts, ch 1245, §746