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HOUSE FILE 312

Place On Calendar

BY COMMITTEE ON SMALL
BUSINESS AND COMMERCE

(Formerly Study Bill 196)

Passed House, Date 3-3-83 (p. 587) Passed Senate, Date 4-12-83 P. 1214

Vote: Ayes 75 Nays 3 Vote: Ayes 41 Nays 7

Approved May 17, 1983

*Repassed 4-28-83 (P. 1434)
vote 45-1*

A BILL FOR

1 An Act relating to public utilities and providing civil
2 penalties.

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

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HF 312

1 Section 1. Section 13.7, Code 1983, is amended to read
2 as follows:

3 13.7 SPECIAL COUNSEL. ~~No-compensation~~ Compensation shall
4 not be allowed to any person for services as an attorney or
5 counselor to ~~any~~ an executive department of the state
6 government, or the head thereof, or to ~~any~~ a state board or
7 commission, ~~but~~. However, the executive council may employ
8 legal assistance, at a reasonable compensation, in ~~any~~ a
9 pending action or proceeding to protect the interests of the
10 state, but only upon a sufficient showing, in writing, made
11 by the attorney general, that the department of justice cannot
12 for reasons stated by the attorney general perform ~~said~~ the
13 service, which reasons and action of the council shall be
14 entered upon its records. When the attorney general determines
15 that the department of justice cannot perform legal service
16 in an action or proceeding, the executive council shall request
17 the department involved in the action or proceeding to
18 recommend legal counsel to represent the department. If the
19 attorney general concurs with the department that the person
20 recommended is qualified and suitable to represent the
21 department, the person recommended shall be employed. If
22 the attorney general does not concur in the recommendation,
23 the department shall submit a new recommendation. This section
24 ~~shall~~ does not affect the ~~office-of-the-commerce~~ general
25 counsel for the Iowa state commerce commission, the
26 transportation regulation authority counsel, ~~or~~ the legal
27 counsel of the Iowa department of job service or the office
28 of consumer advocate.

29 Sec. 2. Section 17A.2, subsection 1, Code 1983, is amended
30 to read as follows:

31 1. "Agency" means each board, commission, department,
32 officer or other administrative office or unit of the state.
33 "Agency" does not mean the general assembly, the courts, the
34 office of consumer advocate, the governor or a political
35 subdivision of the state or its offices and units. Unless

1 provided otherwise by statute, no less than two-thirds of
2 the members eligible to vote of a multimember agency shall
3 constitute a quorum authorized to act in the name of the
4 agency.

5 Sec. 3. Section 18.98, subsection 7, Code 1983, is amended
6 to read as follows:

7 7. To the office of governor, secretary of state, auditor
8 of state, treasurer of state, commissioner of insurance,
9 general counsel for the Iowa state commerce commission, and
10 ~~commerce-counsel~~ consumer advocate, each 1 copy

11 Sec. 4. Section 474.1, unnumbered paragraph 1, Code 1983,
12 is amended to read as follows:

13 The Iowa state commerce commission shall be composed of
14 three members appointed by the governor and subject to
15 confirmation by the senate, not more than two of whom shall
16 be from the same political party, and each commissioner
17 appointed shall serve for six-year staggered terms beginning
18 and ending as provided by section 69.19, except as provided
19 under section 474.11. Vacancies shall be filled for the
20 unexpired portion of the term in the same manner as full-term
21 appointments are ~~filled~~ made.

22 Sec. 5. Section 474.1, Code 1983, is amended by adding
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. As used in this chapter "commerce
25 commissioner" or "commissioner" means a member appointed to
26 the commerce commission and confirmed by the senate as provided
27 in this section, unless the context requires otherwise.

28 Sec. 6. NEW SECTION. 474.10 GENERAL COUNSEL. The
29 commission shall employ competent attorneys as the general
30 counsel and assistants to the general counsel as it finds
31 necessary for the full and efficient discharge of its duties.
32 The general counsel shall be the attorney for, and legal
33 advisor of, the commission. The general counsel shall appear
34 for and represent the commission in all proceedings in a state
35 or federal court in which the commission is a party, and shall

1 prosecute in any state or federal court, in the name of the
2 commission, all actions necessary to enforce or restrain the
3 violation of a rule or order of the commission. The existence
4 of a fact which disqualifies a person from election or acting
5 as state commerce commissioner disqualifies the person from
6 employment as general counsel or assistant general counsel.
7 The general counsel shall devote the counsel's entire time
8 of employment to the duties of the office; and during
9 employment the counsel shall not be a member of a political
10 committee, contribute to a political campaign fund, participate
11 in a political campaign, or be a candidate for an elective
12 office.

13 Sec. 7. NEW SECTION. 474.11 ELECTION TO RETAIN
14 COMMISSIONER. When a commerce commissioner is serving in
15 the fourth year of a six-year term, regardless of whether
16 the commissioner was appointed at the beginning of that term
17 or to fill a vacancy during that term, the commissioner is
18 subject to an election for determining if the member shall
19 be retained to serve the remainder of the term. If the member
20 does not receive more positive than negative votes, the member
21 shall be removed from office on January 1 immediately following
22 the election and a new member shall be appointed to serve
23 the unexpired portion of the term as provided in section
24 474.1. As used in this section, "year" means a period of
25 twelve consecutive months.

26 Sec. 8. NEW SECTION. 474.12 TIME OF ELECTION. Elections
27 for retention of a commissioner shall be held at the time
28 of the general election.

29 Sec. 9. NEW SECTION. 474.13 ELIGIBILITY OF VOTERS.
30 Electors entitled to vote at the general election are entitled
31 to vote at the election for retention of a commissioner.
32 Voting procedures provided by chapter 53 for absent voting
33 by armed forces in general elections are applicable to
34 elections for retention of a commissioner.

35 Sec. 10. NEW SECTION. 474.14 ELECTION REGISTERS. The

1 election registers used for the general election constitute
2 the election registers for the election for retention of a
3 commissioner.

4 Sec. 11. NEW SECTION. 474.15 CONDUCT OF ELECTIONS.

5 At least fifty-five days prior to each election for retention
6 of a commerce commissioner, the state commissioner of elections
7 shall certify to the county commissioner of elections of each
8 county the name of the commerce commissioner to be voted on
9 in the county at that election. The county commissioner of
10 elections shall place the name upon the ballot in substantially
11 the following form:

12 STATE OF IOWA
13 RETENTION OF COMMERCE COMMISSIONER BALLOT
14 (Date)
15 VOTE BY PLACING AN X IN THE APPROPRIATE BOX AFTER THE NAME.
16 Shall the following commerce commissioner be retained in
17 office?
18 JANE DOE YES ___ NO ___

19 Sec. 12. NEW SECTION. 474.16 VOTING. Voting at the
20 election for retention of a commerce commissioner shall be
21 by separate paper ballot or by voting machine in the space
22 provided for public measures. If paper ballots are used the
23 election judges shall offer a ballot to each voter. Separate
24 ballot boxes for the general election ballots and the ballots
25 for the election for retention of a commissioner are not
26 required. The general election ballot and the ballot for
27 the election for retention of a commissioner may be voted
28 in the same voting booth.

29 Sec. 13. NEW SECTION. 474.17 GENERAL ELECTION AND ABSENT
30 VOTER LAWS. So far as applicable general election and absent
31 voter laws apply to the election for retention of a
32 commissioner. An application for an absent voter ballot for
33 a general election constitutes an application for an absent
34 voter ballot for the election for retention of a commissioner
35 to be held at the same time, and the ballots shall be mailed

1 or delivered to the voter together. The sealed envelope
2 transmitted by the absent voter to the county commissioner
3 of elections containing the absent voter general election
4 ballot may also contain the election ballot for retention
5 of a commissioner.

6 Sec. 14. NEW SECTION. 474.18 RESULTS OF ELECTION. When
7 the poll is closed, the election judges shall publicly canvass
8 the vote immediately. The board of supervisors shall canvass
9 the returns at its meeting on Monday after the election, and
10 shall promptly certify the number of affirmative and negative
11 votes on retention of the commerce commissioner to the state
12 commissioner of elections.

13 The state board of canvassers shall, at the time of
14 canvassing the vote cast at a general election, open and
15 canvass all of the returns for the election for retention
16 of the commerce commissioner. A commerce commissioner who
17 has received more affirmative than negative votes shall be
18 given an appropriate certificate so stating from the state
19 board of canvassers.

20 Sec. 15. Section 475.1, Code 1983, is amended to read
21 as follows:

22 475.1 APPOINTMENT--TERM. Within sixty days after the
23 general assembly convenes in ~~1927~~ 1987, and every four years
24 thereafter, the ~~state-commerce-commissioner~~ attorney general
25 shall appoint a competent attorney to the office of ~~commerce~~
26 ~~counsel~~ consumer advocate, subject to the approval of two-
27 thirds of the members of the senate. ~~His~~ The advocate's term
28 of office ~~shall-be~~ is for four years and ~~till-his~~ until a
29 successor is appointed, ~~-and-shall-begin.~~ The term begins
30 on the first day of July of the year ~~he~~ the advocate is
31 appointed.

32 Sec. 16. Section 475.2, Code 1983, is amended to read
33 as follows:

34 475.2 VACANCY. A If a vacancy in said the office occurring
35 of consumer advocate occurs while the general assembly is

1 in session, the vacancy shall be filled for the unexpired
 2 term in the same manner as an original appointments
 3 appointment. If the general assembly is not in session, a
 4 vacancy shall be filled by an appointment made by the
 5 ~~commission~~ attorney general, which appointment ~~shall-expire~~
 6 expires thirty days from the time the next general assembly
 7 convenes.

8 Sec. 17. Section 475.3, Code 1983, is amended to read
 9 as follows:

10 475.3 DISQUALIFICATION. The existence of ~~any a~~ a fact which
 11 ~~would-disqualify~~ disqualifies a person from election or acting
 12 as state commerce commissioner ~~shall-disqualify-such~~ under
 13 section 474.2 disqualifies the person from appointment or
 14 acting as ~~commerce-counsel~~ consumer advocate.

15 Sec. 18. Section 475.4, Code 1983, is amended to read
 16 as follows:

17 475.4 POLITICAL ACTIVITY. The ~~commerce-counsel~~ consumer
 18 advocate shall devote ~~his~~ the advocate's entire time to the
 19 duties of ~~his~~ the office; and during ~~his~~ the advocate's term
 20 of office ~~he~~ the advocate shall not be a member of ~~any a~~
 21 political committee or contribute to ~~any a~~ political campaign
 22 fund or take ~~any~~ part in political campaigns or be a candidate
 23 for ~~any a~~ political office.

24 Sec. 19. Section 475.5, Code 1983, is amended to read
 25 as follows:

26 475.5 REMOVAL. The ~~commission~~ attorney general ~~may,~~ with
 27 the approval of the senate, during a session of the general
 28 assembly, may remove said-counsel the consumer advocate for
 29 malfeasance or nonfeasance in office, or for any cause which
 30 renders ~~him~~ the advocate ineligible for appointment, or
 31 incapable or unfit to discharge the duties of ~~his~~ the
 32 advocate's office; and ~~his~~ the advocate's removal, when so
 33 made, ~~shall-be~~ is final.

34 Sec. 20. Section 475.6, Code 1983, is amended by striking
 35 the section and inserting in lieu thereof the following:

1 475.6 OFFICE--EMPLOYEES--EXPENSES.

2 1. OFFICE. The office of consumer advocate is at the
3 seat of the government at the same location as the Iowa state
4 commerce commission.

5 2. EMPLOYEES. The consumer advocate shall appoint a
6 competent attorney as consumer solicitor, who shall be con-
7 sidered the first assistant attorney. The consumer advocate
8 may employ other competent attorneys as legal assistants to
9 the consumer advocate. The consumer advocate may employ legal
10 assistants, secretaries, clerks, and other employees the
11 consumer advocate finds necessary for the full and efficient
12 discharge of the duties and responsibilities of the office.
13 The consumer advocate may employ consultants as expert
14 witnesses or technical advisors pursuant to contract in any
15 proceeding in which the consumer advocate is a party.

16 3. SALARIES AND EXPENSES. The salary of the consumer
17 advocate shall be fixed by the general assembly. The salaries
18 of employees of the consumer advocate and the reimbursement
19 of expenses for the employees and the consumer advocate are
20 as provided by law.

21 Sec. 21. Section 475.7, Code 1983, is amended by striking
22 the section and inserting in lieu thereof the following:

23 475.7 DUTIES. The consumer advocate shall:

24 1. Act as attorney for and represent all consumers
25 generally and the public generally in all proceedings before
26 the Iowa state commerce commission and all related judicial
27 review proceedings and appeals.

28 2. Act as attorney for and represent all consumers
29 generally and the public generally in all actions instituted
30 in a state or federal court which involve the validity of
31 a rule or order of the commerce commission.

32 3. In the discretion of the consumer advocate, institute
33 judicial review proceedings and appeals and act as attorney
34 for and represent all consumers generally and the public
35 generally in those actions.

1 4. Act as attorney for and represent all consumers
2 generally and the public generally in proceedings before
3 federal agencies and related judicial review proceedings and
4 appeals in the discretion of the consumer advocate.

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

8 Sec. 22. NEW SECTION. 475.8 COMMERCE COMMISSION RECORDS
9 AND EMPLOYEES.

10 1. The consumer advocate has free access to all the files,
11 records, and documents in the office of the Iowa state commerce
12 commission except:

13 a. Personal information in confidential personnel records
14 of the commerce commission.

15 b. Records which represent and constitute the work product
16 of the general counsel, and records of confidential communica-
17 tions between commerce commissioners and the general counsel,
18 where the records relate to a proceeding before the commerce
19 commission in which the consumer advocate is a party or a
20 proceeding in any state or federal court in which both the
21 commerce commission and the consumer advocate are parties.

22 2. The consumer advocate may utilize employees of the
23 commerce commission as expert witnesses or technical advisors
24 in any proceeding in which the consumer advocate is a party.

25 Sec. 23. NEW SECTION. 475.9 SERVICE. The consumer ad-
26 vocate is entitled to service of all documents required by
27 statute or rule to be served on parties in proceedings before
28 the Iowa state commerce commission and all notices, petitions,
29 applications, complaints, answers, motions, and other pleadings
30 filed pursuant to statute or rule with the commerce commission.

31 Sec. 24. NEW SECTION. 475.10 CERTIFICATION OF EXPENSES
32 TO COMMERCE COMMISSION. The consumer advocate shall determine
33 the advocate's expenses, including a reasonable allocation
34 of general office expenses, directly attributable to
35 participation in proceedings involving specific utilities,

1 and shall certify the expenses to the Iowa state commerce
2 commission not less than annually. The expenses shall then
3 be includable in the expenses of the commerce commission
4 subject to direct assessment under section 476.10.

5 The consumer advocate shall annually, within ninety days
6 after the close of each fiscal year, determine the advocate's
7 expenses, including a reasonable allocation of general office
8 expenses, attributable to participation in proceedings in-
9 volving public utilities generally, and shall certify the
10 expenses to the commerce commission. The expenses shall then
11 be includable in the expenses of the commission subject to
12 remainder assessment under section 476.10.

13 The consumer advocate is entitled to notice and opportunity
14 to be heard in any commerce commission proceeding on objection
15 to an assessment for expenses certified by the consumer
16 advocate.

17 Sec. 25. NEW SECTION. 475.11 CONSUMER'S ROUNDTABLE.

18 1. APPOINTMENT. On July 1, 1983, and every four years
19 thereafter the attorney general shall appoint nine members
20 to the consumer's roundtable. The attorney general shall
21 appoint members to the consumer's roundtable who, in the
22 attorney general's opinion, constitute a cross-sectional
23 representation of the utility consumers in the state. No
24 more than five members shall be selected from the same
25 political party. The term of office is four years and until
26 a successor is appointed. If a vacancy occurs in the
27 membership of the consumer's roundtable, the vacancy shall
28 be filled for the unexpired term by appointment of the attorney
29 general. The existence of a fact which disqualifies a person
30 from appointment as consumer advocate disqualifies the person
31 from appointment to the consumer's roundtable.

32 2. CONSULTATION WITH CONSUMER ADVOCATE. The members of
33 the consumer's roundtable, at the request of the consumer
34 advocate, shall meet with the consumer advocate for consulta-
35 tion regarding public utility regulation. The consumer

1 advocate shall call the members of the consumer's roundtable
2 for consultation not less than four times nor more than six
3 times during a twelve-month period.

4 3. PER DIEM--EXPENSES. The members of the consumer's
5 roundtable are entitled to a per diem of forty dollars, travel
6 expenses at the rate provided by section 79.9, and reimburse-
7 ment for other necessary expenses incurred in performing their
8 duties under this section. The per diem and expenses shall
9 be paid from funds appropriated to the office of consumer
10 advocate.

11 Sec. 26. Section 476.1, Code 1983, is amended by adding
12 the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. As used in this chapter,
14 "commission" or "commerce commission" means the Iowa state
15 commerce commission.

16 Sec. 27. Section 476.1, Code 1983, is amended by adding
17 the following new unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. The jurisdiction of the
19 commission as to the regulation of communications services
20 is not applicable to a service or facility provided by a
21 telephone utility that is or becomes subject to competition,
22 as determined by the commission. When a service or facility
23 provided by a telephone utility becomes subject to competition,
24 the commission shall, within a reasonable period of time,
25 deregulate that service or facility. Upon deregulation, all
26 investment, revenues, and expenses associated with the service
27 or facility shall be removed from the telephone utility's
28 regulated operations and shall not be considered by the
29 commission in setting rates for the telephone utility.

30 Sec. 28. Section 476.3, subsection 1, Code 1983, is amended
31 to read as follows:

32 1. ~~Every~~ A public utility shall furnish reasonably adequate
33 service at rates and charges in accordance with tariffs filed
34 with the commission. When there is filed with the commission
35 by any person or body politic, or filed by the commission

1 upon its own motion, a written complaint requesting the
2 commission to determine the reasonableness of the rates,
3 charges, schedules, service, regulations, or anything done
4 or omitted to be done by any a public utility subject to this
5 chapter in contravention of ~~the provisions of~~ this chapter,
6 the written complaint shall be forwarded by the commission
7 to the public utility, which shall be called upon to satisfy
8 the complaint or to answer it in writing within a reasonable
9 time to be specified by the commission. Copies of the written
10 complaint forwarded by the commission to the public utility
11 and copies of all correspondence from the public utility in
12 response to the complaint shall be provided by the commission
13 to the consumer advocate. If the public utility does not
14 satisfy the commission with respect to the complaint within
15 the time specified and there appears to be any reasonable
16 ground for investigating the complaint, the commission shall
17 promptly initiate a formal proceeding. If the consumer
18 advocate is not satisfied with the public utility's response
19 to the complaint, the consumer advocate shall file a petition
20 with the commission which shall promptly initiate a formal
21 proceeding. The formal proceeding may be initiated at any
22 time by the commission on its own motion. If a proceeding
23 is initiated upon ~~application or~~ petition filed by the consumer
24 advocate or upon the commission's own motion, the commission
25 shall set the case for hearing and give notice as it deems
26 appropriate. When the commission, after a hearing held after
27 reasonable notice, finds any a public utility's rates, charges,
28 schedules, service, or regulations are unjust, unreasonable,
29 discriminatory, or otherwise in violation of any provision
30 of law, the commission shall determine just, reasonable, and
31 nondiscriminatory rates, charges, schedules, service, or
32 regulations to be observed and enforced.

33 Sec. 29. Section 476.3, subsection 2, Code 1983, is amended
34 to read as follows:

35 2. ~~If, as a result of either a review procedure conducted~~

1 ~~under section 476.31 or a review conducted under section~~
2 ~~476.32, a complaint is filed by commission staff or a petition~~
3 ~~filed by the consumer advocate alleging that a utility's rates~~
4 ~~are excessive, the disputed amount shall be specified in the~~
5 ~~complaint. The public utility shall, within the time~~
6 ~~prescribed by the commission, file a bond or undertaking~~
7 ~~approved by the commission conditioned upon the refund in~~
8 ~~a manner prescribed by the commission of amounts collected~~
9 ~~after the date of filing of the complaint or petition in~~
10 ~~excess of rates or charges finally determined by the commission~~
11 ~~to be lawful. If upon hearing the commission finds that the~~
12 ~~utility's rates are unlawful, the commission shall order a~~
13 ~~refund, with interest, of amounts collected after the date~~
14 ~~of filing of the complaint that are determined to be in excess~~
15 ~~of amounts which would have been collected under the rates~~
16 ~~finally approved, provided that the commission shall not order~~
17 ~~a refund that is greater than the amount specified in the~~
18 ~~complaint, plus interest, and provided that if the commission~~
19 ~~fails to render a decision within one hundred eighty days~~
20 ~~following the date of filing of the complaint, the commission~~
21 ~~shall not order a refund of any excess amounts that are~~
22 ~~collected after the expiration of that one hundred eighty-~~
23 ~~day period and prior to the date the decision is rendered.~~

24 Sec. 30. Section 476.6, subsections 1 and 5, Code 1983,
25 are amended to read as follows:

26 1. FILING WITH COMMISSION. A public utility subject to
27 rate regulation shall not make effective any a new or changed
28 rate, charge, schedule or regulation except by filing it with
29 the commission at least thirty days prior to its effective
30 date until the rate, charge, schedule, or regulation has been
31 approved by the commission. The commission, for good cause
32 shown, may allow changes in rates, charges, schedules or
33 regulations to become effective on less than thirty days
34 notice. Any A subscriber of a telephone exchange or service,
35 who is declared to be legally blind under section 422.12,

1 subsection 1, paragraph "e", is exempt from any charges for
2 telephone directory assistance that may be approved by the
3 commerce commission.

4 5. WRITTEN NOTICE OF INCREASE. All public utilities,
5 including except those exempted from rate regulation by the
6 ~~provisions of~~ section 476.1, shall give written notice of
7 any a proposed increase of any rate or charge to all affected
8 customers served by the public utility at ~~least-thirty-days~~
9 ~~prior-to-the-effective-date-thereof~~ the time the application
10 for the increase is filed with the commission. Public
11 utilities exempted from rate regulation by section 476.1 shall
12 give written notice of a proposed increase of any rate or
13 charge to all affected customers served by the public utility
14 at least thirty days prior to the effective date of the
15 increase. If the public utility is subject to rate regulation,
16 the notice to affected customers shall also state that the
17 customer has a right to file a written objection to ~~such~~ the
18 rate increase and that ~~he~~ the affected customers may request
19 the commission to hold a public hearing to determine if ~~such~~
20 the rate increase should be allowed. The commission shall
21 prescribe the manner and method that the written notice to
22 each affected customer of the public utility shall be served.
23 Sec. 31. Section 476.6, subsections 6, 7, 8, 9, and 10,
24 Code 1983, are amended by striking the subsections and
25 inserting in lieu thereof the following:

26 6. FACTS AND ARGUMENTS SUBMITTED. At the time a public
27 utility subject to rate regulation files with the commission
28 an application for any new or changed rates, charges,
29 schedules, or regulations, the public utility also shall
30 submit factual evidence and written argument offered in support
31 of the filing. If the filing is an application for a general
32 rate increase, the utility shall also file affidavits
33 containing testimonial evidence to be offered in support of
34 the filing, although this requirement does not apply if the
35 public utility is a rural electric cooperative.

1 7. HEARING SET. After the filing of an application for
2 new or changed rates, charges, schedules, or regulations by
3 a public utility subject to rate regulation, the commission,
4 prior to the expiration of thirty days after the filing date,
5 shall docket the case as a formal proceeding and set the case
6 for hearing unless the new or changed rates, charges,
7 schedules, or regulations are approved by the commission.
8 In the case of a rural electric cooperative, the commission
9 shall docket the case as a formal proceeding and set the case
10 for hearing prior to the proposed effective date of the tariff.
11 The commission shall give notice of formal proceedings as
12 it deems appropriate. The docketing of a case as a formal
13 proceeding suspends the effective date of the new or changed
14 rates, charges, schedules, or regulations until the rates,
15 charges, schedules, or regulations are approved by the
16 commission.

17 8. UTILITY HEARING EXPENSES REPORTED. When a case has
18 been docketed as a formal proceeding under subsection 7, the
19 public utility, within a reasonable time thereafter, shall
20 file with the commission a report outlining the utility's
21 expected expenses for litigating the case through the twelve-
22 month period allowed by the commission in rendering a decision.
23 As part of the findings of the commission under subsection
24 9, the commission shall allow recovery of costs of the
25 litigation expenses to the extent the commission deems the
26 expenses reasonable and just.

27 9. FINDING BY COMMISSION. If, after hearing and decision
28 on all issues presented for determination in the rate
29 proceeding, the commission finds the proposed rates, charges,
30 schedules, or regulations of the utility to be unlawful, the
31 commission shall by order authorize and direct the utility
32 to file an application for new or changed rates, charges,
33 schedules, or regulations which, when approved by the
34 commission and placed in effect, will satisfy the requirements
35 of this chapter. The rates, charges, schedules, or regulations

1 so approved are lawful and effective upon their approval.

2 10. LIMITATION ON FILINGS--AUTOMATIC ADJUSTMENTS

3 PROHIBITED. A public utility shall not make a subsequent
4 filing of an application for a new or changed rate, charge,
5 schedule, or regulation which relates to services for which
6 a rate filing is pending within twelve months following the
7 date the prior application was filed or until the commission
8 has issued a final order on the prior application, whichever
9 date is earlier.

10 The commission shall not approve rates or charges of a
11 public utility furnishing gas or electricity which provide
12 for automatic adjustment of rates or charges.

13 Sec. 32. Section 476.6, Code 1983, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 11. RATE LEVELS FOR TELEPHONE UTILITIES.

16 The commission may approve a schedule of rate levels for any
17 service provided by a utility providing communication services.

18 Sec. 33. Section 476.10, unnumbered paragraphs 1 and 2,
19 Code 1983, are amended to read as follows:

20 ~~Whenever~~ When the commission ~~shall deem~~ deems it necessary
21 in order to carry out the duties imposed upon it by this
22 chapter for the purpose of determining rate matters to
23 investigate the books, accounts, practices, and activities
24 of, or make appraisals of the property of any public utility,
25 or to render any engineering or accounting services to any
26 public utility, ~~such~~ or to review the operations or annual
27 reports of the public utility under section 476.31 or 476.32,
28 the public utility shall pay the expense reasonably
29 attributable to such the investigation, appraisal, or service,
30 or review. The commission shall ascertain ~~such~~ the expenses
31 including certified expenses incurred by the office of consumer
32 advocate directly chargeable to the public utility under
33 section 475.10, and shall render a bill ~~therefor~~, by certified
34 mail, to the public utility, either at the conclusion of the
35 investigation, appraisal, ~~or services,~~ or review, or from

1 time to time during its progress, which bill shall ~~constitute~~
2 is notice of ~~said~~ the assessment and shall demand payment
3 ~~thereof~~. The total amount of such expense in any one calendar
4 year, for which any public utility shall become liable, shall
5 not exceed two-tenths of one percent of its gross operating
6 revenues derived from intrastate public utility operations
7 in the last preceding calendar year. This expense limitation
8 shall apply separately to both expenses incurred during review
9 under sections 476.31 and 476.32, and expenses incurred by
10 the consumer advocate or incurred by the commerce commission
11 for other investigations, appraisals, or services.

12 The commission shall ascertain the total of its expenditures
13 during each year which are reasonably attributable to the
14 performance of its duties under this chapter ~~and~~. The
15 commission shall add to this total the certified expenses
16 of the consumer advocate as provided under section 475.10
17 and shall deduct therefrom all amounts chargeable directly
18 to any specific utility under any law. The remainder shall
19 be assessed by the commission to the several public utilities
20 in proportion to their respective gross operating revenues
21 during the last calendar year derived from intrastate public
22 utility operations and shall be assessed within ninety days
23 of the close of the calendar year based upon an estimate of
24 the commission expenditures for the first half of the
25 commission's fiscal year and again within ninety days of the
26 close of the fiscal year as necessary to conform the amount
27 of the assessment to the requirements of this section. Public
28 utilities exempt from rate regulation under this chapter shall
29 not be assessed for remainder expenses incurred during review
30 of rate-regulated public utilities under section 476.31 or
31 476.32, but such remainder expenses shall be assessed
32 proportionally as provided in this section among only the
33 rate-regulated public utilities. The total amount which may
34 be assessed to the public utilities under authority of this
35 paragraph shall not exceed one-tenth of one percent of the

1 total gross operating revenues of such the public utilities
2 during such the calendar year derived from intrastate public
3 utility operations. For public utilities exempted from rate
4 regulation under this chapter, the assessments under this
5 paragraph shall be computed at one-half the rate used in
6 computing the assessment for other utilities. The expense
7 limitations of this paragraph apply separately to both expenses
8 incurred during review under sections 476.31 and 476.32, and
9 other remainder expenses.

10 Sec. 34. Section 476.13, Code 1983, is amended by striking
11 the section and inserting in lieu thereof the following:

12 476.13 JUDICIAL REVIEW.

13 1. VENUE FOR JUDICIAL REVIEW.

14 a. Notwithstanding the Iowa administrative procedure Act,
15 the district court for Polk county or for the county in which
16 a public utility maintains its principal place of business
17 has exclusive venue for the judicial review under chapter
18 17A of actions of the commission pursuant to rate-regulatory
19 powers over that public utility.

20 b. Upon the filing of a petition for judicial review in
21 an action referred to in paragraph a, the clerk of the district
22 court shall notify the chief justice of the supreme court
23 for purposes of assignment of a district judge under section
24 602.23. The judicial review proceeding shall be heard by
25 the district judge appointed by the supreme court under section
26 602.23, but in the county of venue under paragraph a.

27 2. DISCRETIONARY REVIEW BY SUPREME COURT. If an action
28 for judicial review is commenced in the district court as
29 provided under this section, a decision of the district court
30 in that action is subject to review by an appellate court
31 only if the supreme court, in the exercise of its discretion,
32 grants discretionary review. Discretionary review shall be
33 had in the same manner as under the rules pertaining to
34 interlocutory appeals and certiorari in civil cases. The
35 supreme court may adopt additional rules to control access

1 to discretionary review under this section. However, if an
2 application for discretionary review under this section is
3 not granted by the supreme court within thirty days after
4 the application is filed, the application for discretionary
5 review shall be deemed denied.

6 Sec. 35. NEW SECTION. 476.18 IMPERMISSIBLE CHARGES.

7 1. Public utilities subject to rate regulation are
8 prohibited from including either directly or indirectly in
9 their charges or rates to customers the costs of advertising,
10 lobbying, or charitable contributions. However, this paragraph
11 does not apply to advertising which is required by the commerce
12 commission or by other state or federal regulation.

13 2. Legal costs and attorney fees incurred by a public
14 utility subject to rate regulation in an appeal in state or
15 federal court involving the validity of any action of the
16 commission shall not be included either directly or indirectly
17 in the public utility's charges or rates to customers except
18 to the extent that recovery of legal costs and attorney fees
19 is allowed by the commission. The commission shall allow
20 a public utility to recover reasonable legal costs and attorney
21 fees incurred in the appeal. Reasonableness shall be based
22 upon the degree of success of the legal arguments of the
23 public utility in the appeal.

24 3. A public utility furnishing electricity subject to
25 rate regulation is entitled to recover costs and a reasonable
26 profit on that portion of the utility's test period generating
27 capacity which does not exceed one hundred fifteen percent
28 of the public utility's test period peak demand. However,
29 the commerce commission may, in extenuating circumstances
30 allow the utility to recover that portion of the costs of
31 the utility's generating capacity which is in excess of one
32 hundred fifteen percent of the utility's test period peak
33 demand. The commerce commission shall in no case allow
34 recovery of costs or profits on a public utility's generating
35 capacity which is in excess of one hundred twenty-five percent

1 of the utility's test period peak demand. For the purposes
2 of this section, profits shall include only the return allowed
3 on common equity.

4 Sec. 36. Section 476.20, Code 1983, is amended to read
5 as follows:

6 476.20 ABANDONMENT AND TERMINATION OF SERVICE--DEPOSITS.

7 1. No A utility shall not, except in cases of emergency,
8 discontinue, reduce, or impair service to a community, or
9 a part of a community, except for nonpayment of account or
10 violation of rules and regulations, unless and until there
11 shall-have-been-first permission to do so is obtained from
12 the commission permission-to-do-so.

13 2. The commerce commission shall establish rules requiring
14 a regulated public utility furnishing gas or electricity to
15 include in the utility's notice of pending disconnection of
16 service a written statement advising the customer that the
17 customer may be eligible to participate in the low income
18 home energy assistance program or weatherization assistance
19 program administered by the energy policy council. The written
20 statement shall also state that the customer is advised to
21 contact the public utility to settle any of the customer's
22 complaints with the public utility, but if a complaint is
23 not settled to the customer's satisfaction, the customer may
24 file the complaint with the commerce commission. The written
25 statement shall include the address and phone number of the
26 commerce commission. The commerce commission shall establish
27 rules requiring that the written notice contain such additional
28 information as it deems necessary and appropriate.

29 3. Notwithstanding subsection 1, a public utility which
30 furnishes gas or electricity shall not disconnect service
31 to a residential customer from November 1 through April 1
32 for nonpayment of the customer's account. The customer who
33 has failed to make the required payments of the account shall
34 establish a reasonable payment plan with the public utility.
35 However, the failure of the customer and public utility to

1 reach an agreement on a reasonable payment plan or the failure
2 of the customer to make payments according to an agreed payment
3 plan does not justify disconnection of service from November
4 1 through April 1.

5 4. A public utility which violates a provision of this
6 section relating to the disconnection of service or which
7 violates a rule of the commerce commission relating to
8 disconnection of service is subject to civil penalties imposed
9 by the commission under section 476.35.

10 5. The commerce commission shall establish rules which
11 shall be uniform with respect to all public utilities
12 furnishing gas or electricity relating to deposits which may
13 be required by the public utility for the initiation or
14 reinstatement of service. The deposit for a residence which
15 has previously received service shall not be greater than
16 the highest monthly billing of service to the residence in
17 the previous twelve-month period. This subsection does not
18 prohibit a public utility from requiring payment of a
19 customer's past due account with the utility prior to
20 reinstatement of service.

21 Sec. 37. Section 476.33, Code 1983, is amended by striking
22 the section and inserting in lieu thereof the following:

23 476.33 RULES GOVERNING HEARINGS.

24 1. TWELVE-MONTH LIMITATION--EXTENSION. The commission
25 shall adopt rules pursuant to chapter 17A to provide for the
26 completion of proceedings under section 476.3 within twelve
27 months after the date of the initiation of the formal
28 proceeding under section 476.3, subsection 1, and to provide
29 for the completion of proceedings under section 476.6 within
30 twelve months after the date of filing of the application
31 for new or changed rates, charges, schedules, or regulations
32 under that section. These rules shall include reasonable
33 time limitations for the submission or completion of comments,
34 testimony, exhibits, briefs, and hearings.

35 If under section 476.6 the commission finds that an exten-

1 sion of the twelve-month period is necessary to permit the
2 accumulation of necessary data with respect to the operation
3 of a newly constructed electric generating facility that has
4 a capacity of one hundred megawatts or more of electricity
5 and that is proposed in the application to be included in
6 the rate base for the first time, the commission may extend
7 the twelve-month period up to a maximum extension of six
8 months, but only with respect to that portion of the
9 application for new or changed rates, charges, schedules or
10 regulations that is necessarily connected with the inclusion
11 of the generating facility in the rate base. If a utility
12 is proposing in its application to include in its rate base
13 for the first time a newly constructed electric generating
14 facility that has a capacity of one hundred megawatts or more
15 of electricity, the filing date of the application for new
16 or changed rates, charges, schedules or regulations shall,
17 for purposes of computing the twelve-month limitation stated
18 above, be the date as determined by the commission that the
19 new plant went into service, but only with respect to that
20 portion of the application for new or changed rates, charges,
21 schedules or regulations that are necessarily connected with
22 the inclusion of the generating facility in the rate base.

23 2. COMPLAINT OF ANTITRUST ACTIVITIES. An application
24 for new or changed rates, charges, schedules or regulations
25 filed under this chapter, or an application for a certificate
26 or an amendment to a certificate submitted under chapter 476A,
27 by an electric transmission line utility or a gas pipeline
28 utility or a subsidiary of either shall not be approved by
29 the commerce commission if, upon complaint by an Iowa electric
30 or gas utility, the commission finds activities which create
31 or maintain a situation inconsistent with antitrust laws and
32 the policies which underlie them. The commission may grant
33 the rate or facility certification request once it determines
34 that those activities which led to the antitrust complaint
35 have been eliminated. However, this subsection does not apply

1 to an application for new or changed rates, charges, schedules
2 or regulations after the expiration of the twelve-month
3 limitation and applicable extension under subsection 1.

4 Sec. 38. NEW SECTION. 476.34 CURRENT TEST PERIOD. The
5 commission shall adopt rules that require it, in determining
6 reasonable and just rates in rate regulatory proceedings under
7 sections 476.3 and 476.6, to use existing verifiable data
8 on the utility's revenues, costs, investments, and other data
9 that reflect occurrences during the twelve-month period
10 succeeding the date that the utility files an application
11 for new or changed rates, charges, schedules or regulations
12 or the date that the consumer advocate or commission staff
13 files an allegation that the utility's earnings are excessive.
14 This section does not limit the authority of the commission
15 to consider other evidence in proceedings under sections 476.3
16 and 476.6.

17 Sec. 39. NEW SECTION. 476.35 CIVIL PENALTY. A public
18 utility which violates a provision of this chapter, or violates
19 a rule adopted by the commission, or violates a provision
20 of an order lawfully issued by the commission, is liable for
21 a civil penalty, to be levied by the commission, of not more
22 than one hundred dollars per violation or one thousand dollars
23 per day of a continuing violation, whichever is greater.
24 Civil penalties collected pursuant to this section shall be
25 forwarded by the executive secretary of the commission to
26 the treasurer of state to be credited to the energy research
27 and development fund and to be used only for the low income
28 home energy assistance program and the weatherization
29 assistance program administered by the energy policy council.
30 Penalties paid by a rate-regulated public utility pursuant
31 to this section shall be excluded from the utility's costs
32 when determining the utility's revenue requirement, and shall
33 not be included either directly or indirectly in the utility's
34 rates or charges to customers.

35 Sec. 40. NEW SECTION. 476.36 MANAGEMENT EFFICIENCY.

1 It is the policy of this state that a public utility shall
2 operate in an efficient manner. If the commission determines
3 in the course of a proceeding conducted under section 476.3
4 or 476.6 that a utility is operating in an inefficient manner,
5 or is not exercising ordinary, prudent management, or in
6 comparison with other utilities in the state the commission
7 determines that the utility is performing in a less beneficial
8 manner than other utilities, the commission may reduce the
9 level of profit for the utility to the extent the commission
10 believes appropriate to provide incentives to the utility
11 to correct its inefficient operation. If the commission
12 determines in the course of a proceeding conducted under
13 section 476.3 or 476.6 that a utility is operating in such
14 an extraordinarily efficient manner that tangible financial
15 benefits result to the ratepayer, the commission may increase
16 the level of profit for the utility. The commission shall
17 adopt rules for determining the level of profit that would
18 be appropriate.

19 The commission shall adopt rules establishing a methodology
20 for an objective and subjective analysis of a utility's
21 management efficiency. The commission shall be the sole
22 interpreter of a utility's operating efficiency under this
23 section.

24 Sec. 41. Section 476A.6, Code 1983, is amended to read
25 as follows:

26 476A.6 DECISION--CRITERIA. The commission shall render
27 a decision on the application in an expeditious manner. A
28 certificate shall be issued to the applicant if the commission
29 finds ~~that~~ all of the following:

30 1. The services and operations resulting from the
31 construction of the facility are required by the present or
32 future public convenience, use and necessity ~~and~~.

33 2. The applicant is willing to perform such services and
34 construct, maintain, and operate the facility pursuant to
35 the provisions of the certificate and this chapter ~~and~~.

1 3. The construction, maintenance, and operation of the
2 facility will cause minimum adverse land use, environmental,
3 and aesthetic impact and are consonant with reasonable
4 utilization of air, land and water resources for beneficial
5 purposes considering available technology and the economics
6 of available alternatives.

7 4. The applicant has in effect a comprehensive energy
8 management program designed to reduce peak loads and to in-
9 crease efficiency of use of energy by all classes of customers
10 of the utility, and the facility in the application is neces-
11 sary notwithstanding the existence of the comprehensive energy
12 management program. As used in this subsection, a
13 "comprehensive energy management program" includes at a minimum
14 the following:

15 a. Establishment of load management and interruptible
16 service programs, where cost effective.

17 b. Development of wheeling agreements and other energy
18 sharing agreements with utilities that have available capacity.

19 c. Compliance with commission rules on energy management
20 procedures.

21 5. The applicant has considered all feasible alternatives
22 to the proposed facility including nongeneration alternatives;
23 has ranked those alternatives by cost; has implemented the
24 least-cost alternatives first; and the facility in the applica-
25 tion is necessary notwithstanding the implementation of these
26 alternatives.

27 Sec. 42. NEW SECTION. 476A.15 ENERGY SHARING AGREEMENTS.

28 1. Before a certificate is issued under section 476A.6,
29 the public utility shall demonstrate to the commission that
30 the utility's demand for capacity cannot be met through an
31 energy sharing agreement with another utility located within
32 the state.

33 2. If a public utility, as defined under section 476.1,
34 requires additional electrical capacity for its customers,
35 the public utility shall enter into an agreement with any

1 other public utility located within the state which has
2 available excess generating capacity. If the public utilities
3 cannot reach an energy sharing agreement, the public utility
4 requiring additional capacity shall submit the matter to the
5 commission for arbitration. The commission shall establish
6 an energy sharing agreement between the affected public
7 utilities. The energy sharing agreement adopted shall include
8 a provision allowing the public utility supplying the capacity
9 to reduce the quantity of capacity delivered under the
10 agreement in order to meet the capacity of the needs of the
11 supplying utility's customers. The capacity provided to the
12 public utility in need of additional capacity shall be at
13 a reasonable cost which shall at least be comparable to the
14 cost the public utility would incur from obtaining the capacity
15 from sources available to the public utility outside of the
16 state.

17 3. This section does not apply to a public utility's need
18 for additional capacity for customers in the state who reside
19 west of the Missouri river. A public utility which meets
20 the requirements of this section is still subject to the
21 limitation on the recovery of costs and profits on the
22 utility's generating capacity under section 476.18, subsection
23 3.

24 Sec. 43. Section 478.7, Code 1983, is amended to read
25 as follows:

26 478.7 FORM OF FRANCHISE. The ~~commerce~~ general counsel
27 for the Iowa state commerce commission shall prepare a blank
28 form of franchise ~~for-such-purposes~~, which shall provide space
29 for a general description of the improvement authorized
30 ~~thereby~~, the name and address of the person or corporation
31 to whom granted, the general terms and conditions upon which
32 ~~it~~ the franchise is granted, and ~~such~~ other things as may
33 be necessary. This blank form shall be filled out and signed
34 by the ~~chairman~~ chairperson of the commission which grants
35 the franchise, and the official seal shall be attached. ~~Such~~

1 ~~The franchise shall be~~ is subject to ~~such~~ regulations and
2 restrictions as the general assembly ~~from time to time may~~
3 ~~prescribe~~ prescribes, and to ~~such~~ rules, not inconsistent
4 with statutes, as the Iowa state commerce commission may
5 establish ~~from time to time~~.

6 Sec. 44. Section 478.29, Code 1983, is amended to read
7 as follows:

8 478.29 PENALTY--ENFORCEMENT. Any A person ~~or corporation~~
9 who ~~shall string~~ strings or ~~maintain any~~ maintains wire across
10 any a railroad track in this state at a different height or
11 in a different manner from that prescribed by the Iowa state
12 commerce commission shall forfeit and pay to the state ~~the~~
13 ~~sum of~~ one hundred dollars for each separate period of ten
14 days during which ~~such~~ the wire is so maintained. ~~Such~~ The
15 forfeiture shall be recovered in a civil action in the name
16 of the state by the ~~commerce~~ general counsel for the Iowa
17 state commerce commission, or by the county attorney of the
18 county in which ~~such~~ the wire is situated, at the request
19 of the state commerce commission.

20 Sec. 45. Section 537.1202, subsection 3, Code 1983, is
21 amended to read as follows:

22 3. Transactions under ~~public utility or~~ common carrier
23 tariffs if a subdivision or agency of this state or of the
24 United States regulates the charges for the services involved,
25 the charges for delayed payment, and any discount allowed
26 for early payment.

27 Sec. 46. Chapter 602, Code 1983, is amended by adding
28 the following new section as section 602.23:

29 NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

30 1. The supreme court shall designate at least three
31 district judges of this state who shall be subject to
32 assignment by the chief justice to preside as necessary in
33 this state in judicial review proceedings referred to in
34 section 476.13, subsection 1, paragraph a. Designations shall
35 be made on the basis of qualifications and experience, and

1 shall be for the purpose of developing a pool of district
2 judges who will have the knowledge and experience needed to
3 expedite judicial review proceedings in those cases.

4 2. Upon receipt of notice from a district court clerk
5 under section 476.13, subsection 1, paragraph b, the chief
6 justice of the supreme court shall assign one of the district
7 judges selected under subsection 1 to preside at the judicial
8 review proceeding under section 476.13.

9 Sec. 47. In order to implement sections 15 through 25
10 of this Act, the commerce counsel appointed by the Iowa state
11 commerce commission in 1983 and approved by the senate is
12 the consumer advocate commencing July 1, 1983. If a vacancy
13 occurs in the office of the consumer advocate after July 1,
14 1983, the attorney general shall appoint the consumer advocate
15 subject to sections 475.1 and 475.2. The commerce counsel's
16 assistants employed by the counsel on June 30, 1983, are the
17 assistants to the consumer advocate commencing July 1, 1983.
18 Notwithstanding section 19A.3, subsection 5, the assistants
19 are merit employees until a vacancy occurs in a position.
20 Assistants to the consumer advocate appointed after July 1,
21 1983, are exempt from chapter 19A. The office space and
22 supplies provided to the office of commerce counsel on June
23 30, 1983, are the same space and supplies provided to the
24 office of consumer advocate on July 1, 1983.

25 Sec. 48. On or after the effective date of this Act, the
26 Iowa state commerce commission shall not approve an application
27 for a new or changed rate, charge, schedule, or regulation
28 filed with the commission by a public utility furnishing gas
29 or electricity if, as part of this new or changed tariff,
30 the public utility includes a sliding scale of rates or charges
31 or includes an automatic adjustment of rates or charges.
32 This section applies to applications for new or changed rates,
33 charges, schedules, or regulations whether or not the
34 applications were filed prior to the effective date of this
35 Act.

1 Sec. 49. On or after the effective date of this Act, the
2 Iowa state commerce commission shall not approve an application
3 for a new or changed rate, charge, schedule, or regulation
4 filed with the commerce commission by a public utility
5 furnishing electricity which includes as part of the rate
6 base the costs of an electrical generating facility which
7 does not go on line until after the effective date of this
8 Act, unless the new or changed rate, charge, schedule, or
9 regulation complies with section 476.18, subsection 3, created
10 under this Act.

11 Sec. 50. Except as provided under sections 48 and 49 of
12 this Act, this Act applies to complaints or petitions filed
13 with the Iowa state commerce commission under section 476.3,
14 and to applications for new or changed rates, charges,
15 schedules, or regulations filed with the Iowa state commerce
16 commission under section 476.6, which are filed on or after
17 the effective date of this Act.

18 EXPLANATION

19 Sections 15, 16, and 19 through 23 of this bill create
20 the office of consumer advocate to represent the consumers
21 generally and the public generally in public utility rate-
22 related matters. Sections 15 and 16 provide that the consumer
23 advocate be appointed by the attorney general, subject to
24 approval by the senate. Section 2 exempts the office of
25 consumer advocate from the Iowa administrative procedure Act.
26 Sections 24 and 33 provide for the assessment of the expenses
27 of the consumer advocate to public utilities. Section 28
28 provides that copies of written complaints filed by public
29 utility customers with the commerce commission and related
30 correspondence be provided to the consumer advocate and if
31 the consumer advocate is dissatisfied with the response of
32 the public utility the advocate may file a petition with the
33 commerce commission to initiate a formal proceeding. Section
34 47 provides for the transition of the commerce counsel and
35 staff to the office of consumer advocate. Section 25 creates

1 a consumers' roundtable to provide consultation with the
2 consumer advocate. Section 6 allows the commerce commission
3 to hire general counsel to provide legal advice to the
4 commission and to represent the commission in court. Sections
5 1, 3, 17, 18, 43, and 44 provide technical corrections to
6 the Code reflecting the new terminology of general counsel
7 and consumer advocate.

8 Sections 4, 5, and 7 through 14 provide for an election
9 to retain a commerce commissioner. The election is to be
10 held during the general election which occurs during the
11 fourth year of the six-year term of a commissioner and if
12 the commissioner does not receive more positive votes than
13 negative votes the commissioner is removed from office and
14 a new commissioner is appointed to serve out the unexpired
15 term.

16 Section 27 requires the commerce commission to deregulate
17 services of a telephone company when the service or facility
18 provided by the telephone utility becomes subject to competi-
19 tion, as determined by the commission.

20 Section 29 requires a public utility whose rates have been
21 determined to be excessive by the commission to refund, with
22 interest, all excessive amounts collected by the public
23 utility.

24 Sections 30 and 31 eliminate the collection of interim
25 rates by public utilities and also eliminate the collection
26 of rates under bond except for collections which are being
27 collected during an investigation of a complaint that the
28 rates are excessive under section 476.3. Section 31,
29 subsection 7, extends the period in which the commission may
30 set a case for hearing for a rural electric cooperative.
31 Section 31, subsection 8, requires a public utility to file
32 a report outlining the utility's expected expenses for
33 litigating a rate case with the commission and allows the
34 utility to recover costs only to the extent that the commission
35 determines the expenses to be reasonable and just. Section

1 31, subsection 10, limits the frequency in which an application
2 for a new or changed rate may be filed by a public utility
3 with the commission, and provides, along with section 48,
4 that regulated gas and electric utilities not include automatic
5 adjustments as part of their rates.

6 Section 33 provides that the limitation on expenses assessed
7 against public utilities applies separately to review expenses
8 incurred under section 476.31 or 476.32 and other assessable
9 expenses.

10 Sections 34 and 46 relate to judicial review of commerce
11 commission actions. Venue is established in the district
12 court for Polk county or for the county in which the public
13 utility maintains its principal place of business. The supreme
14 court is to designate at least three district judges to preside
15 at the judicial review proceedings. Appeal of the decisions
16 of the district court is discretionary with the supreme court.

17 Section 35 provides certain impermissible charges for
18 regulated public utilities. A public utility may not charge
19 to customers the costs of advertising, lobbying, or making
20 charitable contributions, except for advertising which is
21 required by the commission or other regulation. Legal costs
22 and attorneys' fees incurred by a public utility in an appeal
23 in federal or state court are recoverable only to the extent
24 allowed by the commission. Sections 35 and 49 limit a
25 regulated public utility furnishing electricity from recovering
26 its costs of electrical generating capacity which are in
27 excess of one hundred twenty-five percent of the utility's
28 peak demand. The commission may under extenuating
29 circumstances provide limited recovery of costs of electrical
30 capacity which are in excess of one hundred fifteen percent
31 of peak demand.

32 Section 36 prohibits a public utility which furnishes gas
33 or electricity from disconnecting service to a residential
34 customer from November 1 through April 1 for nonpayment of
35 the customer's account. The section also requires such public

1 utilities to furnish a written statement with a disconnection
2 notice to a customer, advising the customer that the customer
3 may be eligible to participate in the low income home energy
4 assistance program or the weatherization assistance program,
5 and to provide the address and phone number of the commerce
6 commission for purposes of lodging a complaint. Section 36
7 also requires the commission to establish rules which shall
8 be uniform with respect to all public utilities furnishing
9 gas or electricity relating to deposits for the initiation
10 or reinstatement of service.

11 Section 37 requires the commission to provide for the
12 completion of proceedings under section 476.3 within twelve
13 months after the initiation of the formal proceedings, and
14 provides for the completion of proceedings under section 476.6
15 within twelve months after the date of the filings, with
16 certain exceptions for newly constructed electric generating
17 facilities. The section also provides that, with certain
18 limitations, the commerce commission not approve a rate filing
19 or a request for a facility certification by an electric
20 transmission line utility, gas pipeline utility, or a
21 subsidiary, if the commission finds activities which create
22 or maintain a situation inconsistent with antitrust laws.

23 Section 38 requires the commission to establish rules es-
24 tablishing a current test period to be used in rate regulatory
25 proceedings.

26 Section 39 provides a civil penalty of one hundred dollars
27 per violation or one thousand dollars per day of a continuing
28 violation for violations of chapter 476 or the rules of the
29 commission. Moneys collected under this section are to be
30 credited to the energy research and development fund to be
31 used only for the low income home energy assistance program
32 and the weatherization assistance program administered by
33 the energy policy council.

34 Section 40 allows the commerce commission to establish
35 a level of profit of a public utility based on the public

1 utility's management efficiency.

2 Section 41 requires a public utility requesting certifica-
3 tion of an electrical generating facility to have in effect
4 a comprehensive energy management program and to consider
5 all feasible alternatives to building the facility. Section
6 42 requires such a public utility to demonstrate to the
7 commission that the utility's demand for capacity cannot be
8 met through an energy sharing agreement. The section also
9 allows the commission to arbitrate an energy sharing agreement
10 between public utilities.

11 Section 45 eliminates the exclusion of public utilities
12 from the Iowa consumer credit code.

13 This bill creates new sections 474.10 through 474.18, 475.8
14 through 475.11, 476.18, 476.34 through 476.36, 476A.15, and
15 602.23, and includes some references to the new sections.

16 The bill takes effect generally July 1 following its en-
17 actment.

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MARCH 4, 1983
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HOUSE FILE 312 (H-3199)
REQUESTED BY REPRESENTATIVE SCHROEDER

In compliance with a written request received March 1, 1983, there is hereby submitted a Fiscal Note for Amendment 3199 to House File 312 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Amendment 3199 to House File 312 requires all public utilities as defined in Chapter 476.1 to make a payment adjustment on the utility bill of each consumer who resides in a residential dwelling or a commercial residential dwelling, equal to the sales tax paid for the previous billing period. The department of revenue is required to provide by rule that the public utilities shall not remit the sales tax charged to the department.

This amendment would result in a reduction in general fund revenues. The amount of this reduction can be approximated as follows:

(A) Sales tax paid FY 1982 (ending March 31) by electric and gas utilities	\$43,981,980
(B) Percentage of total sales attributed to residential consumers (1981 data)	38.9 % -----

Approximate sales tax on electricity and gas paid in FY 1982 by residential consumers	\$17,108,990
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Information on the percentage of total sales attributed to residential consumers of water and communication services is not available. The total sales tax paid in FY 1982 by these utilities is:

Communication utilities	\$12,640,006
Water and sanitation utilities	\$ 3,040,069

If the same percentage of total sales is attributed to residential consumers as applies to electric and gas utilities (38.9%), then \$6,099,549 of the total sales tax paid can be attributed to these consumers.

The approximate reduction in general fund revenue from this amendment is \$23.2 million.

Note: The definition of public utilities in Chapter 476.1 excludes several types of utilities whose sales tax remittances are included above. This figure is therefore a maximum figure; the actual amount of lost revenue will probably be less.

(A27H.X02, 83-312, JMN)

SOURCE: DEPARTMENT OF REVENUE, COMMERCE COMMISSION
FILED MARCH 3, 1983 BY DENNIS PROUTY, FISCAL DIRECTOR

MARCH 4, 1983
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HOUSE FILE 312 (H-3196)
FISCAL NOTE
REQUESTED BY REPRESENTATIVE DE GROOT

In compliance with a written request received March 2, 1983, there is hereby submitted a Fiscal Note for Amendment 3196 to House File 312 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Amendment 3196 to House File 312 permits a low income or totally disabled consumer of gas, electricity, water or communication service to apply to the director of the department of revenue for a refund of a certain amount of sales or use tax paid on these utilities. The definitions of low income and totally disabled are the same as used for the homestead tax credit (Chapter 425). The amount of the refund would be as follows:

FY 1983	One Fourth of Tax Paid
FY 1984	One Half of Tax Paid
FY 1985	Three Fourths of Tax Paid
FY 1986 and thereafter	Full Amount of Tax Paid

This amendment would result in an expenditure of general fund dollars, but the amount of this expenditure cannot be accurately estimated. There are no records maintained of the sales or use tax paid by low income or totally disabled consumers of utility services.

Source: Department of Revenue

(A27H.X03,317,JMN)

FILED MARCH 3, 1983

BY DENNIS PROUTY, FISCAL DIRECTOR

MARCH 3, 1983
PAGE SIX

HOUSE FILE 312
FISCAL NOTE

REQUESTED BY REPRESENTATIVE CHIODO

In compliance with a written request received February 25, 1983, there is hereby submitted a Fiscal Note for House File 312 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

House File 312 makes a number of changes in the regulation of public utilities in Iowa. The most significant of these are:

An office of consumer advocate is created to represent consumers and the public in utility rate-related matters. The consumer advocate is appointed by the attorney general, subject to senate approval, and is exempt from the Iowa administrative procedures act. The commerce commission is allowed to hire general counsel to provide legal advice and representation. (Sections 2, 6, 15, 16, 19 through 23, 24, 25, 28, 33, 47.)

Commerce commissioners are required to periodically stand for election in order to remain in office. (Sections 4, 5, 7 through 14.) Telephone services or facilities that are subject to competition are deregulated. (Section 27.) Public utilities whose rates have been determined to be excessive are required to refund with interest all excessive amounts collected. (Section 29.) The collection of interim rates, as well as the collection of rates under bond, are eliminated. Regulated gas and electric utilities are not permitted to include automatic adjustments as part of their rates. (Sections 30, 31, 48.)

Venue for judicial review of commerce commission actions is established in Polk county or for the county in which the utility maintains its principal place of business. The supreme court is to designate at least three district judges to preside at the review proceedings. (Sections 34, 46.)

A utility is prohibited from charging customers for certain costs, such as most advertising, lobbying, or charitable contributions. Legal costs incurred in an appeal to a state or federal court are recoverable only to the extent allowed by the commission. (Section 35.) An electric utility is limited from recovering its costs of electrical generating capacity which are in excess of one hundred twenty-five percent of utility's peak demand, except under extenuating circumstances. (Sections 35, 49.)

A utility is prohibited from disconnecting service to a residential customer from November 1 through April 1 for nonpayment of the customer's account. The utility must follow certain procedures when disconnecting service. (Section 36.)

Time limits are mandated within which the commerce commission must complete proceedings. (Section 37.) The commission is required to establish rules regarding a current test period to be used in rate regulatory proceedings. (Section 38.)

Civil penalties are provided, and moneys collected are credited to the energy research and development fund, to be used for weatherization and low income home energy assistance under the energy policy council. (Section 39.)

The commerce commission is allowed to establish a level of profit of a utility based on the utility's management efficiency. (Section 40.) A utility requesting certification of an electrical generating facility is required to have in effect a energy management program and must consider all feasible alternatives to building the facility. (Section 41.)

Utilities are made subject to the Iowa consumer credit code. (Section 45.)

Sixteen of the eighteen current Commerce Counsel staff would be transferred to the Consumer Advocate. The Consumer Advocate's staff would consist of the Consumer Advocate, the Commerce Solicitor, eight other attorneys, two utility analysts, two law clerks, and two support staff (16.00 FTE total). The General Counsel's staff would consist of five attorneys, one secretary, and one .5 FTE law clerk (6.5 FTE total).

It is estimated that the fiscal effect of this bill would be as follows:

	FY 1984	FY 1985
Under Current Law:		
Salaries (18.00 FTE)	\$ 571,051	\$ 574,274
Support	362,437	398,468
TOTAL	\$ 933,488	\$ 972,742
Under House File 312:		
Salaries (22.50 FTE)	\$ 719,007	\$ 723,132
Support	410,937	420,218
TOTAL	\$1,129,944	\$1,143,350
Additional Expenditures under House File 312:	\$ 196,456	\$ 170,608

This additional expenditure will be billed to the public utility companies under direct and remainder assessments, as is currently done. In FY 1984 there will be \$196,456 in additional revenues to the general fund; in FY 1985 there will be \$170,608 in additional general fund revenues. The net effect of this bill upon the general fund balance is \$0.

This estimate assumes that the Consumer Advocate will use the support staff and equipment of the Commerce Commission, as the Commerce Counsel does now. If this is not the case the costs would be substantially higher.

Source: Iowa Commerce Commission

(A27H, 285, JMN)

Dennis A. Prouty

Fiscal Director
Legislative Fiscal Bureau

FILED MARCH 2, 1983

-2-

Date: 3/2/83

HOUSE FILE 312

177

Amend House File 312 as follows:

2 1. Page 23, by inserting after line 23 the
3 following:
4 "Sec. ____ . NEW SECTION. 476.37 PAYMENT
5 ADJUSTMENT. For the billing period beginning after
6 the effective date of this Act, all public utilities
7 subject to this chapter shall make a payment adjustment
8 on the utility bill for this period to each utility
9 consumer who resides in a residential dwelling or
10 a commercial residential dwelling, equal to the amount
11 of sales tax paid for the previous billing period.
12 For subsequent billing periods the public utility
13 shall continue to make a payment adjustment for these
14 utility consumers equal to the amount of sales tax
15 charged for the previous billing period. The
16 department of revenue shall provide by rule that the
17 public utilities shall not remit the sales tax charged
18 to the department or those consumers but that they
19 shall continue to provide payment adjustments as
20 provided in this section."

BY SCHROEDER of Pottawattamie
RENKEN of Grundy
MENKE of O'Brien
SWEARINGEN of Keokuk
McINTEE of Black Hawk
LAGESCHULTE of Bremer
DAGGETT of Taylor
BENNETT of Ida
HOFFMANN-BRIGHT of Muscatine
STUELAND of Clinton
DE GROOT of Lyon
MAULSBY of Calhoun
DIEMER of Black Hawk
RENSINK of Sioux
VAN MAANEN of Mahaska

H-3177 FILED MARCH 1, 1983

Less 3/3/83 (p. 585)

HOUSE FILE 312

H-3170

- 1 Amend House File 312 as follows:
2 1. Page 3, line 10, by inserting after the word
3 "fund" the following: "other than the Iowa election
4 campaign fund and the presidential election campaign
5 fund".
6 2. Page 6, line 22, by inserting after the word
7 "fund" the following: "other than the Iowa election
8 campaign fund and the presidential election campaign
9 fund".

H-3170 FILED MARCH 1, 1983 BY SPEAR of Lee

Adopted as amended by 3210 3/3 (p. 564)

HOUSE FILE 312

H-3172

- 1 Amend House File 312 as follows:
2 1. Page 2, line 33, by inserting after the word
3 "counsel" the words "or assistant to the general
4 counsel".

H-3172 FILED MARCH 1, 1983 BY SPEAR of Lee

Adopted 3/3/83 (p. 565)

HOUSE FILE 312

H-3173

- 1 Amend House File 312 as follows:
2 1. Page 3, line 11, by striking the words "an
3 elective" and inserting in lieu thereof the words
4 "a political".

H-3173 FILED MARCH 1, 1983 BY SPEAR of Lee

Adopted 3/3/83 (p. 566)

HOUSE FILE 312

H-3175

- 1 Amend House File 312 as follows:
2 1. By striking page 19, line 35 through page 20,
3 line 4.

H-3175 FILED MARCH 1, 1983

Adopted 3/3 (p. 578)

BY LAGESCHULTE of Bremer
SCHNEKLOTH of Scott

HOUSE FILE 312

H-3163

- 1 Amend House File 312 as follows:
2 1. Page 19, by striking line 6, and inserting
3 in lieu thereof the following:
4 "476.20 CUSTOMER PAYMENTS, ABANDONMENT AND
5 TERMINATION OF SERVICE--DEPOSITS."

H-3163 FILED FEBRUARY 25, 1983 BY SCHROEDER of Pottawattamie

Adopted 3/3 (p. 576)

HOUSE FILE 312

H-3187

Amend House File 312 as follows:

1. Page 15, by inserting after line 17 the following:
"Sec. ____ . Section 476.6, Code 1983, is amended by adding the following new subsection:
NEW SUBSECTION. 12. ANNUAL NATURAL GAS SUPPLY AND COST REVIEW. The commerce commission shall conduct an annual proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The natural gas supply and cost review shall be conducted as a contested case pursuant to chapter 17A.

Under procedures established by the commerce commission, each rate-regulated public utility furnishing gas shall annually file a complete natural gas procurement plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future twelve-month period specified by the commission. The plan shall describe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified twelve-month period. The description of the major contracts and arrangements shall include the price of gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility, and such other information as the commission may require.

Contemporaneously with the natural gas procurement plan, the public utility shall file with the commission a ten-year forecast of the gas requirement of its customers, its anticipated sources of supply, and projections of gas costs. The forecast shall include a description of all relevant major contracts and gas supply arrangements entered into or contemplated between the gas utility and its suppliers, a description of all major gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the utility's principal pipeline suppliers and their major sources of gas, and such other information as the commission may require.

During the natural gas supply and cost review, the commission shall evaluate the reasonableness and prudence of the gas procurement plan, and shall

1 approve, disapprove, or amend the plan accordingly.
 2 In evaluating the gas procurement plan, the commission
 3 shall consider the volume, cost, and reliability of
 4 the major alternative gas supplies available to the
 5 utility; the cost of alternative fuels available to
 6 the utility's customers; the availability of gas in
 7 storage; the appropriate legal and regulatory actions
 8 which the utility could take to minimize the cost
 9 of purchased gas; the gas procurement practices of
 10 the utility; and other relevant factors. If a utility
 11 is not taking all possible actions to minimize its
 12 purchase gas costs, the commission shall not allow
 13 the utility to recover from its customers purchase
 14 gas costs in excess of those costs that would be
 15 incurred under reasonable and prudent policies and
 16 practices.

17 The commission shall also evaluate the ten-year
 18 forecast filed by the public utility. The commission
 19 may indicate any cost items in the ten-year forecast
 20 that on the basis of present evidence in the record
 21 the commission would be unlikely to permit the utility
 22 to recover from its customers in rates, charges or
 23 purchased gas clauses established in the future.

24 The commission shall adopt rules pursuant to chapter
 25 17A to implement the provisions of this section prior
 26 to January 1, 1984."

27 2. Renumbering as necessary.

BY OSTERBERG of Linn
 MCKEAN of Jones
 PARKER of Jasper
 GRONSTAL of Pottawattamie
 CHIODO of Polk
 SKOW of Guthrie
 HOLVECK of Polk
 McINTEE of Black Hawk

H-3187 FILED MARCH 2, 1983

Adopted 3/3 (p. 576)

HOUSE FILE 312

H-3185

1 Amend House File 312 as follows:
 2 1. By striking page 19, line 29 through page 20,
 3 line 4, and inserting in lieu thereof the following:
 4 "3. Notwithstanding subsection 1, a public utility
 5 furnishing gas or electricity shall not disconnect
 6 service of a residential customer for nonpayment of
 7 the customer's account from November 1 through April
 8 1 unless the utility proves to the satisfaction of
 9 the commission that the customer has the ability to
 10 pay the customer's account. The customer who has
 11 failed to make the required payments of the account
 12 shall establish a reasonable payment plan with the
 13 public utility. However, the failure of the customer
 14 and public utility to reach an agreement on a
 15 reasonable payment plan does not justify disconnection
 16 of service from November 1 through April 1."

HOUSE FILE 312

3186

1 Amend House File 312 as follows:

2 1. Page 2, by inserting after line 10 the
3 following:

4 "Sec. ____ Section 422.47, Code 1983, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION.

7 a. A consumer or user of gas, electricity, water,
8 or communication service may apply to the director
9 for a refund of a certain amount of tax imposed under
10 this division or under chapter 423 under the following
11 conditions:

12 (1) The consumer or user is a low income individual
13 whose household income, as defined in section 425.17,
14 is within the schedule provided in section 425.23,
15 subsection 1, paragraph a, or is an individual who
16 is totally disabled, as defined in section 425.17.

17 (2) The claim is filed on forms provided by the
18 department and is filed within one year of the date
19 the tax is paid.

20 b. The amount of the refund shall be as follows:

21 (1) If the billing period ends in the fiscal year
22 beginning July 1, 1983, one-fourth of the tax paid.

23 (2) If the billing period ends in the fiscal year
24 beginning July 1, 1984, two-fourths of the tax paid.

25 (3) If the billing period ends in the fiscal year
26 beginning July 1, 1985, three-fourths of the tax paid.

27 (4) If the billing period ends in any fiscal year
28 beginning on or after July 1, 1986, the full amount
29 of the tax paid.

30 c. The forms provided by the department for
31 claiming this refund may provide, but is not limited
32 to, that verification of the time when any billing
33 period ends, the amount of tax paid, information
34 similar to that required under sections 425.16 through
35 425.39 and other information deemed necessary by the
36 director. If the department is satisfied that the
37 conditions of this subsection have been complied with
38 and the purchaser is entitled to the refund, the
39 appropriate amount shall be refunded."

40 2. By numbering, renumbering and correcting
41 internal references as necessary.

H-3186 FILED MARCH 2, 1983

BY DE GROOT of Lyon

Revised not german 3/3 (p. 563)

H-3181

1 Amend House File 312 as follows:
 2 1. Page 15, by inserting after line 17 the
 3 following:
 4 "Sec. ____ . Section 476.6, Code 1983, is amended
 5 by adding the following new subsection:
 6 NEW SUBSECTION. 12. REFUNDS PASSED ON TO
 7 CUSTOMERS. If pursuant to federal law or rule a rate-
 8 regulated public utility furnishing gas to customers
 9 in the state receives a refund or credit for past
 10 gas purchases, the savings shall be passed on to the
 11 customers in a manner approved by the commission.
 12 Similarly, if pursuant to federal law or rule a rate-
 13 regulated public utility furnishing gas to customers
 14 in the state receives a rate for future gas purchases
 15 which is lower than the price included in the public
 16 utility's approved rate application, the savings shall
 17 be passed on to the customers in a manner approved
 18 by the commission. Subsection 10 does not apply to
 19 reductions of rates or charges under this subsection."

BY SCHROEDER of Pottawattamie
 McINTEE of Black Hawk

H-3181 FILED MARCH 2, 1983

Adopted 3/3 (p. 574)

HOUSE FILE 312

H-3183

1 Amend House File 312 as follows:
 2 1. Page 2, by inserting after line 10 the
 3 following:
 4 "Sec. ____ . Section 19A.3, subsection 5, Code 1983,
 5 is amended to read as follows:
 6 5. All employees under the supervision of the
 7 attorney general or assistant attorneys general other
 8 than the consumer advocate's staff, and all employees
 9 under the supervision of the appellate defender or
 10 assistant appellate defenders."
 11 2. Page 27, by striking lines 18 through 21 and
 12 inserting in lieu thereof the following: "The office
 13 space and".
 14 3. By renumbering as necessary,

BY SCHROEDER of Pottawattamie
 McINTEE of Black Hawk
 RENKEN of Grundy

H-3183 FILED MARCH 2, 1983

Adopted 3/7/83 (p. 562)

HOUSE FILE 312

H-3184

1 Amend House File 312 as follows:
 2 1. Page 5, line 23, by striking the number "1987"
 3 and inserting in lieu thereof the number "1985".
 4 2. Page 27, line 12, by inserting after the number
 5 "1983" the following: "and the consumer advocate's
 6 term shall expire on June 30, 1985".
 7 3. Page 27, line 14, by adding after the word
 8 "advocate" the following: "to serve the remaining
 9 unexpired term".

H-3184 FILED MARCH 2, 1983

Adopted 3/3 (p. 567)

BY STURGEON of Woodbury

HOUSE FILE 312

H-3188

- 1 Amend House File 312 as follows:
- 2 1. Page 14, line 25, by inserting after the word
- 3 "expenses" the following: "over a reasonable period
- 4 of time".

H-3188 FILED MARCH 2, 1983

BY HANSON of Delaware

Adopted 3/3/83 (p. 574)

HOUSE FILE 312

H-3190

- 1 Amend House File 312 as follows:
- 2 1. Page 13, by striking lines 26 through 35 and
- 3 inserting in lieu thereof the following:
- 4 "6. FACTS AND ARGUMENTS SUBMITTED. At the time
- 5 a public utility subject to rate regulation files
- 6 with the commission any new or changed rates, charges,
- 7 schedules, or regulations, the public utility also
- 8 shall submit factual evidence and written argument
- 9 offered in support of the filing.
- 10 The utility shall also file affidavits containing
- 11 testimonial evidence to be offered in support of the
- 12 filing, although this requirement does not apply if
- 13 the public utility is a rural electric cooperative.
- 14 Whenever a public utility seeks a general increase
- 15 in its rates and charges, it shall submit an exhibit
- 16 to its filing and a proposal for rate design rather
- 17 than specific rates, charges, schedules or regulations.
- 18 After the commission issues its decision on the
- 19 public utility's general rate proposal, the public
- 20 utility shall file specific rates, charges, schedules
- 21 or regulations, which implement the commission's
- 22 decision and these shall be deemed to be in effect
- 23 as of the date of the commission's decision."

BY SCHROEDER of Pottawattamie
HARBOR of Mills

H-3190 FILED MARCH 2, 1983

Adopted 3/3 (p. 573)

HOUSE FILE 312

H-3191

- 1 Amend House File 312 as follows:
- 2 1. Page 25, by inserting after line 23 the
- 3 following:
- 4 "Sec. ____ . NEW SECTION. 476A.16 PURCHASES OF
- 5 FARM LAND FOR FACILITIES. A public utility that
- 6 furnishes electricity shall not acquire prime farm
- 7 land for a facility site after July 1, 1983, without
- 8 receiving prior approval of the acquisition from the
- 9 commission. The commission shall adopt rules
- 10 implementing this section."
- 11 2. Renumber as necessary.

BY SCHROEDER of Pottawattamie
HARBOR of Mills

H-3191 FILED MARCH 2, 1983

Adopted 3/3 (p. 586)

H-3189

1 Amend House File 312 as follows:

2 1. Page 20, by striking lines 24 through 34, and
3 inserting in lieu thereof the following:

4 "1. SIX-MONTH LIMITATION--EXTENSION. With respect
5 to proceedings under sections 476.3 and 476.6, the
6 commission shall render a final decision on the
7 application for new or changed rates, charges,
8 schedules or regulations, or the complaint or petition,
9 within six months of the date of filing. However
10 the six-month period may be extended, for good cause
11 shown, for a period of up to three months. If the
12 commission has not rendered a final decision with
13 respect to the application, complaint, or petition,
14 upon the expiration of six months after the filing
15 date, plus the length of any extension period permitted
16 by this section, the application for new or changed
17 rates, charges, schedules or regulations shall be
18 deemed finally approved by the commission and the
19 utility may place the tariffs into effect on a
20 permanent basis, or the complaint or petition shall
21 be dismissed with prejudice."

22 2. Page 21, line 1, by striking the word "twelve-
23 month" and inserting in lieu thereof the word "six-
24 month".

25 3. Page 21, by striking line 7 and inserting in
26 lieu thereof the following: "the six-month period
27 up to a maximum extension of three".

28 4. Page 21, line 17, by striking the word "twelve-
29 month" and inserting in lieu thereof the word "six-
30 month".

31 5. Page 22, line 2, by striking the word "twelve-
32 month" and inserting in lieu thereof the word "six-
33 month".

34 6. Page 22, by striking lines 4 through 16, and
35 inserting in lieu thereof the following:

36 "Sec. ____ . NEW SECTION. 476.34 CURRENT TEST
37 PERIOD. The commission shall adopt rules that require
38 it, in determining reasonable and just rates in rate
39 regulatory proceedings under sections 476.3 and 476.6,
40 to use data on the utility's revenues, costs,
41 investments, and other data that reflect occurrences
42 during the six-month period succeeding the date,
43 established by law, by which the proceeding must be
44 decided, excluding any extensions permitted by law.
45 This section does not limit the authority of the
46 commission to consider other evidence in proceedings
47 under sections 476.3 and 476.6."

HOUSE FILE 312

H-3195

1 Amend House File 312 as follows:
2 1. Page 7, by inserting after line 20 the
3 following:
4 "In establishing salaries and benefits for employees
5 the consumer advocate shall provide for an affirmative
6 action plan which shall be based upon guidelines
7 provided by the Iowa state civil rights commission.
8 In addition, when establishing salaries and benefits
9 the consumer advocate shall not discriminate in the
10 employment or pay between employees on the basis of
11 gender by paying wages to employees at a rate less
12 than the rate at which wages are paid to employees
13 of the opposite gender for work of comparable worth.
14 As used in this section "comparable worth" means the
15 value of work as measured by the composite of the
16 skill, effort, responsibility, and working conditions
17 normally required in the performance of work.
18 The consumer advocate shall make a report to the
19 legislative council which shall contain a copy of
20 the affirmative action plan adopted and details
21 regarding the manner in which compliance is made for
22 establishing salaries and benefits based on comparable
23 worth. The report shall be made to the legislative
24 council as soon as possible after the effective date
25 of this Act but not later than August 1, 1983, unless
26 the legislative council shall extend the date for
27 making the report."

BY DODERER of Johnson
CARPENTER of Polk

H-3195 FILED MARCH 2, 1983

Adopted 3/3/83 (p. 567)

HOUSE FILE 312

H-3196

3207
1 Amend House File 312 as follows:
2 1. Page 2, line 33, by inserting after the word
3 "commission" the following: "and shall be exempt
4 from chapter 19A. Assistants to the general counsel
5 shall be subject to chapter 19A".
6 2. Page 3, line 3, by inserting after the word
7 "commission." the following: "The general counsel
8 shall also represent the grain warehouse division
9 in all administrative proceedings before the commission
10 brought pursuant to chapters 542, 542A, and 543."

BY CHIODO of Polk
SCHROEDER of Pottawattamie

H-3196 FILED MARCH 2, 1983

Adopted as amended by 3207 3/3 (p. 565)

HOUSE FILE 312

H-3193

- 1 Amend House File 312 as follows:
- 2 1. Page 23, by inserting after line 23 the
- 3 following:
- 4 "Sec. ____ . NEW SECTION. 476.37 EMERGENCY RATE
- 5 ORDERS. Notwithstanding any section of this chapter,
- 6 the commission is authorized to issue emergency rate
- 7 orders in order to prevent injury to a public utility
- 8 or any other person. The emergency rate order may
- 9 alter or amend any existing rate or establish a new
- 10 rate.
- 11 Any emergency rate order is effective immediately.
- 12 Any public utility or the consumer advocate may file
- 13 a written objection to the emergency rate order within
- 14 fifteen days of its effective date. If the written
- 15 objection is timely filed, the commission shall hold
- 16 a hearing and issue an order within thirty days.
- 17 The filing of the written order does not stay the
- 18 effectiveness of the emergency rate order, but the
- 19 commission may after hearing, modify the emergency
- 20 rate order for future periods. An order issued after
- 21 hearing is effective immediately and is a final order
- 22 for purposes of judicial review."
- 23 2. Renumber as necessary.

H-3193 FILED MARCH 2, 1983 BY SCHROEDER of Pottawattamie
H/12 3/3 (p. 585)

HOUSE FILE 312

H-3192

- 1 Amend House File 312 as follows:
- 2 1. By striking page 19, line 29 through page 20,
- 3 line 4 and inserting in lieu thereof the following:
- 4 "3. Notwithstanding subsection 1, any residential
- 5 customer of a public utility which furnishes gas or
- 6 electricity who has failed to make required payments
- 7 to the public utility for service may avoid disconnect
- 8 by establishing a reasonable payment plan with the
- 9 public utility with up to twelve months to pay the
- 10 past due bill. A residential customer who enters
- 11 into a reasonable payment plan and remains current
- 12 on payments agreed to under the plan shall not be
- 13 subject to disconnection of service. A customer who
- 14 has demonstrated to such public utility that the
- 15 customer has qualified for the low-income home energy
- 16 assistance program administered by the energy policy
- 17 council shall not be subject to disconnection of
- 18 service by the public utility from November 1 to April
- 19 1 for failing to make payments on the customer's
- 20 account."

BY McINTEE of Black Hawk
SCHROEDER of Pottawattamie
RENKEN of Grundy
DE GROOT of Lyon

H-3192 MARCH 2, 1983
Sub 2/3 (p. 581)

H-3198

Amend House File 312 as follows:

1. By striking page 5, line 20 through page 6, line 7, and inserting in lieu thereof the following:
"Sec. ____ . Section 475.1, Code 1983, is amended by striking the section and inserting in lieu thereof the following:
475.1 ELECTION--TERM. Commencing with the general election held in 1986, a consumer advocate shall be elected at the general election, as defined in section 39.3, pursuant to election procedures for election of members of the general assembly. The consumer advocate elected shall serve a term of four years and the term shall commence as provided in section 39.8.
Sec. ____ . Section 475.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:
475.2 VACANCY. A vacancy for the office of consumer advocate shall be filled by appointment by the attorney general subject to approval by two-thirds of the members of the senate until the next general election when a new consumer advocate shall be elected to fill the unexpired period of the term. Appointments made while the general assembly is not in session shall be valid until the senate votes on the appointment and thereafter if so approved by the senate."
2. Page 6, line 14, by striking the word "acting" and inserting in lieu thereof the words "acting election".
3. Page 6, by striking lines 15 through 33 and inserting in lieu thereof the following:
"Sec. ____ . Section 475.5, Code 1983, is amended by striking the section and inserting in lieu thereof the following:
475.5 REMOVAL. Chapter 66 shall apply for the removal of the consumer advocate."
4. Page 27, by inserting after line 8 the following:
"Sec. ____ . Section 475.4, Code 1983, is repealed."
5. Page 27, by striking lines 9 and 10 and inserting in lieu thereof the following:
"Sec. ____ . In order to implement sections amending chapter 475 under this Act, the office of consumer advocate is created effective July 1, 1983, and the commerce counsel appointed by the Iowa state".
6. Page 27, by striking lines 12 through 15 and inserting in lieu thereof the following: "the consumer advocate commencing July 1, 1983. The term of the consumer advocate who was appointed as commerce counsel

1 by the Iowa state commerce commission in 1983 and
2 approved by the senate, expires upon the commencement
3 of the term of the consumer advocate elected in 1986.
4 If a vacancy occurs in the office of consumer advocate
5 prior to the first election of the consumer advocate
6 in 1986, the attorney general shall appoint the
7 consumer advocate subject to section 475.2 except
8 that the consumer advocate so appointed and approved
9 shall serve until the commencement of the term of
10 the consumer advocate elected in 1986. The commerce
11 counsel's".

12 7. Page 27, line 18, by striking the following:
13 "subsection 5,".

14 8. By renumbering sections and internal references
15 as necessary.

BY MCINTEE of Black Hawk
VAN CAMP of Scott
RENKEN of Grundy

H-3198 FILED MARCH 2, 1983

Last 3/3 (p. 572)

HOUSE FILE 312

H-3194

1 Amend House File 312 as follows:

2 1. Page 14, line 25, by inserting after the word
3 "expenses" the words "over a reasonable period of
4 time".

BY CHIODO of Polk

H-3194 FILED MARCH 2, 1983

Placed out of order 3/3 (p. 574)

SCHROEDER of Pottawattamie

HOUSE FILE 312

H-3197

1 Amend House File 312 as follows:

2 1. Page 23, by inserting after line 23 the
3 following:

4 "Sec. ____ . NEW SECTION. 476.100 CO-GENERATORS--
5 RATE OF PURCHASE. A utility shall purchase excess
6 electricity generated by co-generators or small power
7 producers, as defined by the commission located within
8 the service area of the utility. The utility shall
9 pay at least three cents per kilowatt hour for all
10 electricity purchased."

11 2. Renumber as necessary.

H-3197 FILED MARCH 2, 1983

Last 3/3/83 (p. 585)

BY HANSON of Delaware

HOUSE FILE 312

H-3199

1 Amend House File 312 as follows:

2 1. Page 2, by inserting after line 10 the
3 following:

4 "Sec. ____ . Section 422.45, Code 1983, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. The gross receipts from the sale,
7 furnishing, or service to residential customers of
8 gas, electricity, water, heat, and communication
9 service."

10 2. By renumbering and correcting internal
11 references as necessary.

H-3199 FILED MARCH 2, 1983

Filed not germane 2/3 (p. 564)

BY SCHROEDER of Pottawattamie

HOUSE FILE 312

H-3200

- 1 Amend House File 312 as follows:
2 1. Page 7, line 24, by inserting after the word
3 "consumers" the following: "of investor-owned
4 utilities".
5 2. Page 7, line 28, by inserting after the word
6 "consumers" the following: "of investor-owned
7 utilities".
8 3. Page 7, line 34, by inserting after the word
9 "consumers" the following: "of investor-owned
10 utilities".
11 4. Page 8, line 1, by inserting after the word
12 "consumers" the following: "of investor-owned
13 utilities".
14 5. Page 14, line 9, by striking the word "shall"
15 and inserting in lieu thereof the word "may".
16 6. Page 15, line 10, by striking the word "a"
17 and inserting in lieu thereof the words "an investor-
18 owned".
19 7. Page 19, by inserting after line 3 the
20 following:
21 "4. Nothing in this section shall apply to a rural
22 electric cooperative utility."
23 8. Page 24, line 18, by inserting after the word
24 "capacity" the following: ", where cost effective".
25 9. Page 25, line 17, by inserting after the word
26 "to" the following: "a municipal utility, a joint
27 municipal power agency, or an electric generation
28 and transmission cooperative, or to".
29 10. Page 27, line 35, by inserting after the word
30 "Act." the following: "This section shall not apply
31 to a municipal utility or to a rural electric
32 cooperative."

BY CHIODO of Polk
PARKER of Jasper
GRONSTAL of Pottawattamie
HOLVECK of Polk
STURGEON of Woodbury

H-3200 FILED MARCH 2, 1983

*Adopted as amended by 3-202 5/3 (p. 567)
3-211*

HOUSE FILE 312

H-3202

- 1 Amend amendment H-3200 to page 7 of House File
2 312 as follows:
3 1. By striking lines 2 through 13.

H-3202 FILED MARCH 3, 1983

BY ROSENBERG of Story

ADOPTED (p. 568)

HOUSE FILE 312

H-3201

1 Amend House File 312 as follows:

2 1. Page 19, line 19, by inserting after the word
3 "council." the following: "The written notice shall
4 advise the customer that the customer may also be
5 eligible for assistance through the shutoff regulation
6 board and the notice shall contain the address for
7 the board."

8 2. Page 19, by striking lines 29 through page
9 20, line 4, and inserting in lieu thereof the
10 following:

11 "3. a. A shutoff regulation board is established.
12 Within sixty days after the general assembly convenes
13 in regular session in each odd-numbered year, the
14 following members shall be appointed to the shutoff
15 regulation board:

16 (1) One member from the house standing committee
17 on finance appointed by the speaker of the house.

18 (2) One member from the senate standing committee
19 on finance appointed by the president of the senate.

20 (3) Two members from the energy policy council,
21 one from each party, appointed by the governor.

22 (4) The consumer advocate.

23 Notwithstanding chapter 69, the term of office
24 shall commence on November 1 of the year of appointment
25 and shall continue for two years or until a successor
26 is appointed.

27 b. A residential customer of a public utility
28 which furnishes gas or electricity, who has received
29 notice of pending disconnection of service from the
30 public utility, may submit a written complaint to
31 the shutoff regulation board. The board shall
32 investigate the filed complaints and may approve
33 payment of the customer's account from the shutoff
34 regulation board fund. The shutoff regulation board
35 shall arrange with the customer for the customer to
36 repay the customer's account to the board. Moneys
37 received in repayment of accounts shall be deposited
38 in the shutoff regulation board fund.

39 c. The shutoff regulation board fund is created.
40 There is appropriated from the general fund of the
41 state moneys sufficient for the payment of customers'
42 accounts as authorized by the shutoff regulation
43 board."

BY DAVITT of Warren
COCHRAN of Webster
HAVERLAND of Polk

H-3201 FILED MARCH 2, 1983

W/D 3/3 (p. 576)

MARCH 4, 1983
PAGE SIX

HOUSE FILE 312

H-3215

1 Amend House File 312 as follows:

2 1. Page 18, by striking lines 24 through page
3 19, line 3, and inserting in lieu thereof the
4 following:
5 "3. A public utility furnishing electricity subject
6 to rate regulation is entitled to recover costs and
7 a reasonable profit on that portion of the utility's
8 test period generating capacity which does not exceed
9 one hundred fifteen percent of the public utility's
10 test period peak demand. In addition, the commerce
11 commission shall allow the utility to recover that
12 portion of the costs of the utility's generating
13 capacity which is in excess of one hundred fifteen
14 percent of the utility's test period peak demand to
15 the extent that the public utility's test period
16 generating capacity does not exceed the projected
17 public utility's test period peak demand as computed
18 under a formula based on historical data. The
19 projected public utility's test period peak demand
20 is the public utility's peak demand which occurred
21 in the tenth year preceding the filing of the
22 application for new or changed rates, charges,
23 schedules, or regulations plus eight times the average
24 of the annual growth in the public utility's peak
25 demand between the tenth and ninth, ninth and eighth,
26 and eighth and seventh years preceding the date of
27 filing of the application. As used in this subsection,
28 "year" means a consecutive twelve-month period."

BY CHIODO of Polk
HOLVECK of Polk
PARKER of Jasper
GRONSTAL of Pottawattamie
STURGEON of Woodbury

H-3215 FILED MARCH 3, 1983
ADOPTED (p. 587)

HOUSE FILE 312

H-3210

1 Amend the Spear amendment, H-3170, to House File
2 312, as follows:

3 1. Page 1, line 3, by inserting after the word
4 "than" the following: "through the income tax checkoff
5 for contributions to".
6 2. Page 1, line 7, by inserting after the word
7 "than" the following: "through the income tax checkoff
8 for contributions to".

H-3210 FILED MARCH 3, 1983
ADOPTED 3/3/83 (p. 566)

BY SPEAR of Lee

H-3207

1 Amend amendment H-3196 to page 2 of House File 312
2 as follows:
3 1. By inserting after line 1, the following:
4 "_____. By striking page 1, line 29 through page 2,
5 line 4."

BY DODERER of Johnson
CHIDO of Polk
SCHROEDER of Pottawattamie
BRANSTAD of Winnebago

H-3207 FILED MARCH 3, 1983
ADOPTED (p. 565)

HOUSE FILE 312

H-3211

1 Amend amendment H-3200 to page 7 of House File 312
2 as follows:
3 1. Page 1, line 24, by striking the word "capacity"
4 and inserting in lieu thereof the word "agreements".

H-3211 FILED MARCH 3, 1983 BY CHIDO of Polk
ADOPTED (p. 569)

HOUSE FILE 312

H-3212

1 Amend amendment H-3200 to page 7 of House File
2 312 as follows:
A 3 1. By striking lines 25 through 28.
B 4 2. By striking lines 29 through 32.
C 5 3. By inserting after line 28 the following:
6 "_____. Page 27, by striking lines 25 through 35."

H-3212 FILED MARCH 3, 1983 BY SCHROEDER of Pottawattamie
DIVISION A - LOST
DIVISION B - LOST } p. 569
DIVISION C - WITHDRAWN }

HOUSE FILE 312

H-3216

1 Amend the Schroeder amendment, H-3177 to House
2 File 312 as follows:
3 1. Page 1, by striking lines 15 through 20 and
4 inserting in lieu thereof the following: "charged
5 for the previous billing period."

H-3216 FILED MARCH 3, 1983 BY SCHROEDER of Pottawattamie
ADOPTED (p. 584)

HOUSE FILE 312

H-3217

1 Amend amendment H-3215 to House File 312 as fol-
2 lows:
3 1. Page 1, line 23 by striking the word "eight"
4 and inserting in lieu thereof the word "ten".

H-3217 FILED MARCH 3, 1983 BY VAN GERPEN of Black Hawk
LOST (p. 587)

HOUSE FILE 312

3/9/83
Amend. no. 3480
to Pass 4/8 (p. 1164)

Commerce
Delahery, Chair
Bruner
Tieden
Nystrom

HOUSE FILE 312

BY COMMITTEE ON SMALL
BUSINESS AND COMMERCE

(As Amended and Passed by the House

As Passed House, Date 4-27-83 (p. 1625) Passed Senate, Date 4-12-83 (p. 1214)

Vote: Ayes 89 Nays 10 Vote: Ayes 41 Nays 7

Approved May 17, 1983

Re passed Senate 4-28-83 (p. 1434)
45-1

A BILL FOR

1 An Act relating to public utilities and providing civil
2 penalties.

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

4

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6

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House Amendments _____

11

Deleted Language *

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1 Section 1. Section 13.7, Code 1983, is amended to read
2 as follows:

3 13.7 SPECIAL COUNSEL. ~~Ne-eompensation~~ Compensation shall
4 not be allowed to any person for services as an attorney or
5 counselor to ~~any an~~ executive department of the state
6 government, or the head thereof, or to ~~any a~~ state board or
7 commission~~-but~~. However, the executive council may employ
8 legal assistance, at a reasonable compensation, in ~~any a~~
9 pending action or proceeding to protect the interests of the
10 state, but only upon a sufficient showing, in writing, made
11 by the attorney general, that the department of justice cannot
12 for reasons stated by the attorney general perform ~~said the~~
13 service, which reasons and action of the council shall be
14 entered upon its records. When the attorney general determines
15 that the department of justice cannot perform legal service
16 in an action or proceeding, the executive council shall request
17 the department involved in the action or proceeding to
18 recommend legal counsel to represent the department. If the
19 attorney general concurs with the department that the person
20 recommended is qualified and suitable to represent the
21 department, the person recommended shall be employed. If
22 the attorney general does not concur in the recommendation,
23 the department shall submit a new recommendation. This section
24 ~~shall~~ does not affect the ~~office-of-the-commerce~~ general
25 counsel for the Iowa state commerce commission, the
26 transportation regulation authority counsel, ~~or~~ the legal
27 counsel of the Iowa department of job service or the office
28 of consumer advocate.

* 29 Sec. 2. Section 18.98, subsection 7, Code 1983, is amended
30 to read as follows:

31 7. To the office of governor, secretary of state, auditor
32 of state, treasurer of state, commissioner of insurance,
33 general counsel for the Iowa state commerce commission, and
34 ~~commerce-counsel~~ consumer advocate, each 1 copy

35 Sec. 3. Section 19A.3, subsection 5, Code 1983, is amended

1 to read as follows:

2 5. All employees under the supervision of the attorney
3 general or assistant attorneys general other than the consumer
4 advocate's staff, and all employees under the supervision
5 of the appellate defender or assistant appellate defenders.

6 Sec. 4. Section 474.1, unnumbered paragraph 1, Code 1983,
7 is amended to read as follows:

8 The Iowa state commerce commission shall be composed of
9 three members appointed by the governor and subject to
10 confirmation by the senate, not more than two of whom shall
11 be from the same political party, and each commissioner
12 appointed shall serve for six-year staggered terms beginning
13 and ending as provided by section 69.19, except as provided
14 under section 474.11. Vacancies shall be filled for the
15 unexpired portion of the term in the same manner as full-term
16 appointments are ~~filled~~ made.

17 Sec. 5. Section 474.1, Code 1983, is amended by adding
18 the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. As used in this chapter "commerce
20 commissioner" or "commissioner" means a member appointed to
21 the commerce commission and confirmed by the senate as provided
22 in this section, unless the context requires otherwise.

23 Sec. 6. NEW SECTION. 474.10 GENERAL COUNSEL. The
24 commission shall employ competent attorneys as the general
25 counsel and assistants to the general counsel as it finds
26 necessary for the full and efficient discharge of its duties.
27 The general counsel shall be the attorney for, and legal
28 advisor of, the commission and shall be exempt from chapter
29 19A. Assistants to the general counsel shall be subject to
30 chapter 19A. The general counsel or assistant to the general
31 counsel shall appear for and represent the commission in all
32 proceedings in a state or federal court in which the commission
33 is a party, and shall prosecute in any state or federal court,
34 in the name of the commission, all actions necessary to enforce
35 or restrain the violation of a rule or order of the commission.

1 The general counsel shall also represent the grain warehouse
2 division in all administrative proceedings before the
3 commission brought pursuant to chapters 542, 542A, and 543.
4 The existence of a fact which disqualifies a person from
5 election or acting as state commerce commissioner disqualifies
6 the person from employment as general counsel or assistant
7 general counsel. The general counsel shall devote the
8 counsel's entire time of employment to the duties of the
9 office; and during employment the counsel shall not be a
10 member of a political committee, contribute to a political
11 campaign fund other than through the income tax checkoff for
12 contributions to the Iowa election campaign fund and the
13 presidential election campaign fund, participate in a political
14 campaign, or be a candidate for a political office.

15 Sec. 7. NEW SECTION. 474.11 ELECTION TO RETAIN
16 COMMISSIONER. When a commerce commissioner is serving in
17 the fourth year of a six-year term, regardless of whether
18 the commissioner was appointed at the beginning of that term
19 or to fill a vacancy during that term, the commissioner is
20 subject to an election for determining if the member shall
21 be retained to serve the remainder of the term. If the member
22 does not receive more positive than negative votes, the member
23 shall be removed from office on January 1 immediately following
24 the election and a new member shall be appointed to serve
25 the unexpired portion of the term as provided in section
26 474.1. As used in this section, "year" means a period of
27 twelve consecutive months.

28 Sec. 8. NEW SECTION. 474.12 TIME OF ELECTION. Elections
29 for retention of a commissioner shall be held at the time
30 of the general election.

31 Sec. 9. NEW SECTION. 474.13 ELIGIBILITY OF VOTERS.
32 Electors entitled to vote at the general election are entitled
33 to vote at the election for retention of a commissioner.
34 Voting procedures provided by chapter 53 for absent voting
35 by armed forces in general elections are applicable to

1 elections for retention of a commissioner.

2 Sec. 10. NEW SECTION. 474.14 ELECTION REGISTERS. The
3 election registers used for the general election constitute
4 the election registers for the election for retention of a
5 commissioner.

6 Sec. 11. NEW SECTION. 474.15 CONDUCT OF ELECTIONS.

7 At least fifty-five days prior to each election for retention
8 of a commerce commissioner, the state commissioner of elections
9 shall certify to the county commissioner of elections of each
10 county the name of the commerce commissioner to be voted on
11 in the county at that election. The county commissioner of
12 elections shall place the name upon the ballot in substantially
13 the following form:

14 STATE OF IOWA
15 RETENTION OF COMMERCE COMMISSIONER BALLOT
16 (Date)

17 VOTE BY PLACING AN X IN THE APPROPRIATE BOX AFTER THE NAME.
18 Shall the following commerce commissioner be retained in
19 office?

20 JANE DOE YES ___ NO ___

21 Sec. 12. NEW SECTION. 474.16 VOTING. Voting at the
22 election for retention of a commerce commissioner shall be
23 by separate paper ballot or by voting machine in the space
24 provided for public measures. If paper ballots are used the
25 election judges shall offer a ballot to each voter. Separate
26 ballot boxes for the general election ballots and the ballots
27 for the election for retention of a commissioner are not
28 required. The general election ballot and the ballot for
29 the election for retention of a commissioner may be voted
30 in the same voting booth.

31 Sec. 13. NEW SECTION. 474.17 GENERAL ELECTION AND ABSENT
32 VOTER LAWS. So far as applicable general election and absent
33 voter laws apply to the election for retention of a
34 commissioner. An application for an absent voter ballot for
35 a general election constitutes an application for an absent

1 voter ballot for the election for retention of a commissioner
2 to be held at the same time, and the ballots shall be mailed
3 or delivered to the voter together. The sealed envelope
4 transmitted by the absent voter to the county commissioner
5 of elections containing the absent voter general election
6 ballot may also contain the election ballot for retention
7 of a commissioner.

8 Sec. 14. NEW SECTION. 474.18 RESULTS OF ELECTION. When
9 the poll is closed, the election judges shall publicly canvass
10 the vote immediately. The board of supervisors shall canvass
11 the returns at its meeting on Monday after the election, and
12 shall promptly certify the number of affirmative and negative
13 votes on retention of the commerce commissioner to the state
14 commissioner of elections.

15 The state board of canvassers shall, at the time of
16 canvassing the vote cast at a general election, open and
17 canvass all of the returns for the election for retention
18 of the commerce commissioner. A commerce commissioner who
19 has received more affirmative than negative votes shall be
20 given an appropriate certificate so stating from the state
21 board of canvassers.

22 Sec. 15. Section 475.1, Code 1983, is amended to read
23 as follows:

24 475.1 APPOINTMENT--TERM. Within sixty days after the
25 general assembly convenes in ~~1927~~ 1985, and every four years
26 thereafter, the ~~state-commerce-commissioner~~ attorney general
27 shall appoint a competent attorney to the office of ~~commerce~~
28 ~~counsel~~ consumer advocate, subject to the approval of two-
29 thirds of the members of the senate. ~~His~~ The advocate's term
30 of office ~~shall-be~~ is for four years ~~and till-his~~ until a
31 successor is appointed, ~~-and-shall-begin.~~ The term begins
32 on the first day of July of the year he the advocate is
33 appointed.

34 Sec. 16. Section 475.2, Code 1983, is amended to read
35 as follows:

1 475.2 VACANCY. A If a vacancy in said the office occurring
2 of consumer advocate occurs while the general assembly is
3 in session, the vacancy shall be filled for the unexpired
4 term in the same manner as an original appointments
5 appointment. If the general assembly is not in session, a
6 vacancy shall be filled by an appointment made by the
7 ~~commissioner~~ attorney general, which appointment shall ~~expire~~
8 expires thirty days from the time the next general assembly
9 convenes.

10 Sec. 17. Section 475.3, Code 1983, is amended to read
11 as follows:

12 475.3 DISQUALIFICATION. The existence of any a fact which
13 ~~would disqualify~~ disqualifies a person from election or acting
14 as state commerce commissioner ~~shall disqualify such~~ under
15 section 474.2 disqualifies the person from appointment or
16 acting as ~~commerce-counsel~~ consumer advocate.

17 Sec. 18. Section 475.4, Code 1983, is amended to read
18 as follows:

19 475.4 POLITICAL ACTIVITY. The ~~commerce-counsel~~ consumer
20 advocate shall devote ~~his~~ the advocate's entire time to the
21 duties of ~~his~~ the office; and during ~~his~~ the advocate's term
22 of office ~~he~~ the advocate shall not be a member of any a
23 political committee or contribute to any a political campaign
24 fund other than through the income tax checkoff for
25 contributions to the Iowa election campaign fund and the
26 presidential election campaign fund or take any part in
27 political campaigns or be a candidate for any a political
28 office.

29 Sec. 19. Section 475.5, Code 1983, is amended to read
30 as follows:

31 475.5 REMOVAL. The ~~commissioner~~ attorney general may, with
32 the approval of the senate, during a session of the general
33 assembly, may remove said-counsel the consumer advocate for
34 malfeasance or nonfeasance in office, or for any cause which
35 renders ~~him~~ the advocate ineligible for appointment, or

1 incapable or unfit to discharge the duties of ~~his~~ the
2 advocate's office; and ~~his~~ the advocate's removal, when so
3 made, ~~shall-be~~ is final.

4 Sec. 20. Section 475.6, Code 1983, is amended by striking
5 the section and inserting in lieu thereof the following:

6 475.6 OFFICE--EMPLOYEES-EXPENSES.

7 1. OFFICE. The office of consumer advocate is at the
8 seat of the government at the same location as the Iowa state
9 commerce commission.

10 2. EMPLOYEES. The consumer advocate shall appoint a
11 competent attorney as consumer solicitor, who shall be con-
12 sidered the first assistant attorney. The consumer advocate
13 may employ other competent attorneys as legal assistants to
14 the consumer advocate. The consumer advocate may employ legal
15 assistants, secretaries, clerks, and other employees the
16 consumer advocate finds necessary for the full and efficient
17 discharge of the duties and responsibilities of the office.
18 The consumer advocate may employ consultants as expert
19 witnesses or technical advisors pursuant to contract in any
20 proceeding in which the consumer advocate is a party.

21 3. SALARIES AND EXPENSES. The salary of the consumer
22 advocate shall be fixed by the general assembly. The salaries
23 of employees of the consumer advocate and the reimbursement
24 of expenses for the employees and the consumer advocate are
25 as provided by law.

26 In establishing salaries and benefits for employees the
27 consumer advocate shall provide for an affirmative action
28 plan which shall be based upon guidelines provided by the
29 Iowa state civil rights commission. In addition, when
30 establishing salaries and benefits the consumer advocate shall
31 not discriminate in the employment or pay between employees
32 on the basis of gender by paying wages to employees at a rate
33 less than the rate at which wages are paid to employees of
34 the opposite gender for work of comparable worth. As used
35 in this section "comparable worth" means the value of work

1 as measured by the composite of the skill, effort,
2 responsibility, and working conditions normally required in
3 the performance of work.

4 The consumer advocate shall make a report to the legis-
5 lative council which shall contain a copy of the affirmative
6 action plan adopted and details regarding the manner in which
7 compliance is made for establishing salaries and benefits
8 based on comparable worth. The report shall be made to the
9 legislative council as soon as possible after the effective
10 date of this Act but not later than August 1, 1983, unless
11 the legislative council shall extend the date for making the
12 report.

13 Sec. 21. Section 475.7, Code 1983, is amended by striking
14 the section and inserting in lieu thereof the following:

15 475.7 DUTIES. The consumer advocate shall:

16 1. Act as attorney for and represent all consumers
17 generally and the public generally in all proceedings before
18 the Iowa state commerce commission and all related judicial
19 review proceedings and appeals.

20 2. Act as attorney for and represent all consumers
21 generally and the public generally in all actions instituted
22 in a state or federal court which involve the validity of
23 a rule or order of the commerce commission.

24 3. In the discretion of the consumer advocate, institute
25 judicial review proceedings and appeals and act as attorney
26 for and represent all consumers generally and the public
27 generally in those actions.

28 4. Act as attorney for and represent all consumers
29 generally and the public generally in proceedings before
30 federal agencies and related judicial review proceedings and
31 appeals in the discretion of the consumer advocate.

32 5. Appear and participate as a party in the name of the
33 office of consumer advocate in the performance of the duties
34 of the office.

35 Sec. 22. NEW SECTION. 475.8 COMMERCE COMMISSION RECORDS

1 AND EMPLOYEES.

2 1. The consumer advocate has free access to all the files,
3 records, and documents in the office of the Iowa state commerce
4 commission except:

5 a. Personal information in confidential personnel records
6 of the commerce commission.

7 b. Records which represent and constitute the work product
8 of the general counsel, and records of confidential communica-
9 tions between commerce commissioners and the general counsel,
10 where the records relate to a proceeding before the commerce
11 commission in which the consumer advocate is a party or a
12 proceeding in any state or federal court in which both the
13 commerce commission and the consumer advocate are parties.

14 2. The consumer advocate may utilize employees of the
15 commerce commission as expert witnesses or technical advisors
16 in any proceeding in which the consumer advocate is a party.

17 Sec. 23. NEW SECTION. 475.9 SERVICE. The consumer ad-
18 vocate is entitled to service of all documents required by
19 statute or rule to be served on parties in proceedings before
20 the Iowa state commerce commission and all notices, petitions,
21 applications, complaints, answers, motions, and other pleadings
22 filed pursuant to statute or rule with the commerce commission.

23 Sec. 24. NEW SECTION. 475.10 CERTIFICATION OF EXPENSES
24 TO COMMERCE COMMISSION. The consumer advocate shall determine
25 the advocate's expenses, including a reasonable allocation
26 of general office expenses, directly attributable to
27 participation in proceedings involving specific utilities,
28 and shall certify the expenses to the Iowa state commerce
29 commission not less than annually. The expenses shall then
30 be includable in the expenses of the commerce commission
31 subject to direct assessment under section 476.10.

32 The consumer advocate shall annually, within ninety days
33 after the close of each fiscal year, determine the advocate's
34 expenses, including a reasonable allocation of general office
35 expenses, attributable to participation in proceedings in-

1 volving public utilities generally, and shall certify the
2 expenses to the commerce commission. The expenses shall then
3 be includable in the expenses of the commission subject to
4 remainder assessment under section 476.10.

5 The consumer advocate is entitled to notice and opportunity
6 to be heard in any commerce commission proceeding on objection
7 to an assessment for expenses certified by the consumer
8 advocate.

9 Sec. 25. NEW SECTION. 475.11 CONSUMER'S ROUNDTABLE.

10 1. APPOINTMENT. On July 1, 1983, and every four years
11 thereafter the attorney general shall appoint nine members
12 to the consumer's roundtable. The attorney general shall
13 appoint members to the consumer's roundtable who, in the
14 attorney general's opinion, constitute a cross-sectional
15 representation of the utility consumers in the state. No
16 more than five members shall be selected from the same
17 political party. The term of office is four years and until
18 a successor is appointed. If a vacancy occurs in the
19 membership of the consumer's roundtable, the vacancy shall
20 be filled for the unexpired term by appointment of the attorney
21 general. The existence of a fact which disqualifies a person
22 from appointment as consumer advocate disqualifies the person
23 from appointment to the consumer's roundtable.

24 2. CONSULTATION WITH CONSUMER ADVOCATE. The members of
25 the consumer's roundtable, at the request of the consumer
26 advocate, shall meet with the consumer advocate for consulta-
27 tion regarding public utility regulation. The consumer
28 advocate shall call the members of the consumer's roundtable
29 for consultation not less than four times nor more than six
30 times during a twelve-month period.

31 3. PER DIEM--EXPENSES. The members of the consumer's
32 roundtable are entitled to a per diem of forty dollars, travel
33 expenses at the rate provided by section 79.9, and reimburse-
34 ment for other necessary expenses incurred in performing their
35 duties under this section. The per diem and expenses shall

1 be paid from funds appropriated to the office of consumer
2 advocate.

3 Sec. 26. Section 476.1, Code 1983, is amended by adding
4 the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. As used in this chapter,
6 "commission" or "commerce commission" means the Iowa state
7 commerce commission.

8 Sec. 27. Section 476.1, Code 1983, is amended by adding
9 the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. The jurisdiction of the
11 commission as to the regulation of communications services
12 is not applicable to a service or facility provided by a
13 telephone utility that is or becomes subject to competition,
14 as determined by the commission. When a service or facility
15 provided by a telephone utility becomes subject to competition,
16 the commission shall, within a reasonable period of time,
17 deregulate that service or facility. Upon deregulation, all
18 investment, revenues, and expenses associated with the service
19 or facility shall be removed from the telephone utility's
20 regulated operations and shall not be considered by the
21 commission in setting rates for the telephone utility.

22 Sec. 28. Section 476.3, subsection 1, Code 1983, is amended
23 to read as follows:

24 1. Every A public utility shall furnish reasonably adequate
25 service at rates and charges in accordance with tariffs filed
26 with the commission. When there is filed with the commission
27 by any person or body politic, or filed by the commission
28 upon its own motion, a written complaint requesting the
29 commission to determine the reasonableness of the rates,
30 charges, schedules, service, regulations, or anything done
31 or omitted to be done by any a public utility subject to this
32 chapter in contravention of ~~the provisions of~~ this chapter,
33 the written complaint shall be forwarded by the commission
34 to the public utility, which shall be called upon to satisfy
35 the complaint or to answer it in writing within a reasonable

1 time to be specified by the commission. Copies of the written
2 complaint forwarded by the commission to the public utility
3 and copies of all correspondence from the public utility in
4 response to the complaint shall be provided by the commission
5 to the consumer advocate. If the public utility does not
6 satisfy the commission with respect to the complaint within
7 the time specified and there appears to be any reasonable
8 ground for investigating the complaint, the commission shall
9 promptly initiate a formal proceeding. If the consumer
10 advocate is not satisfied with the public utility's response
11 to the complaint, the consumer advocate shall file a petition
12 with the commission which shall promptly initiate a formal
13 proceeding. The formal proceeding may be initiated at any
14 time by the commission on its own motion. If a proceeding
15 is initiated upon ~~application or~~ petition filed by the consumer
16 advocate or upon the commission's own motion, the commission
17 shall set the case for hearing and give notice as it deems
18 appropriate. When the commission, after a hearing held after
19 reasonable notice, finds any a public utility's rates, charges,
20 schedules, service, or regulations are unjust, unreasonable,
21 discriminatory, or otherwise in violation of any provision
22 of law, the commission shall determine just, reasonable, and
23 nondiscriminatory rates, charges, schedules, service, or
24 regulations to be observed and enforced.

25 Sec. 29. Section 476.3, subsection 2, Code 1983, is amended
26 to read as follows:

27 2. ~~If, as a result of either a review procedure conducted~~
28 ~~under section 476-31 or a review conducted under section~~
29 ~~476-32,~~ a complaint is filed by commission staff or a petition
30 filed by the consumer advocate alleging that a utility's rates
31 are excessive, the disputed amount shall be specified in the
32 complaint. The public utility shall, within the time
33 prescribed by the commission, file a bond or undertaking
34 approved by the commission conditioned upon the refund in
35 a manner prescribed by the commission of amounts collected

1 after the date of filing of the complaint or petition in
 2 excess of rates or charges finally determined by the commission
 3 to be lawful. If upon hearing the commission finds that the
 4 utility's rates are unlawful, the commission shall order a
 5 refund, with interest, of amounts collected ~~after-the-date~~
 6 ~~of-filing-of-the-complaint~~ that are determined to be in excess
 7 of amounts which would have been collected under the rates
 8 finally approved, ~~provided-that-the-commission-shall-not-order~~
 9 ~~a-refund-that-is-greater-than-the-amount-specified-in-the~~
 10 ~~complaint,-plus-interest,-and-provided-that-if-the-commission~~
 11 ~~fails-to-render-a-decision-within-one-hundred-eighty-days~~
 12 ~~following-the-date-of-filing-of-the-complaint,-the-commission~~
 13 ~~shall-not-order-a-refund-of-any-excess-amounts-that-are~~
 14 ~~collected-after-the-expiration-of-that-one-hundred-eighty-~~
 15 ~~day-period-and-prior-to-the-date-the-decision-is-rendered.~~

16 Sec. 30. Section 476.6, subsections 1 and 5, Code 1983,
 17 are amended to read as follows:

18 1. FILING WITH COMMISSION. A public utility subject to
 19 rate regulation shall not make effective any a new or changed
 20 rate, charge, schedule or regulation ~~except-by-filing-it-with~~
 21 ~~the-commission-at-least-thirty-days-prior-to-its-effective~~
 22 date until the rate, charge, schedule, or regulation has been
 23 approved by the commission. ~~The-commission,-for-good-cause~~
 24 ~~shown,-may-allow-changes-in-rates,-charges,-schedules-or~~
 25 ~~regulations-to-become-effective-on-less-than-thirty-days¹~~
 26 ~~notice.-Any~~ A subscriber of a telephone exchange or service,
 27 who is declared to be legally blind under section 422.12,
 28 subsection 1, paragraph "e", is exempt from any charges for
 29 telephone directory assistance that may be approved by the
 30 commerce commission.

31 5. WRITTEN NOTICE OF INCREASE. All public utilities,
 32 ~~including~~ except those exempted from rate regulation by the
 33 ~~provisions-of~~ section 476.1, shall give written notice of
 34 any a proposed increase of any rate or charge to all affected
 35 customers served by the public utility at ~~least-thirty-days~~

1 ~~prior-to-the-effective-date-thereof~~ the time the application
2 for the increase is filed with the commission. Public
3 utilities exempted from rate regulation by section 476.1 shall
4 give written notice of a proposed increase of any rate or
5 charge to all affected customers served by the public utility
6 at least thirty days prior to the effective date of the
7 increase. If the public utility is subject to rate regulation,
8 the notice to affected customers shall also state that the
9 customer has a right to file a written objection to such the
10 rate increase and that ~~he~~ the affected customers may request
11 the commission to hold a public hearing to determine if such
12 the rate increase should be allowed. The commission shall
13 prescribe the manner and method that the written notice to
14 each affected customer of the public utility shall be served.

15 Sec. 31. Section 476.6, subsections 6, 7, 8, 9, and 10,
16 Code 1983, are amended by striking the subsections and
17 inserting in lieu thereof the following:

18 6. FACTS AND ARGUMENTS SUBMITTED. At the time a public
19 utility subject to rate regulation files with the commission
20 an application for any new or changed rates, charges,
21 schedules, or regulations, the public utility also shall
22 submit factual evidence and written argument offered in support
23 of the filing. If the filing is an application for a general
24 rate increase, the utility shall also file affidavits
25 containing testimonial evidence to be offered in support of
26 the filing, although this requirement does not apply if the
27 public utility is a rural electric cooperative.

28 7. HEARING SET. After the filing of an application for
29 new or changed rates, charges, schedules, or regulations by
30 a public utility subject to rate regulation, the commission,
31 prior to the expiration of thirty days after the filing date,
32 shall docket the case as a formal proceeding and set the case
33 for hearing unless the new or changed rates, charges,
34 schedules, or regulations are approved by the commission.
35 In the case of a rural electric cooperative, the commission

1 may docket the case as a formal proceeding and set the case
2 for hearing prior to the proposed effective date of the tariff.
3 The commission shall give notice of formal proceedings as
4 it deems appropriate. The docketing of a case as a formal
5 proceeding suspends the effective date of the new or changed
6 rates, charges, schedules, or regulations until the rates,
7 charges, schedules, or regulations are approved by the
8 commission.

9 8. UTILITY HEARING EXPENSES REPORTED. When a case has
10 been docketed as a formal proceeding under subsection 7, the
11 public utility, within a reasonable time thereafter, shall
12 file with the commission a report outlining the utility's
13 expected expenses for litigating the case through the twelve-
14 month period allowed by the commission in rendering a decision.
15 As part of the findings of the commission under subsection
16 9, the commission shall allow recovery of costs of the
17 litigation expenses over a reasonable period of time to the
18 extent the commission deems the expenses reasonable and just.

19 9. FINDING BY COMMISSION. If, after hearing and decision
20 on all issues presented for determination in the rate
21 proceeding, the commission finds the proposed rates, charges,
22 schedules, or regulations of the utility to be unlawful, the
23 commission shall by order authorize and direct the utility
24 to file an application for new or changed rates, charges,
25 schedules, or regulations which, when approved by the
26 commission and placed in effect, will satisfy the requirements
27 of this chapter. The rates, charges, schedules, or regulations
28 so approved are lawful and effective upon their approval.

29 10. LIMITATION ON FILINGS--AUTOMATIC ADJUSTMENTS
30 PROHIBITED. A public utility shall not make a subsequent
31 filing of an application for a new or changed rate, charge,
32 schedule, or regulation which relates to services for which
33 a rate filing is pending within twelve months following the
34 date the prior application was filed or until the commission
35 has issued a final order on the prior application, whichever

1 date is earlier.

2 The commission shall not approve rates or charges of an
3 investor-owned public utility furnishing gas or electricity
4 which provide for automatic adjustment of rates or charges.

5 Sec. 32. Section 476.6, Code 1983, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 11. RATE LEVELS FOR TELEPHONE UTILITIES.

8 The commission may approve a schedule of rate levels for any
9 service provided by a utility providing communication services.

10 Sec. 33. Section 476.6, Code 1983, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 12. REFUNDS PASSED ON TO CUSTOMERS.

13 If pursuant to federal law or rule a rate-regulated public
14 utility furnishing gas to customers in the state receives
15 a refund or credit for past gas purchases, the savings shall
16 be passed on to the customers in a manner approved by the
17 commission. Similarly, if pursuant to federal law or rule
18 a rate-regulated public utility furnishing gas to customers
19 in the state receives a rate for future gas purchases which
20 is lower than the price included in the public utility's
21 approved rate application, the savings shall be passed on
22 to the customers in a manner approved by the commission.

23 Subsection 10 does not apply to reductions of rates or charges
24 under this subsection.

25 Sec. 34. Section 476.6, Code 1983, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 13. ANNUAL NATURAL GAS SUPPLY AND COST
28 REVIEW. The commerce commission shall conduct an annual
29 proceeding for the purpose of evaluating the reasonableness
30 and prudence of a rate-regulated public utility's natural
31 gas procurement and contracting practices. The natural gas
32 supply and cost review shall be conducted as a contested case
33 pursuant to chapter 17A.

34 Under procedures established by the commerce commission,
35 each rate-regulated public utility furnishing gas shall

1 annually file a complete natural gas procurement plan
2 describing the expected sources and volumes of its gas supply
3 and changes in the cost of gas anticipated over a future
4 twelve-month period specified by the commission. The plan
5 shall describe all major contracts and gas supply arrangements
6 entered into by the utility for obtaining gas during the
7 specified twelve-month period. The description of the major
8 contracts and arrangements shall include the price of gas,
9 the duration of the contract or arrangement, and an explanation
10 or description of any other term or provision as required
11 by the commission. The plan shall also include the utility's
12 evaluation of the reasonableness and prudence of its decisions
13 to obtain gas in the manner described in the plan, an
14 explanation of the legal and regulatory actions taken by the
15 utility to minimize the cost of gas purchased by the utility,
16 and such other information as the commission may require.

17 Contemporaneously with the natural gas procurement plan,
18 the public utility shall file with the commission a ten-year
19 forecast of the gas requirement of its customers, its
20 anticipated sources of supply, and projections of gas costs.
21 The forecast shall include a description of all relevant major
22 contracts and gas supply arrangements entered into or
23 contemplated between the gas utility and its suppliers, a
24 description of all major gas supply arrangements which the
25 gas utility knows have been, or expects will be, entered into
26 between the utility's principal pipeline suppliers and their
27 major sources of gas, and such other information as the
28 commission may require.

29 During the natural gas supply and cost review, the
30 commission shall evaluate the reasonableness and prudence
31 of the gas procurement plan, and shall approve, disapprove,
32 or amend the plan accordingly. In evaluating the gas
33 procurement plan, the commission shall consider the volume,
34 cost, and reliability of the major alternative gas supplies
35 available to the utility; the cost of alternative fuels

1 available to the utility's customers; the availability of
2 gas in storage; the appropriate legal and regulatory actions
3 which the utility could take to minimize the cost of purchased
4 gas; the gas procurement practices of the utility; and other
5 relevant factors. If a utility is not taking all possible
6 actions to minimize its purchase gas costs, the commission
7 shall not allow the utility to recover from its customers
8 purchase gas costs in excess of those costs that would be
9 incurred under reasonable and prudent policies and practices.

10 The commission shall also evaluate the ten-year forecast
11 filed by the public utility. The commission may indicate
12 any cost items in the ten-year forecast that on the basis
13 of present evidence in the record the commission would be
14 unlikely to permit the utility to recover from its customers
15 in rates, charges or purchased gas clauses established in
16 the future.

17 The commission shall adopt rules pursuant to chapter 17A
18 to implement the provisions of this section prior to January
19 1, 1984.

20 Sec. 35. Section 476.10, unnumbered paragraphs 1 and 2,
21 Code 1983, are amended to read as follows:

22 ~~Whenever~~ When the commission shall ~~deem~~ deems it necessary
23 in order to carry out the duties imposed upon it by this
24 chapter for the purpose of determining rate matters to
25 investigate the books, accounts, practices, and activities
26 of, or make appraisals of the property of any public utility,
27 or to render any engineering or accounting services to any
28 public utility, ~~such~~ or to review the operations or annual
29 reports of the public utility under section 476.31 or 476.32,
30 the public utility shall pay the expense reasonably
31 attributable to such the investigation, appraisal, or service,
32 or review. The commission shall ascertain such the expenses
33 including certified expenses incurred by the office of consumer
34 advocate directly chargeable to the public utility under
35 section 475.10, and shall render a bill therefor, by certified

1 mail, to the public utility, either at the conclusion of the
2 investigation, appraisal, ~~or~~ services, or review, or from
3 time to time during its progress, which bill ~~shall constitute~~
4 is notice of said the assessment and shall demand payment
5 ~~thereof.~~ The total amount of such expense in any one calendar
6 year, for which any public utility shall become liable, shall
7 not exceed two-tenths of one percent of its gross operating
8 revenues derived from intrastate public utility operations
9 in the last preceding calendar year. This expense limitation
10 shall apply separately to both expenses incurred during review
11 under sections 476.31 and 476.32, and expenses incurred by
12 the consumer advocate or incurred by the commerce commission
13 for other investigations, appraisals, or services.

14 The commission shall ascertain the total of its expenditures
15 during each year which are reasonably attributable to the
16 performance of its duties under this chapter and. The
17 commission shall add to this total the certified expenses
18 of the consumer advocate as provided under section 475.10
19 and shall deduct therefrom all amounts chargeable directly
20 to any specific utility under any law. The remainder shall
21 be assessed by the commission to the several public utilities
22 in proportion to their respective gross operating revenues
23 during the last calendar year derived from intrastate public
24 utility operations and shall be assessed within ninety days
25 of the close of the calendar year based upon an estimate of
26 the commission expenditures for the first half of the
27 commission's fiscal year and again within ninety days of the
28 close of the fiscal year as necessary to conform the amount
29 of the assessment to the requirements of this section. Public
30 utilities exempt from rate regulation under this chapter shall
31 not be assessed for remainder expenses incurred during review
32 of rate-regulated public utilities under section 476.31 or
33 476.32, but such remainder expenses shall be assessed
34 proportionally as provided in this section among only the
35 rate-regulated public utilities. The total amount which may

1 be assessed to the public utilities under authority of this
2 paragraph shall not exceed one-tenth of one percent of the
3 total gross operating revenues of ~~such~~ the public utilities
4 during ~~such~~ the calendar year derived from intrastate public
5 utility operations. For public utilities exempted from rate
6 regulation under this chapter, the assessments under this
7 paragraph shall be computed at one-half the rate used in
8 computing the assessment for other utilities. The expense
9 limitations of this paragraph apply separately to both expenses
10 incurred during review under sections 476.31 and 476.32, and
11 other remainder expenses.

12 Sec. 36. Section 476.13, Code 1983, is amended by striking
13 the section and inserting in lieu thereof the following:

14 476.13 JUDICIAL REVIEW.

15 1. VENUE FOR JUDICIAL REVIEW.

16 a. Notwithstanding the Iowa administrative procedure Act,
17 the district court for Polk county or for the county in which
18 a public utility maintains its principal place of business
19 has exclusive venue for the judicial review under chapter
20 17A of actions of the commission pursuant to rate-regulatory
21 powers over that public utility.

22 b. Upon the filing of a petition for judicial review in
23 an action referred to in paragraph a, the clerk of the district
24 court shall notify the chief justice of the supreme court
25 for purposes of assignment of a district judge under section
26 602.23. The judicial review proceeding shall be heard by
27 the district judge appointed by the supreme court under section
28 602.23, but in the county of venue under paragraph a.

29 2. DISCRETIONARY REVIEW BY SUPREME COURT. If an action
30 for judicial review is commenced in the district court as
31 provided under this section, a decision of the district court
32 in that action is subject to review by an appellate court
33 only if the supreme court, in the exercise of its discretion,
34 grants discretionary review. Discretionary review shall be
35 had in the same manner as under the rules pertaining to

1 interlocutory appeals and certiorari in civil cases. The
2 supreme court may adopt additional rules to control access
3 to discretionary review under this section. However, if an
4 application for discretionary review under this section is
5 not granted by the supreme court within thirty days after
6 the application is filed, the application for discretionary
7 review shall be deemed denied.

8 Sec. 37. NEW SECTION. 476.18 IMPERMISSIBLE CHARGES.

9 1. Public utilities subject to rate regulation are
10 prohibited from including either directly or indirectly in
11 their charges or rates to customers the costs of advertising,
12 lobbying, or charitable contributions. However, this paragraph
13 does not apply to advertising which is required by the commerce
14 commission or by other state or federal regulation.

15 2. Legal costs and attorney fees incurred by a public
16 utility subject to rate regulation in an appeal in state or
17 federal court involving the validity of any action of the
18 commission shall not be included either directly or indirectly
19 in the public utility's charges or rates to customers except
20 to the extent that recovery of legal costs and attorney fees
21 is allowed by the commission. The commission shall allow
22 a public utility to recover reasonable legal costs and attorney
23 fees incurred in the appeal. Reasonableness shall be based
24 upon the degree of success of the legal arguments of the
25 public utility in the appeal.

26 3. A public utility furnishing electricity subject to
27 rate regulation is entitled to recover costs and a reasonable
28 profit on that portion of the utility's test period generating
29 capacity which does not exceed one hundred fifteen percent
30 of the public utility's test period peak demand. In addition,
31 the commerce commission shall allow the utility to recover
32 that portion of the costs of the utility's generating capacity
33 which is in excess of one hundred fifteen percent of the
34 utility's test period peak demand to the extent that the
35 public utility's test period generating capacity does not

1 exceed the projected public utility's test period peak demand
2 as computed under a formula based on historical data. The
3 projected public utility's test period peak demand is the
4 public utility's peak demand which occurred in the tenth year
5 preceding the filing of the application for new or changed
6 rates, charges, schedules, or regulations plus eight times
7 the average of the annual growth in the public utility's peak
8 demand between the tenth and ninth, ninth and eighth, and
9 eighth and seventh years preceding the date of filing of the
10 application. As used in this subsection, "year" means a
11 consecutive twelve-month period.

12 4. Nothing in this section shall apply to a rural electric
13 cooperative utility.

14 Sec. 38. Section 476.20, Code 1983, is amended to read
15 as follows:

16 476.20 CUSTOMER PAYMENTS, ABANDONMENT AND TERMINATION
17 OF SERVICE--DEPOSITS.

18 1. No A utility shall not, except in cases of emergency,
19 discontinue, reduce, or impair service to a community, or
20 a part of a community, except for nonpayment of account or
21 violation of rules and regulations, unless and until there
22 shall-have-been-first permission to do so is obtained from
23 the commission permission-to-do-so.

24 2. The commerce commission shall establish rules requiring
25 a regulated public utility furnishing gas or electricity to
26 include in the utility's notice of pending disconnection of
27 service a written statement advising the customer that the
28 customer may be eligible to participate in the low income
29 home energy assistance program or weatherization assistance
30 program administered by the energy policy council. The written
31 statement shall also state that the customer is advised to
32 contact the public utility to settle any of the customer's
33 complaints with the public utility, but if a complaint is
34 not settled to the customer's satisfaction, the customer may
35 file the complaint with the commerce commission. The written

1 statement shall include the address and phone number of the
2 commerce commission. The commerce commission shall establish
3 rules requiring that the written notice contain such additional
4 information as it deems necessary and appropriate.

5 3. Notwithstanding subsection 1, a public utility which
6 furnishes gas or electricity shall not disconnect service
7 to a residential customer from November 1 through April 1
8 for nonpayment of the customer's account. The customer who
9 has failed to make the required payments of the account shall
10 establish a reasonable payment plan with the public utility.
11 However, the failure of the customer and public utility to
12 reach an agreement on a reasonable payment plan or the failure
13 of the customer to make payments according to an agreed payment
14 plan does not justify disconnection of service from November
15 1 through April 1.

16 4. A public utility which violates a provision of this
17 section relating to the disconnection of service or which
18 violates a rule of the commerce commission relating to
19 disconnection of service is subject to civil penalties imposed
20 by the commission under section 476.35.

21 5. The commerce commission shall establish rules which
22 shall be uniform with respect to all public utilities
23 furnishing gas or electricity relating to deposits which may
24 be required by the public utility for the initiation or
25 reinstatement of service. The deposit for a residence which
26 has previously received service shall not be greater than
27 the highest monthly billing of service to the residence in
28 the previous twelve-month period. This subsection does not
29 prohibit a public utility from requiring payment of a
30 customer's past due account with the utility prior to
31 reinstatement of service.

32 Sec. 39. Section 476.33, Code 1983, is amended by striking
33 the section and inserting in lieu thereof the following:

34 476.33 RULES GOVERNING HEARINGS.

35 1. TWELVE-MONTH LIMITATION--EXTENSION. The commission

1 shall adopt rules pursuant to chapter 17A to provide for the
2 completion of proceedings under section 476.3 within twelve
3 months after the date of the initiation of the formal
4 proceeding under section 476.3, subsection 1, and to provide
5 for the completion of proceedings under section 476.6 within
6 twelve months after the date of filing of the application
7 for new or changed rates, charges, schedules, or regulations
8 under that section. These rules shall include reasonable
9 time limitations for the submission or completion of comments,
10 testimony, exhibits, briefs, and hearings.

11 If under section 476.6 the commission finds that an exten-
12 sion of the twelve-month period is necessary to permit the
13 accumulation of necessary data with respect to the operation
14 of a newly constructed electric generating facility that has
15 a capacity of one hundred megawatts or more of electricity
16 and that is proposed in the application to be included in
17 the rate base for the first time, the commission may extend
18 the twelve-month period up to a maximum extension of six
19 months, but only with respect to that portion of the
20 application for new or changed rates, charges, schedules or
21 regulations that is necessarily connected with the inclusion
22 of the generating facility in the rate base. If a utility
23 is proposing in its application to include in its rate base
24 for the first time a newly constructed electric generating
25 facility that has a capacity of one hundred megawatts or more
26 of electricity, the filing date of the application for new
27 or changed rates, charges, schedules or regulations shall,
28 for purposes of computing the twelve-month limitation stated
29 above, be the date as determined by the commission that the
30 new plant went into service, but only with respect to that
31 portion of the application for new or changed rates, charges,
32 schedules or regulations that are necessarily connected with
33 the inclusion of the generating facility in the rate base.

34 2. COMPLAINT OF ANTITRUST ACTIVITIES. An application
35 for new or changed rates, charges, schedules or regulations

1 filed under this chapter, or an application for a certificate
2 or an amendment to a certificate submitted under chapter 476A,
3 by an electric transmission line utility or a gas pipeline
4 utility or a subsidiary of either shall not be approved by
5 the commerce commission if, upon complaint by an Iowa electric
6 or gas utility, the commission finds activities which create
7 or maintain a situation inconsistent with antitrust laws and
8 the policies which underlie them. The commission may grant
9 the rate or facility certification request once it determines
10 that those activities which led to the antitrust complaint
11 have been eliminated. However, this subsection does not apply
12 to an application for new or changed rates, charges, schedules
13 or regulations after the expiration of the twelve-month
14 limitation and applicable extension under subsection 1.

15 Sec. 40. NEW SECTION. 476.34 CURRENT TEST PERIOD. The
16 commission shall adopt rules that require it, in determining
17 reasonable and just rates in rate regulatory proceedings under
18 sections 476.3 and 476.6, to use existing verifiable data
19 on the utility's revenues, costs, investments, and other data
20 that reflect occurrences during the twelve-month period
21 succeeding the date that the utility files an application
22 for new or changed rates, charges, schedules or regulations
23 or the date that the consumer advocate or commission staff
24 files an allegation that the utility's earnings are excessive.
25 This section does not limit the authority of the commission
26 to consider other evidence in proceedings under sections 476.3
27 and 476.6.

28 Sec. 41. NEW SECTION. 476.35 CIVIL PENALTY. A public
29 utility which violates a provision of this chapter, or violates
30 a rule adopted by the commission, or violates a provision
31 of an order lawfully issued by the commission, is liable for
32 a civil penalty, to be levied by the commission, of not more
33 than one hundred dollars per violation or one thousand dollars
34 per day of a continuing violation, whichever is greater.
35 Civil penalties collected pursuant to this section shall be

1 forwarded by the executive secretary of the commission to
2 the treasurer of state to be credited to the energy research
3 and development fund and to be used only for the low income
4 home energy assistance program and the weatherization
5 assistance program administered by the energy policy council.
6 Penalties paid by a rate-regulated public utility pursuant
7 to this section shall be excluded from the utility's costs
8 when determining the utility's revenue requirement, and shall
9 not be included either directly or indirectly in the utility's
10 rates or charges to customers.

11 Sec. 42. NEW SECTION. 476.36 MANAGEMENT EFFICIENCY.
12 It is the policy of this state that a public utility shall
13 operate in an efficient manner. If the commission determines
14 in the course of a proceeding conducted under section 476.3
15 or 476.6 that a utility is operating in an inefficient manner,
16 or is not exercising ordinary, prudent management, or in
17 comparison with other utilities in the state the commission
18 determines that the utility is performing in a less beneficial
19 manner than other utilities, the commission may reduce the
20 level of profit for the utility to the extent the commission
21 believes appropriate to provide incentives to the utility
22 to correct its inefficient operation. If the commission
23 determines in the course of a proceeding conducted under
24 section 476.3 or 476.6 that a utility is operating in such
25 an extraordinarily efficient manner that tangible financial
26 benefits result to the ratepayer, the commission may increase
27 the level of profit for the utility. The commission shall
28 adopt rules for determining the level of profit that would
29 be appropriate.

30 The commission shall adopt rules establishing a methodology
31 for an objective and subjective analysis of a utility's
32 management efficiency. The commission shall be the sole
33 interpreter of a utility's operating efficiency under this
34 section.

35 Sec. 43. Section 476A.6, Code 1983, is amended to read

1 as follows:

2 476A.6 DECISION-~~7~~-CRITERIA. The commission shall render
3 a decision on the application in an expeditious manner. A
4 certificate shall be issued to the applicant if the commission
5 finds ~~that~~ all of the following:

6 1. The services and operations resulting from the
7 construction of the facility are required by the present or
8 future public convenience, use and necessity~~7~~.

9 2. The applicant is willing to perform such services and
10 construct, maintain, and operate the facility pursuant to
11 the provisions of the certificate and this chapter~~7~~.

12 3. The construction, maintenance, and operation of the
13 facility will cause minimum adverse land use, environmental,
14 and aesthetic impact and are consonant with reasonable
15 utilization of air, land and water resources for beneficial
16 purposes considering available technology and the economics
17 of available alternatives.

18 4. The applicant has in effect a comprehensive energy
19 management program designed to reduce peak loads and to in-
20 crease efficiency of use of energy by all classes of customers
21 of the utility, and the facility in the application is neces-
22 sary notwithstanding the existence of the comprehensive energy
23 management program. As used in this subsection, a
24 "comprehensive energy management program" includes at a minimum
25 the following:

26 a. Establishment of load management and interruptible
27 service programs, where cost effective.

28 b. Development of wheeling agreements and other energy
29 sharing agreements, where cost effective with utilities that
30 have available capacity.

31 c. Compliance with commission rules on energy management
32 procedures.

33 5. The applicant has considered all feasible alternatives
34 to the proposed facility including nongeneration alternatives;
35 has ranked those alternatives by cost; has implemented the

1 least-cost alternatives first; and the facility in the applica-
2 tion is necessary notwithstanding the implementation of these
3 alternatives.

4 Sec. 44. NEW SECTION. 476A.15 ENERGY SHARING AGREEMENTS.

5 1. Before a certificate is issued under section 476A.6,
6 the public utility shall demonstrate to the commission that
7 the utility's demand for capacity cannot be met through an
8 energy sharing agreement with another utility located within
9 the state.

10 2. If a public utility, as defined under section 476.1,
11 requires additional electrical capacity for its customers,
12 the public utility shall enter into an agreement with any
13 other public utility located within the state which has
14 available excess generating capacity. If the public utilities
15 cannot reach an energy sharing agreement, the public utility
16 requiring additional capacity shall submit the matter to the
17 commission for arbitration. The commission shall establish
18 an energy sharing agreement between the affected public
19 utilities. The energy sharing agreement adopted shall include
20 a provision allowing the public utility supplying the capacity
21 to reduce the quantity of capacity delivered under the
22 agreement in order to meet the capacity of the needs of the
23 supplying utility's customers. The capacity provided to the
24 public utility in need of additional capacity shall be at
25 a reasonable cost which shall at least be comparable to the
26 cost the public utility would incur from obtaining the capacity
27 from sources available to the public utility outside of the
28 state.

29 3. This section does not apply to a municipal utility,
30 a joint municipal power agency, or an electric generation
31 and transmission cooperative, or to a public utility's need
32 for additional capacity for customers in the state who reside
33 west of the Missouri river. A public utility which meets
34 the requirements of this section is still subject to the
35 limitation on the recovery of costs and profits on the

1 utility's generating capacity under section 476.18, subsection
2 3.

3 Sec. 45. NEW SECTION. 476A.16 PURCHASES OF FARM LAND
4 FOR FACILITIES. A public utility that furnishes electricity
5 shall not acquire prime farm land for a facility site after
6 July 1, 1983, without receiving prior approval of the
7 acquisition from the commission. The commission shall adopt
8 rules implementing this section.

9 Sec. 46. Section 478.7, Code 1983, is amended to read
10 as follows:

11 478.7 FORM OF FRANCHISE. The ~~commerce~~ general counsel
12 for the Iowa state commerce commission shall prepare a blank
13 form of franchise ~~for-such-purposes~~, which shall provide space
14 for a general description of the improvement authorized
15 ~~thereby~~, the name and address of the person or corporation
16 to whom granted, the general terms and conditions upon which
17 ~~it~~ the franchise is granted, and ~~such~~ other things as may
18 be necessary. This blank form shall be filled out and signed
19 by the ~~chairman~~ chairperson of the commission which grants
20 the franchise, and the official seal shall be attached. ~~Such~~
21 ~~The franchise shall-be~~ is subject to ~~such~~ regulations and
22 restrictions as the general assembly ~~from-time-to-time-may~~
23 ~~prescribe~~ prescribes, and to ~~such~~ rules, not inconsistent
24 with statutes, as the Iowa state commerce commission may
25 establish ~~from-time-to-time~~.

26 Sec. 47. Section 478.29, Code 1983, is amended to read
27 as follows:

28 478.29 PENALTY--ENFORCEMENT. Any A person ~~or-corporation~~
29 who ~~shall-string~~ strings or ~~maintain-any~~ maintains wire across
30 ~~any~~ a railroad track in this state at a different height or
31 in a different manner from that prescribed by the Iowa state
32 commerce commission shall forfeit and pay to the state the
33 ~~sum-of~~ one hundred dollars for each separate period of ten
34 days during which ~~such~~ the wire is so maintained. ~~Such~~ The
35 forfeiture shall be recovered in a civil action in the name

1 of the state by the ~~commerce~~ general counsel for the Iowa
2 state commerce commission, or by the county attorney of the
3 county in which ~~such~~ the wire is situated, at the request
4 of the state commerce commission.

5 Sec. 48. Section 537.1202, subsection 3, Code 1983, is
6 amended to read as follows:

7 3. Transactions under ~~public-utility-or~~ common carrier
8 tariffs if a subdivision or agency of this state or of the
9 United States regulates the charges for the services involved,
10 the charges for delayed payment, and any discount allowed
11 for early payment.

12 Sec. 49. Chapter 602, Code 1983, is amended by adding
13 the following new section as section 602.23:

14 NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

15 1. The supreme court shall designate at least three
16 district judges of this state who shall be subject to
17 assignment by the chief justice to preside as necessary in
18 this state in judicial review proceedings referred to in
19 section 476.13, subsection 1, paragraph a. Designations shall
20 be made on the basis of qualifications and experience, and
21 shall be for the purpose of developing a pool of district
22 judges who will have the knowledge and experience needed to
23 expedite judicial review proceedings in those cases.

24 2. Upon receipt of notice from a district court clerk
25 under section 476.13, subsection 1, paragraph b, the chief
26 justice of the supreme court shall assign one of the district
27 judges selected under subsection 1 to preside at the judicial
28 review proceeding under section 476.13.

29 Sec. 50. In order to implement sections 15 through 25
30 of this Act, the commerce counsel appointed by the Iowa state
31 commerce commission in 1983 and approved by the senate is
32 the consumer advocate commencing July 1, 1983 and the consumer
33 advocate's term shall expire on June 30, 1985. If a vacancy
34 occurs in the office of the consumer advocate after July 1,
35 1983, the attorney general shall appoint the consumer advocate

1 to serve the remaining unexpired term subject to sections
2 475.1 and 475.2. The commerce counsel's assistants employed
3 by the counsel on June 30, 1983, are the assistants to the
4 consumer advocate commencing July 1, 1983. The office space
5 and supplies provided to the office of commerce counsel on
6 June 30, 1983, are the same space and supplies provided to
7 the office of consumer advocate on July 1, 1983.

8 Sec. 51. On or after the effective date of this Act, the
9 Iowa state commerce commission shall not approve an application
10 for a new or changed rate, charge, schedule, or regulation
11 filed with the commission by a public utility furnishing gas
12 or electricity if, as part of this new or changed tariff,
13 the public utility includes a sliding scale of rates or charges
14 or includes an automatic adjustment of rates or charges.
15 This section applies to applications for new or changed rates,
16 charges, schedules, or regulations whether or not the
17 applications were filed prior to the effective date of this
18 Act. This section shall not apply to a municipal utility
19 or to a rural electric cooperative.

20 Sec. 52. On or after the effective date of this Act, the
21 Iowa state commerce commission shall not approve an application
22 for a new or changed rate, charge, schedule, or regulation
23 filed with the commerce commission by a public utility
24 furnishing electricity which includes as part of the rate
25 base the costs of an electrical generating facility which
26 does not go on line until after the effective date of this
27 Act, unless the new or changed rate, charge, schedule, or
28 regulation complies with section 476.18, subsection 3, created
29 under this Act.

30 Sec. 53. Except as provided under sections 51 and 52 of
31 this Act, this Act applies to complaints or petitions filed
32 with the Iowa state commerce commission under section 476.3,
33 and to applications for new or changed rates, charges,
34 schedules, or regulations filed with the Iowa state commerce
35 commission under section 476.6, which are filed on or after

1 the effective date of this Act.
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S-3689

1 Amend the Senate amendment, H-3716, to House File
2 312 as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 2, by inserting after line 34 the follow-
5 ing:

6 "Sec. ____ . Section 364.2, subsection 4, Code 1983,
7 is amended by adding the following new paragraph:

8 NEW PARAGRAPH. f. If a city franchise fee is
9 assessed to customers of a franchise, the fee shall
10 not be assessed to the city as a customer."

11 2. Page 5, line 44, by striking the words "commerce
12 counsel" and inserting in lieu thereof the words
13 "general counsel of the commerce commission".

14 3. Page 5, line 46, by striking the words "the
15 commerce counsel" and inserting in lieu thereof the
16 words "their general counsel".

17 4. Page 6, line 5, by striking the words
18 "correspondence and".

19 5. Page 6, by inserting after line 8 the following:

20 "d. Financial statements which are confidential
21 under section 542.16 or 543.24."

22 6. Page 7, line 11, by inserting after the word
23 "large." the following: "No more than five members
24 shall belong to the same political party as provided
25 in section 69.16."

26 7. Page 9, line 27, by inserting after the word
27 "complaint" the words "or petition".

28 8. Page 9, line 31, by inserting after the word
29 "complaint" the words "or petition".

30 9. Page 11, line 23, by inserting after the word
31 "decision." the following: "At the conclusion of
32 the utility's presentation of comments, testimony,
33 exhibits, or briefs the utility shall submit to the
34 commission a listing of the utility's actual litigation
35 expenses in the proceeding."

36 10. By striking page 19, line 22 through page
37 20, line 11, and inserting in lieu thereof the
38 following:

39 "3. Public utilities subject to rate regulation
40 are prohibited from including either directly or
41 indirectly in their charges or rates to customers
42 the costs of advertising other than advertising which
43 is required by the commerce commission or by other
44 state or federal regulation. However, this subsec-
45 tion does not apply to a utility's advertising which
46 is deemed by the commission to be necessary for the
47 utility's customers and which is approved by the
48 commission."

49 11. Page 21, line 11, by striking the words "two
50 consecutive months" and inserting in lieu thereof

S-3689 PAGE 2

1 the words "one month".

2 12. Page 22, by striking lines 15 through 19 and
3 inserting in lieu thereof the following:

4 "Sec. ____ . NEW SECTION. 476.36 MANAGEMENT
5 EFFICIENCY. It is the policy of this state that a
6 public utility shall operate in an efficient manner.
7 If the commission determines in the course of a
8 proceeding conducted under section 476.3 or 476.6
9 that a utility is operating in an inefficient manner,
10 or is not exercising ordinary, prudent management,
11 or in comparison with other utilities in the state
12 the commission determines that the utility is
13 performing in a less beneficial manner than other
14 utilities, the commission may reduce the level of
15 profit or adjust the revenue requirement for the
16 utility to the extent the commission believes
17 appropriate to provide incentives to the utility to
18 correct its inefficient operation. If the commission
19 determines in the course of a proceeding conducted
20 under section 476.3 or 476.6 that a utility is
21 operating in such an extraordinarily efficient manner
22 that tangible financial benefits result to the
23 ratepayer, the commission may increase the level of
24 profit or adjust the revenue requirement for the
25 utility. The commission shall adopt rules for
26 determining the level of profit or the revenue
27 requirement adjustment that would be appropriate.
28 The commission shall also adopt rules establishing
29 a methodology for an analysis of a utility's management
30 efficiency."

31 13. Page 22, by inserting after line 20 the follow-
32 ing: "It is the intent of the general assembly of
33 the state of Iowa to provide for the development of
34 a fair resolution concerning the allocation of costs
35 associated with excess electric generating capacity.
36 It is the policy of this state that it is in the
37 public interest that public utilities subject to rate
38 regulation, at a minimum, be prohibited from including
39 either directly or indirectly in their charges or
40 rates to customers the return on common equity
41 associated with excess electric generating capacity,
42 however this shall not apply to rural electric
43 cooperatives."

44 14. Page 22, line 45, by inserting after the word
45 "customer." the following: "Delayed payment charges
46 on a customer's account shall not exceed one and one-
47 half percent per month of the past-due amount."

48 15. Renumber sections and internal references
49 as necessary.

S-3689 FILED
APRIL 28, 1983
SENATE CONCURRED (p. 1434)

RECEIVED FROM THE HOUSE

HOUSE FILE 312

H-3872

1 Amend the Chiodo amendment, H-3871, to the Senate
2 amendment, H-3716, to House File 312 as amended,
3 passed and reprinted by the House, as follows:
4 1. Page 2, line 34, by striking the words "at
5 a minimum,".

H-3872 FILED APRIL 27, 1983 BY BENNETT of Ida
ADOPTED, THEN RECONSIDERED - LOST (p. 1623)
(p. 1621)

HOUSE FILE 312

H-3874

1 Amend amendment H-3871 to Senate amendment H-3716
2 to House File 312 as amended, passed, and reprinted by
3 the House, as follows:
4 1. Page 2, line 41, by inserting after the word
5 "percent" the words "per month".

H-3874 FILED APRIL 27, 1983 BY SCHNEKLOTH of Scott
ADOPTED (p. 1621)

HOUSE FILE 312

H-3875

1 Amend the Chiodo amendment, H-3871, to the Senate
2 amendment, H-3716, to House File 312, as amended,
3 passed, and reprinted by the House, as follows:
4 1. Page 2, line 37, by inserting after the word
5 "capacity" the following: ", however this shall not
6 apply to rural electric cooperatives".

H-3875 FILED APRIL 27, 1983 BY CHIODO of Polk
ADOPTED (p. 1624)

HOUSE FILE 312

H-3760

1 Amend the Senate amendment, H-3716, to House File
2 312 as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 6, by inserting after line 8 the following:

5 "d. Financial statements which are confidential
6 under section 542.16 or 543.24."

7 2. By relettering paragraphs, if necessary.

H-3760 FILED APRIL 14, 1983

BY KOENIGS of Mitchell

Adopted 4/27/83 (p. 1622)

H-3871

1 Amend the Senate amendment, H-3716, to House File
2 312 as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 2, by inserting after line 34 the follow-
5 ing:

6 "Sec. ____ Section 364.2, subsection 4, Code 1983,
7 is amended by adding the following new paragraph:
8 NEW PARAGRAPH. f. If a city franchise fee is
9 assessed to customers of a franchise, the fee shall
10 not be assessed to the city as a customer."

11 2. Page 5, line 44, by striking the words "commerce
12 counsel" and inserting in lieu thereof the words
13 "general counsel of the commerce commission".

14 3. Page 5, line 46, by striking the words "the
15 commerce counsel" and inserting in lieu thereof the
16 words "their general counsel".

17 4. Page 6, line 5, by striking the words
18 "correspondence and".

19 5. Page 7, line 11, by inserting after the word
20 "large." the following: "No more than five members
21 shall belong to the same political party as provided
22 in section 69.16."

23 6. Page 9, line 27, by inserting after the word
24 "complaint" the words "or petition".

25 7. Page 9, line 31, by inserting after the word
26 "complaint" the words "or petition".

27 8. Page 11, line 23, by inserting after the word
28 "decision." the following: "At the conclusion of
29 the utility's presentation of comments, testimony,
30 exhibits, or briefs the utility shall submit to the
31 commission a listing of the utility's actual litigation
32 expenses in the proceeding."

33 9. By striking page 19, line 22 through page 20,
34 line 11, and inserting in lieu thereof the following:

35 "3. Public utilities subject to rate regulation
36 are prohibited from including either directly or
37 indirectly in their charges or rates to customers
38 the costs of advertising other than advertising which
39 is required by the commerce commission or by other
40 state or federal regulation. However, this subsec-
41 tion does not apply to a utility's advertising which
42 is deemed by the commission to be necessary for the
43 utility's customers and which is approved by the
44 commission."

45 10. Page 21, line 11, by striking the words "two
46 consecutive months" and inserting in lieu thereof
47 the words "one month".

48 11. Page 22, by striking lines 15 through 19 and
49 inserting in lieu thereof the following:

50 "Sec. ____ NEW SECTION. 476.36 MANAGEMENT

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Page Two

1 EFFICIENCY. It is the policy of this state that a
2 public utility shall operate in an efficient manner.
3 If the commission determines in the course of a
4 proceeding conducted under section 476.3 or 476.6
5 that a utility is operating in an inefficient manner,
6 or is not exercising ordinary, prudent management,
7 or in comparison with other utilities in the state
8 the commission determines that the utility is
9 performing in a less beneficial manner than other
10 utilities, the commission may reduce the level of
11 profit or adjust the revenue requirement for the
12 utility to the extent the commission believes
13 appropriate to provide incentives to the utility to
14 correct its inefficient operation. If the commission
15 determines in the course of a proceeding conducted
16 under section 476.3 or 476.6 that a utility is
17 operating in such an extraordinarily efficient manner
18 that tangible financial benefits result to the
19 ratepayer, the commission may increase the level of
20 profit or adjust the revenue requirement for the
21 utility. The commission shall adopt rules for
22 determining the level of profit or the revenue
23 requirement adjustment that would be appropriate.
24 The commission shall also adopt rules establishing
25 a methodology for an analysis of a utility's management
26 efficiency."

27 12. Page 22, by inserting after line 20 the follow-
28 ing: "It is the intent of the general assembly of
29 the state of Iowa to provide for the development of
30 a fair resolution concerning the allocation of costs
31 associated with excess electric generating capacity.
32 It is the policy of this state that it is in the
33 public interest that public utilities subject to rate
34 regulation, at a minimum, be prohibited from including
35 either directly or indirectly in their charges or
36 rates to customers the return on common equity
37 associated with excess electric generating capacity."

38 13. Page 22, line 45, by inserting after the word
39 "customer." the following: "Delayed payment charges
40 on a customer's account shall not exceed one and one-
41 half percent of the past-due amount."

42 14. Renumber sections and internal references
43 as necessary.

A BY CHIODO of Polk and by GRONSTAL of Pottawattamie
PARKER of Jasper SCHROEDER of Pottawattamie
STURGEON of Woodbury McINTEE of Black Hawk
HOLVECK of Polk BRANSTAD of Winnebago

H-3871 FILED APRIL 27, 1983

DIVISION A - ADOPTED, B - ADOPTED, C - ADOPTED, D - ADOPTED, (p. 1619)

DIVISION E - ADOPTED, F - ADOPTED as amended by 3874 (p. 1622.)

as amended by 3875 (p. 1625)

SENATE AMENDMENT TO HOUSE FILE 312

H-3716

1 Amend House File 312 as amended, passed and
2 reprinted by the House as follows:
3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section 13.7, Code 1983, is amended
6 to read as follows:
7 13.7 SPECIAL COUNSEL. ~~No-compensation~~ Compensation
8 shall not be allowed to any person for services as
9 an attorney or counselor to any an executive department
10 of the state government, or the head thereof, or to
11 any a state board or commission, ~~but~~. However, the
12 executive council may employ legal assistance, at
13 a reasonable compensation, in any a pending action
14 or proceeding to protect the interests of the state,
15 but only upon a sufficient showing, in writing, made
16 by the attorney general, that the department of justice
17 cannot for reasons stated by the attorney general
18 perform ~~said~~ the service, which reasons and action
19 of the council shall be entered upon its records.
20 When the attorney general determines that the
21 department of justice cannot perform legal service
22 in an action or proceeding, the executive council
23 shall request the department involved in the action
24 or proceeding to recommend legal counsel to represent
25 the department. If the attorney general concurs with
26 the department that the person recommended is qualified
27 and suitable to represent the department, the person
28 recommended shall be employed. If the attorney general
29 does not concur in the recommendation, the department
30 shall submit a new recommendation. This section shall
31 does not affect the ~~office-of-the-commerce~~ general
32 counsel for the Iowa state commerce commission, the
33 transportation regulation authority counsel, ~~or~~ the
34 legal counsel of the Iowa department of job service
35 or the office of consumer advocate.
36 Sec. 2. Section 17A.2, subsection 1, Code 1983,
37 is amended to read as follows:
38 1. "Agency" means each board, commission,
39 department, officer or other administrative office
40 or unit of the state. "Agency" does not mean the
41 general assembly, the courts, the office of consumer
42 advocate, the governor or a political subdivision
43 of the state or its offices and units. Unless provided
44 otherwise by statute, no less than two-thirds of the
45 members eligible to vote of a multimember agency shall
46 constitute a quorum authorized to act in the name
47 of the agency.
48 Sec. 3. Section 18.98, subsection 7, Code 1983,
49 is amended to read as follows:
50 7. To the office of governor, secretary of state,

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1 auditor of state, treasurer of state, commissioner
2 of insurance, general counsel for the Iowa state
3 commerce commission, and ~~commerce-counsel~~ consumer
4 advocate, each 1 copy

5 Sec. 4. Section 28F.1, unnumbered paragraph 1,
6 Code 1983, is amended to read as follows:

7 This chapter ~~is intended to provide~~ provides a
8 means for the joint financing by public agencies of
9 works or facilities useful and necessary for the
10 collection, treatment, purification, and disposal
11 in a sanitary manner of liquid and solid waste, sewage,
12 and industrial waste, also electric power facilities
13 constructed within the state of Iowa except that
14 hydroelectric power facilities may also be located
15 in the waters and on the dams of or on land adjacent
16 to either side of the Mississippi or Missouri river
17 bordering the state of Iowa, water supply systems,
18 swimming pools or golf courses. ~~The provisions of~~
19 ~~this~~ This chapter apply applies to the acquisition,
20 construction, reconstruction, ownership, operation,
21 repair, extension, or improvement of such works or
22 facilities, by a separate administrative or legal
23 entity created pursuant to chapter 28E. When the
24 legal entity created under this chapter is comprised
25 solely of cities, counties, and sanitary districts
26 established under chapter 358, or any combination
27 thereof or any combination of the foregoing with other
28 public agencies, the entity shall be both a corporation
29 and a political subdivision with the name under which
30 it was organized. The legal entity may sue and be
31 sued, contract, acquire and hold real and personal
32 property necessary for corporate purposes, adopt a
33 corporate seal and alter the same seal at pleasure,
34 and execute all the powers conferred in this chapter.

35 Sec. 5. Section 474.1, unnumbered paragraph 3,
36 Code 1983, is amended to read as follows:

37 As used in this ~~section and sections 474.2 to 474.9~~
38 chapter and chapter 475A, the words "commission" and
39 "commerce commission" mean the Iowa state commerce
40 commission.

41 Sec. 6. NEW SECTION. 474.10 GENERAL COUNSEL.
42 The commission shall employ competent attorneys as
43 the general counsel and assistants to the general
44 counsel as it finds necessary for the full and
45 efficient discharge of its duties. The general counsel
46 shall be the attorney for, and legal advisor of, the
47 commission and shall be exempt from chapter 19A.
48 Assistants to the general counsel shall be subject
49 to chapter 19A. The general counsel or assistant
50 to the general counsel shall provide the necessary

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1 legal advice to the commission in all matters and
2 represent the commission in all actions instituted
3 in a state or federal court challenging the validity
4 of any rule, regulation, or order of the commission.
5 The general counsel shall also represent the grain
6 warehouse division in all administrative proceedings
7 before the commission brought under chapters 542,
8 542A, and 543. The existence of a fact which
9 disqualifies a person from election or acting as state
10 commerce commissioner disqualifies the person from
11 employment as general counsel or assistant general
12 counsel. The general counsel shall devote the
13 counsel's entire time of employment to the duties
14 of the office; and during employment the counsel shall
15 not be a member of a political committee, contribute
16 to a political campaign fund other than through the
17 income tax checkoff for contributions to the Iowa
18 election campaign fund and the presidential election
19 campaign fund, participate in a political campaign,
20 or be a candidate for a political office.

21 Sec. 7. NEW SECTION. 475A.1 CONSUMER ADVOCATE.

22 1. APPOINTMENT. After the general assembly
23 convenes in 1983, and every four years thereafter,
24 the governor shall appoint a competent attorney to
25 the office of consumer advocate, subject to
26 confirmation by the senate, in accordance with section
27 2.32. The advocate's term of office is for four
28 years. The term begins and ends as provided in section
29 69.19.

30 2. VACANCY. If a vacancy occurs in the office
31 of consumer advocate, the vacancy shall be filled
32 for the unexpired term in the same manner as an
33 original appointment under the procedures of section
34 2.32.

35 3. DISQUALIFICATION. The existence of a fact
36 which disqualifies a person from election or acting
37 as state commerce commissioner under section 474.2
38 disqualifies the person from appointment or acting
39 as consumer advocate.

40 4. POLITICAL ACTIVITY PROHIBITED. The consumer
41 advocate shall devote the advocate's entire time to
42 the duties of the office; and during the advocate's
43 term of office the advocate shall not be a member
44 of a political committee or contribute to a political
45 campaign fund other than through the income tax
46 checkoff for contributions to the Iowa election
47 campaign fund and the presidential election campaign
48 fund or take part in political campaigns or be a
49 candidate for a political office.

50 5. REMOVAL. The governor may remove the consumer

1 advocate for malfeasance or nonfeasance in office,
2 or for any cause which renders the advocate ineligible
3 for appointment, or incapable or unfit to discharge
4 the duties of the advocate's office; and the advocate's
5 removal, when so made, is final.

6 Sec. 8. NEW SECTION. 475A.2 DUTIES. The consumer
7 advocate shall:

8 1. Investigate the legality of all rates, charges,
9 rules, regulations, and practices of all persons under
10 the jurisdiction of the Iowa state commerce commission,
11 and institute civil proceedings before the commission
12 or any court to correct any illegality on the part
13 of any such person. In any such investigation, the
14 person acting for the office of the consumer advocate
15 shall have the power to ask the commission to issue
16 subpoenas, compel the attendance and testimony of
17 witnesses, and the production of papers, books, and
18 documents, at the discretion of the commission.

19 2. Act as attorney for and represent all
20 consumers generally and the public generally in all
21 proceedings before the Iowa state commerce commission.

22 3. Institute as a party judicial review of any
23 decision of the Iowa state commerce commission, if
24 the consumer advocate deems judicial review to be
25 in the public interest.

26 4. Appear for all consumers generally and the
27 public generally in all actions instituted in any
28 state or federal court which involve the validity
29 of a rule, regulation, or order of the Iowa state
30 commerce commission.

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

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

39 Sec. 9. NEW SECTION. 475A.3 OFFICE--EMPLOYEES-
40 EXPENSES.

41 1. OFFICE. The office of consumer advocate is
42 at the seat of the government at the same location
43 as the Iowa state commerce commission.

44 2. EMPLOYEES. The consumer advocate may employ
45 attorneys, legal assistants, secretaries, clerks,
46 and other employees the consumer advocate finds
47 necessary for the full and efficient discharge of
48 the duties and responsibilities of the office. The
49 consumer advocate may employ consultants as expert
50 witnesses or technical advisors pursuant to contract

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1 in any proceeding in which the consumer advocate is
2 a party.

3 3. SALARIES, EXPENSES, AND APPROPRIATION. The
4 salary of the consumer advocate shall be fixed by
5 the general assembly. The salaries of employees of
6 the consumer advocate and the reimbursement of expenses
7 for the employees and the consumer advocate are as
8 provided by law. The appropriation for the office
9 of consumer advocate shall be a separate line item
10 contained in the appropriation for the Iowa state
11 commerce commission.

12 In establishing salaries and benefits for employees
13 the consumer advocate shall provide for an affirmative
14 action plan which shall be based upon guidelines
15 provided by the Iowa state civil rights commission.
16 In addition, when establishing salaries and benefits
17 the consumer advocate shall not discriminate in the
18 employment or pay between employees on the basis of
19 gender by paying wages to employees at a rate less
20 than the rate at which wages are paid to employees
21 of the opposite gender for work of comparable worth.
22 As used in this section "comparable worth" means the
23 value of work as measured by the composite of the
24 skill, effort, responsibility, and working conditions
25 normally required in the performance of work.

26 The consumer advocate shall make a report to the
27 legislative council which shall contain a copy of
28 the affirmative action plan adopted and details
29 regarding the manner in which compliance is made for
30 establishing salaries and benefits based on comparable
31 worth. The report shall be made to the legislative
32 council as soon as possible after the effective date
33 of this Act but not later than August 1, 1983, unless
34 the legislative council shall extend the date for
35 making the report.

36 Sec. 10. NEW SECTION. 475A.4 COMMERCE COMMISSION
37 RECORDS AND EMPLOYEES.

38 1. The consumer advocate has free access to all
39 the files, records, and documents in the office of
40 the Iowa state commerce commission except:

41 a. Personal information in confidential personnel
42 records of the commerce commission.

43 b. Records which represent and constitute the
44 work product of the commerce counsel, and records
45 of confidential communications between commerce
46 commissioners and the commerce counsel, where the
47 records relate to a proceeding before the commerce
48 commission in which the consumer advocate is a party
49 or a proceeding in any state or federal court in which
50 both the commerce commission and the consumer advocate

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1 are parties.

2 c. Customer information of a confidential nature
3 which could jeopardize the customer's competitive
4 status and is provided by the utility to the
5 commission. Such correspondence and information shall
6 be provided to the consumer advocate by the commission,
7 if the commission determines it to be in the public
8 interest.

9 2. The consumer advocate may utilize employees
10 of the commerce commission as expert witnesses or
11 technical advisors in any proceeding in which the
12 consumer advocate is a party. The consumer advocate
13 may utilize employees of the commerce commission to
14 assist in investigations and studies related to rates
15 and services of utilities, as deemed appropriate by
16 the commission. However, any commerce commission
17 employee utilized by the consumer advocate shall not
18 participate on behalf of the commission in its
19 decision.

20 Sec. 11. NEW SECTION. 475A.5 SERVICE. The
21 consumer advocate is entitled to service of all
22 documents required by statute or rule to be served
23 on parties in proceedings before the Iowa state
24 commerce commission and all notices, petitions,
25 applications, complaints, answers, motions, and other
26 pleadings filed pursuant to statute or rule with the
27 commerce commission.

28 Sec. 12. NEW SECTION. 475A.6 CERTIFICATION OF
29 EXPENSES TO COMMERCE COMMISSION. The consumer advocate
30 shall determine the advocate's expenses, including
31 a reasonable allocation of general office expenses,
32 directly attributable to participation in proceedings
33 involving specific utilities, and shall certify the
34 expenses to the Iowa state commerce commission not
35 less than quarterly. The expenses shall then be
36 includable in the expenses of the commerce commission
37 subject to direct assessment under section 476.10.

38 The consumer advocate shall annually, within ninety
39 days after the close of each fiscal year, determine
40 the advocate's expenses, including a reasonable
41 allocation of general office expenses, attributable
42 to participation in proceedings involving public
43 utilities generally, and shall certify the expenses
44 to the commerce commission. The expenses shall then
45 be includable in the expenses of the commission subject
46 to remainder assessment under section 476.10.

47 The consumer advocate is entitled to notice and
48 opportunity to be heard in any commerce commission
49 proceeding on objection to an assessment for expenses
50 certified by the consumer advocate. Expenses assessed

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1 under this section shall not exceed the amount
2 appropriated for the office of consumer advocate.
3 Sec. 13. NEW SECTION. 475A.7 CONSUMER ADVISORY
4 PANEL. The governor shall appoint nine members to
5 a consumer advisory panel to meet at the request of
6 the consumer advocate for consultation regarding
7 public utility regulation. A member shall be appointed
8 from each congressional district with the appointee
9 residing within the congressional district at the
10 time of appointment. The remaining appointees shall
11 be members at large. The members shall serve four-
12 year terms at the pleasure of the governor and their
13 appointments are not subject to confirmation. The
14 governor shall fill a vacancy in the same manner as
15 the original appointment for the unexpired portion
16 of the member's term. Members of the consumer advisory
17 panel shall serve without compensation, but shall
18 be reimbursed for actual expenses from funds
19 appropriated to the office of consumer advocate.

20 Sec. 14. Section 476.1, Code 1983, is amended
21 by adding the following new unnumbered paragraph:
22 NEW UNNUMBERED PARAGRAPH. The jurisdiction of
23 the commission as to the regulation of communications
24 services is not applicable to a service or facility
25 provided by a telephone utility that is or becomes
26 subject to competition, as determined by the
27 commission. In determining whether a service or
28 facility is or becomes subject to competition, the
29 commission shall consider whether a comparable service
30 or facility is available from a supplier other than
31 the telephone utility. When a service or facility
32 provided by a telephone utility becomes subject to
33 competition, the commission shall, within a reasonable
34 period of time, deregulate that service or facility.
35 Upon deregulation, all investment, revenues, and
36 expenses associated with the service or facility shall
37 be removed from the telephone utility's regulated
38 operations and shall not be considered by the
39 commission in setting rates for the telephone utility
40 unless they continue to affect the company's regulated
41 operations. In the event that the commission considers
42 investment, revenues, and expenses associated with
43 unregulated services or facilities in setting rates
44 for the telephone utility, the commission shall not
45 use any profits or costs from such unregulated services
46 or facilities to determine the rates for regulated
47 services or facilities. Nothing in this section shall
48 preclude the commission from considering the
49 investment, revenues and expenses associated with
50 the sale of classified directory advertising by a

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1 telephone utility in determining rates for the
2 telephone utility.

3 Sec. 15. Section 476.1, Code 1983, is amended
4 by adding the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. As used in this chapter,
6 "commission" or "commerce commission" means the Iowa
7 state commerce commission.

8 Sec. 16. Section 476.3, subsection 1, Code 1983,
9 is amended to read as follows:

10 1. Every A public utility shall furnish reasonably
11 adequate service at rates and charges in accordance
12 with tariffs filed with the commission. When there
13 is filed with the commission by any person or body
14 politic, or filed by the commission upon its own
15 motion, a written complaint requesting the commission
16 to determine the reasonableness of the rates, charges,
17 schedules, service, regulations, or anything done
18 or omitted to be done by any a public utility subject
19 to this chapter in contravention of the-provisions
20 of this chapter, the written complaint shall be
21 forwarded by the commission to the public utility,
22 which shall be called upon to satisfy the complaint
23 or to answer it in writing within a reasonable time
24 to be specified by the commission. Copies of the
25 written complaint forwarded by the commission to the
26 public utility and copies of all correspondence from
27 the public utility in response to the complaint shall
28 be provided by the commission in an expeditious manner
29 to the consumer advocate. If the-public-utility-does
30 not-satisfy the commission with-respect-to-the
31 complaint-within-the-time-specified determines the
32 public utility's response is inadequate and there
33 appears to be any reasonable ground for investigating
34 the complaint, the commission shall promptly initiate
35 a formal proceeding. If the consumer advocate
36 determines the public utility's response to the
37 complaint is inadequate, the consumer advocate may
38 file a petition with the commission which shall
39 promptly initiate a formal proceeding if the commission
40 determines that there is any reasonable ground for
41 investigating the complaint. The formal proceeding
42 may be initiated at any time by the commission on
43 its own motion. If a proceeding is initiated upon
44 application-or petition filed by the consumer advocate
45 or upon the commission's own motion, the commission
46 shall set the case for hearing and give notice as
47 it deems appropriate. When the commission, after
48 a hearing held after reasonable notice, finds any
49 a public utility's rates, charges, schedules, service,
50 or regulations are unjust, unreasonable,

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1 discriminatory, or otherwise in violation of any
2 provision of law, the commission shall determine just,
3 reasonable, and nondiscriminatory rates, charges,
4 schedules, service, or regulations to be observed
5 and enforced.

6 Sec. 17. Section 476.3, subsection 2, Code 1983,
7 is amended to read as follows:

8 2. If, as a result of either a review procedure
9 conducted under section 476.31, ~~or~~ a review conducted
10 under section 476.32, a special audit, an investigation
11 by commission staff, or an investigation by the
12 consumer advocate, a complaint is filed by commission
13 staff, or a petition is filed with the commission
14 by the consumer advocate, alleging that a utility's
15 rates are excessive, the disputed amount shall be
16 specified in the complaint or petition. The public
17 utility shall, within the time prescribed by the
18 commission, file a bond or undertaking approved by
19 the commission conditioned upon the refund in a manner
20 prescribed by the commission of amounts collected
21 after the date of filing of the complaint or petition
22 in excess of rates or charges finally determined by
23 the commission to be lawful. If upon hearing the
24 commission finds that the utility's rates are unlawful,
25 the commission shall order a refund, with interest,
26 of amounts collected after the date of filing of the
27 complaint that are determined to be in excess of the
28 amounts which would have been collected under the
29 rates finally approved, ~~provided that.~~ However, the
30 commission shall not order a refund that is greater
31 than the amount specified in the complaint, plus
32 interest, and provided that if the commission fails
33 to render a decision within ~~one-hundred-eighty-days~~
34 ten months following the date of filing of the
35 complaint or petition, the commission shall not order
36 a refund of any excess amounts that are collected
37 after the expiration of that ~~one-hundred-eighty-day~~
38 ten-month period and prior to the date the decision
39 is rendered.

40 Sec. 18. Section 476.6, subsections 1 and 5, Code
41 1983, are amended to read as follows:

42 1. FILING WITH COMMISSION. A public utility
43 subject to rate regulation shall not make effective
44 any a new or changed rate, charge, schedule or
45 ~~regulation except by filing it with the commission~~
46 ~~at least thirty days prior to its effective date until~~
47 the rate, charge, schedule, or regulation has been
48 approved by the commission, except as provided in
49 subsections 11 and 13. ~~The commission, for good cause~~
50 shown, may allow changes in rates, charges, schedules

1 ~~or regulations to become effective on less than thirty~~
2 ~~days notice.~~

3 PARAGRAPH DIVIDED. Any A subscriber of a telephone
4 exchange or service, who is declared to be legally
5 blind under section 422.12, subsection 1, paragraph
6 "e", is exempt from any charges for telephone directory
7 assistance that may be approved by the commerce
8 commission.

9 5. WRITTEN NOTICE OF INCREASE. All public
10 utilities, ~~including except~~ those exempted from rate
11 regulation by ~~the provisions of~~ section 476.1, shall
12 give written notice of any a proposed increase of
13 any rate or charge to all affected customers served
14 by the public utility ~~at least thirty days prior to~~
15 ~~the effective date thereof~~ no more than sixty-two
16 days prior to and prior to the time the application
17 for the increase is filed with the commission. Public
18 utilities exempted from rate regulation by section
19 476.1 shall give written notice of a proposed increase
20 of any rate or charge to all affected customers served
21 by the public utility at least thirty days prior to
22 the effective date of the increase. If the public
23 utility is subject to rate regulation, the notice
24 to affected customers shall also state that the
25 customer has a right to file a written objection to
26 ~~such~~ the rate increase and that ~~he~~ the affected
27 customers may request the commission to hold a public
28 hearing to determine if ~~such~~ the rate increase should
29 be allowed. The commission shall prescribe the manner
30 and method that the written notice to each affected
31 customer of the public utility shall be served.

32 Sec. 19. Section 476.6, subsections 6, 7, 8, 9,
33 and 10, Code 1983, are amended by striking the
34 subsections and inserting in lieu thereof the
35 following:

36 6. FACTS AND ARGUMENTS SUBMITTED. At the time
37 a public utility subject to rate regulation files
38 with the commission an application for any new or
39 changed rates, charges, schedules, or regulations,
40 the public utility also shall submit factual evidence
41 and written argument offered in support of the filing.
42 If the filing is an application for a general rate
43 increase, the utility shall also file affidavits
44 containing testimonial evidence to be offered in
45 support of the filing, although this requirement does
46 not apply if the public utility is a rural electric
47 cooperative.

48 7. HEARING SET. After the filing of an application
49 for new or changed rates, charges, schedules, or
50 regulations by a public utility subject to rate

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1 regulation, the commission, prior to the expiration
2 of thirty days after the filing date, shall docket
3 the case as a formal proceeding and set the case for
4 hearing unless the new or changed rates, charges,
5 schedules, or regulations are approved by the
6 commission. In the case of a rural electric
7 cooperative, the commission may docket the case as
8 a formal proceeding and set the case for hearing prior
9 to the proposed effective date of the tariff. The
10 commission shall give notice of formal proceedings
11 as it deems appropriate. The docketing of a case
12 as a formal proceeding suspends the effective date
13 of the new or changed rates, charges, schedules, or
14 regulations until the rates, charges, schedules, or
15 regulations are approved by the commission, except
16 as provided in subsection 13.

17 8. UTILITY HEARING EXPENSES REPORTED. When a
18 case has been docketed as a formal proceeding under
19 subsection 7, the public utility, within a reasonable
20 time thereafter, shall file with the commission a
21 report outlining the utility's expected expenses for
22 litigating the case through the time period allowed
23 by the commission in rendering a decision. As part
24 of the findings of the commission under subsection
25 9, the commission shall allow recovery of costs of
26 the litigation expenses over a reasonable period of
27 time to the extent the commission deems the expenses
28 reasonable and just.

29 9. FINDING BY COMMISSION. If, after hearing and
30 decision on all issues presented for determination
31 in the rate proceeding, the commission finds the
32 proposed rates, charges, schedules, or regulations
33 of the utility to be unlawful, the commission shall
34 by order authorize and direct the utility to file
35 new or changed rates, charges, schedules, or
36 regulations which, when approved by the commission
37 and placed in effect, will satisfy the requirements
38 of this chapter. The rates, charges, schedules, or
39 regulations so approved are lawful and effective upon
40 their approval.

41 10. LIMITATION ON FILINGS. A public utility shall
42 not make a subsequent filing of an application for
43 a new or changed rate, charge, schedule, or regulation
44 which relates to services for which a rate filing
45 is pending within twelve months following the date
46 the prior application was filed or until the commission
47 has issued a final order on the prior application,
48 whichever date is earlier, unless the public utility
49 applies to the commission for authority and receives
50 authority to make a subsequent filing at an earlier

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1 date.

2 Sec. 20. Section 476.6, Code 1983, is amended
3 by adding the following new subsection:

4 NEW SUBSECTION. 11. AUTOMATIC ADJUSTMENTS
5 PERMITTED. This chapter does not prohibit a public
6 utility from making provision for the automatic
7 adjustment of rates and charges for public utility
8 service provided that a schedule showing the automatic
9 adjustment of rates and charges is first filed with
10 the commission.

11 If an automatic adjustment is used, the adjustment
12 must be reduced to zero at least once in every twelve-
13 month period, and all appropriate charges collected
14 by the automatic adjustment shall be incorporated
15 in the utility's other rates at that time.

16 Sec. 21. Section 476.6, Code 1983, is amended
17 by adding the following new subsection:

18 NEW SUBSECTION. 12. RATE LEVELS FOR TELEPHONE
19 UTILITIES. The commission may approve a schedule
20 of rate levels for any regulated service provided
21 by a utility providing communication services.

22 Sec. 22. Section 476.6, Code 1983, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 13. TEMPORARY AUTHORITY. Upon
25 the request of a public utility, the commission shall,
26 when required by this subsection, grant the public
27 utility temporary authority to place in effect any
28 or all of the suspended rates, charges, schedules
29 or regulations by filing with the commission a bond
30 or other undertaking approved by the commission
31 conditioned upon the refund in a manner to be
32 prescribed by the commission of any amounts collected
33 in excess of the amounts which would have been
34 collected under rates, charges, schedules or
35 regulations finally approved by the commission. In
36 determining that portion of the new or changed rates,
37 charges, schedules or regulations to be placed in
38 effect prior to a final decision, the commission shall
39 apply previously established regulatory principles
40 and shall, at a minimum, permit rates and charges
41 which will allow the utility the opportunity to earn
42 a return on common stock equity equal to that which
43 the commission held reasonable and just in the most
44 recent rate case involving the same utility or the
45 same type of utility service, provided that if the
46 most recent final decision of the commission in an
47 applicable rate case was rendered more than twelve
48 months prior to the date of filing of the request
49 for temporary rates, the commission shall in addition
50 consider financial market data that is filed or that

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1 is otherwise available to the commission and shall
2 adjust the rate of return on common stock equity that
3 was approved in that decision upward or downward as
4 necessary to reflect current conditions. The
5 commission shall render a decision on a request for
6 temporary authority within ninety days after the date
7 of filing of the request. The decision shall be
8 effective immediately. If the commission has not
9 rendered a final decision with respect to suspended
10 rates, charges, schedules or regulations upon the
11 expiration of ten months after the filing date, plus
12 the length of any delay that necessarily results
13 either from the failure of the public utility to
14 exercise due diligence in connection with the
15 proceedings or from intervening judicial proceedings,
16 plus the length of any extension permitted by section
17 476.33, subsection 3, then those portions that were
18 approved by the commission on a temporary basis shall
19 be deemed finally approved by the commission and the
20 utility may place them into effect on a permanent
21 basis, and the utility also may place into effect
22 subject to refund and until the final decision of
23 the commission any portion of the suspended rates,
24 charges, schedules or regulations not previously
25 approved on a temporary basis by filing with the
26 commission a bond or other undertaking approved by
27 the commission.

28 If the commission finds that an extension of the
29 ten-month period is necessary to permit the
30 accumulation of necessary data with respect to the
31 operation of a newly constructed electric generating
32 facility that has a capacity of one hundred megawatts
33 or more of electricity and that is proposed to be
34 included in the rate base for the first time, the
35 commission may extend the ten-month period up to a
36 maximum extension of six months, but only with respect
37 to that portion of the suspended rates, charges,
38 schedules or regulations that are necessarily connected
39 with the inclusion of the generating facility in the
40 rate base. If a utility is proposing to include in
41 its rate base for the first time a newly constructed
42 electric generating facility that has a capacity of
43 one hundred megawatts or more of electricity, the
44 filing date of new or changed rates, charges, schedules
45 or regulations shall, for purposes of computing the
46 ninety-day and ten-month limitations stated above,
47 be the date as determined by the commission that the
48 new plant went into service, but only with respect
49 to that portion of the suspended rates, charges,
50 schedules or regulations that are necessarily connected

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1 with the inclusion of the generating facility in the
2 rate base.

3 The commission shall determine the rate of interest
4 to be paid by a public utility to persons receiving
5 refunds. The interest rate to be applied to refunds
6 of moneys collected subject to refund under this
7 subsection is two percent per annum plus the average
8 quarterly interest rate at commercial banks for twenty-
9 four-month loans for personal expenditures, as
10 determined by the commission, compounded annually.

11 The commission shall consider federal reserve
12 statistical release G.19 or its equivalent when
13 determining interest to be paid under this subsection.

14 Sec. 23. Section 476.6, Code 1983, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 14. REFUNDS PASSED ON TO
17 CUSTOMERS. If pursuant to federal law or rule a rate-
18 regulated public utility furnishing gas to customers
19 in the state receives a refund or credit for past
20 gas purchases, the savings shall be passed on to the
21 customers in a manner approved by the commission.

22 Similarly, if pursuant to federal law or rule a rate-
23 regulated public utility furnishing gas to customers
24 in the state receives a rate for future gas purchases
25 which is lower than the price included in the public
26 utility's approved rate application, the savings shall
27 be passed on to the customers in a manner approved
28 by the commission.

29 Sec. 24. Section 476.6, Code 1983, is amended
30 by adding the following new subsection:

31 NEW SUBSECTION. 15. NATURAL GAS SUPPLY AND COST
32 REVIEW. The commerce commission shall periodically,
33 but not less than annually, conduct a proceeding for
34 the purpose of evaluating the reasonableness and
35 prudence of a rate-regulated public utility's natural
36 gas procurement and contracting practices. The natural
37 gas supply and cost review shall be conducted as a
38 contested case pursuant to chapter 17A.

39 Under procedures established by the commerce
40 commission, each rate-regulated public utility
41 furnishing gas shall periodically file a complete
42 natural gas procurement plan describing the expected
43 sources and volumes of its gas supply and changes
44 in the cost of gas anticipated over a future twelve-
45 month period specified by the commission. The plan
46 shall describe all major contracts and gas supply
47 arrangements entered into by the utility for obtaining
48 gas during the specified twelve-month period. The
49 description of the major contracts and arrangements
50 shall include the price of gas, the duration of the

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contract or arrangement, and an explanation or
2 description of any other term or provision as required
3 by the commission. The plan shall also include the
4 utility's evaluation of the reasonableness and prudence
5 of its decisions to obtain gas in the manner described
6 in the plan, an explanation of the legal and regulatory
7 actions taken by the utility to minimize the cost
8 of gas purchased by the utility, and such other
9 information as the commission may require.

10 Contemporaneously with the natural gas procurement
11 plan, the public utility shall file with the commission
12 a five-year forecast of the gas requirement of its
13 customers, its anticipated sources of supply, and
14 projections of gas costs. The forecast shall include
15 a description of all relevant major contracts and
16 gas supply arrangements entered into or contemplated
17 between the gas utility and its suppliers, a
18 description of all major gas supply arrangements which
19 the gas utility knows have been, or expects will be,
20 entered into between the utility's principal pipeline
21 suppliers and their major sources of gas, and such
22 other information as the commission may require.

23 During the natural gas supply and cost review,
24 the commission shall evaluate the reasonableness and
25 prudence of the gas procurement plan. In evaluating
26 the gas procurement plan, the commission shall consider
27 the volume, cost, and reliability of the major
28 alternative gas supplies available to the utility;
29 the cost of alternative fuels available to the
30 utility's customers; the availability of gas in
31 storage; the appropriate legal and regulatory actions
32 which the utility could take to minimize the cost
33 of purchased gas; the gas procurement practices of
34 the utility; and other relevant factors. If a utility
35 is not taking all reasonable actions to minimize its
36 purchase gas costs, consistent with assuring an
37 adequate long-term supply of natural gas, the
38 commission shall not allow the utility to recover
39 from its customers purchase gas costs in excess of
40 those costs that would be incurred under reasonable
41 and prudent policies and practices.

42 The commission shall also evaluate the five-year
43 forecast filed by the public utility. The commission
44 may indicate any cost items in the five-year forecast
45 that on the basis of present evidence in the record
46 the commission would be unlikely to permit the utility
47 to recover from its customers in rates, charges or
48 purchased gas clauses established in the future.
49 Nothing in this section prohibits the commission from
50 disallowing the recovery of other related or unrelated

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1 costs on the basis of evidence received in a later
2 contested case proceeding.

3 The commission shall adopt rules pursuant to chapter
4 17A to implement the provisions of this section prior
5 to January 1, 1984.

6 Sec. 25. Section 476.6, Code 1983, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 16. ANNUAL ELECTRIC ENERGY SUPPLY
9 AND COST REVIEW. The commerce commission shall conduct
10 an annual proceeding for the purpose of evaluating
11 the reasonableness and prudence of a rate-regulated
12 public utility's procurement and contracting practices
13 related to the acquisition of fuel for use in
14 generating electricity. The proceeding shall be
15 conducted as a contested case pursuant to chapter
16 17A. Under procedures established by the commerce
17 commission, the utility shall file information as
18 the commission deems appropriate. If a utility is
19 not taking all reasonable actions to minimize its
20 fuel costs, the commission shall not allow the utility
21 to recover from its customers fuel costs in excess
22 of those costs that would be incurred under reasonable
23 and prudent policies and practices.

24 Contemporaneously with the annual review proceeding,
25 the commission shall analyze the electric generating
26 capacity needs for the next decade by the public
27 utility's customers, under procedures established
28 by the commission. The utility shall file information
29 regarding future capacity needs of its customers as
30 deemed appropriate by the commission.

31 Sec. 26. Section 476.8, unnumbered paragraph 1,
32 Code 1983, is amended to read as follows:

33 Every public utility is required to furnish
34 reasonably adequate service and facilities.
35 "Reasonably adequate service and facilities" for
36 public utilities furnishing gas or electricity includes
37 programs for customers to encourage the use of energy
38 conservation and renewable energy sources. The charge
39 made by any public utility for any heat, light, gas,
40 energy conservation and renewable energy programs,
41 water or power produced, transmitted, delivered or
42 furnished, or communications services, or for any
43 service rendered or to be rendered in connection
44 therewith shall be reasonable and just, and every
45 unjust or unreasonable charge for such service is
46 prohibited and declared unlawful. In determining
47 reasonable and just rates, the commission shall
48 consider all factors relating to value and shall not
49 be bound by rate base decisions or rulings made prior
50 to the adoption of this chapter.

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1 Sec. 27. Section 476.10, unnumbered paragraphs
2 1 and 2, Code 1983, are amended to read as follows:
3 ~~Whenever~~ When the commission shall deem ~~deems~~ it
4 necessary in order to carry out the duties imposed
5 upon it by this chapter for the purpose of determining
6 rate matters to investigate the books, accounts,
7 practices, and activities of, or make appraisals of
8 the property of any public utility, or to render any
9 engineering or accounting services to any public
10 utility, ~~such~~ or to review the operations or annual
11 reports of the public utility under section 476.31
12 or 476.32, the public utility shall pay the expense
13 reasonably attributable to such the investigation,
14 appraisal, ~~or~~ service, or review. The commission
15 shall ascertain ~~such~~ the expenses including certified
16 expenses incurred by the office of consumer advocate
17 directly chargeable to the public utility under section
18 475A.6, and shall render a bill therefor, by certified
19 mail, to the public utility, either at the conclusion
20 of the investigation, appraisal, ~~or~~ services, or
21 review, or from time to time during its progress,
22 which bill shall-constitute is notice of said the
23 assessment and shall demand payment thereof. The
24 total amount of such expense in any one calendar year,
25 for which any public utility shall become liable,
26 shall not exceed two-tenths of one percent of its
27 gross operating revenues derived from intrastate
28 public utility operations in the last preceding
29 calendar year.
30 The commission shall ascertain the total of its
31 expenditures during each year which are reasonably
32 attributable to the performance of its duties under
33 this chapter ~~and~~. The commission shall add to this
34 total the certified expenses of the consumer advocate
35 as provided under section 475A.6 and shall deduct
36 therefrom all amounts chargeable directly to any
37 specific utility under any law. The remainder shall
38 be assessed by the commission to the ~~several~~ public
39 utilities in proportion to their respective gross
40 operating revenues during the last calendar year
41 derived from intrastate public utility operations
42 and shall be assessed within ninety days of the close
43 of the calendar year based upon an estimate of the
44 commission expenditures for the first half of the
45 commission's fiscal year and again within ninety days
46 of the close of the fiscal year as necessary to conform
47 the amount of the assessment to the requirements of
48 this section. Public utilities exempt from rate
regulation under this chapter shall not be assessed
for remainder expenses incurred during review of rate-

1 regulated public utilities under section 476.31 or
2 476.32, but such remainder expenses shall be assessed
3 proportionally as provided in this section among only
4 the rate-regulated public utilities. The total amount
5 which may be assessed to the public utilities under
6 authority of this paragraph shall not exceed ~~one-tenth~~
7 two-tenths of one percent of the total gross operating
8 revenues of ~~such~~ the public utilities during ~~such~~
9 the calendar year derived from intrastate public
10 utility operations. However, the total amount which
11 may be assessed in any one calendar year to a public
12 utility under this section shall not exceed three-
13 tenths of one percent of the utility's total gross
14 operating revenues derived from intrastate public
15 utility operation in the last preceding year. For
16 public utilities exempted from rate regulation under
17 this chapter, the assessments under this paragraph
18 shall be computed at one-half the rate used in
19 computing the assessment for other utilities.

20 Sec. 28. Section 476.13, Code 1983, is amended
21 by striking the section and inserting in lieu thereof
22 the following:

23 476.13 JUDICIAL REVIEW.

24 1. Notwithstanding the Iowa administrative
25 procedure Act, the district court for Polk county
26 or for the county in which a public utility maintains
27 its principal place of business has exclusive venue
28 for the judicial review under chapter 17A of actions
29 of the commission pursuant to rate-regulatory powers
30 over that public utility.

31 2. Upon the filing of a petition for judicial
32 review in an action referred to in subsection 1, the
33 clerk of the district court shall notify the chief
34 justice of the supreme court for purposes of assignment
35 of a district judge under section 602.23. The judicial
36 review proceeding shall be heard by the district judge
37 appointed by the supreme court under section 602.23,
38 but in the county of venue under subsection 1.

39 3. Notwithstanding the Iowa administrative
40 procedure Act, if a public utility seeks judicial
41 review of an order approving rates for the public
42 utility, the level of rates that may be collected,
43 under bond and subject to refund, while the appeal
44 is pending shall be limited to the level of the
45 temporary rates set by the commission, or the level
46 of the final rates set by the commission, whichever
47 is greater. During the period the judicial review
48 proceeding is pending, the commission shall retain
49 jurisdiction to determine the rate of interest to
50 be paid on any refunds eventually required on rates

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1 collected during judicial review.

2 Sec. 29. NEW SECTION. 476.18 IMPERMISSIBLE
3 CHARGES.

4 1. Public utilities subject to rate regulation
5 are prohibited from including either directly or
6 indirectly in their charges or rates to customers
7 the costs of lobbying.

8 2. Legal costs and attorney fees incurred by a
9 public utility subject to rate regulation in an appeal
10 in state or federal court involving the validity of
11 any action of the commission shall not be included
12 either directly or indirectly in the public utility's
13 charges or rates to customers except to the extent
14 that recovery of legal costs and attorney fees is
15 allowed by the commission. The commission shall allow
16 a public utility to recover reasonable legal costs
17 and attorney fees incurred in the appeal. The
18 commission may consider the degree of success of the
19 legal arguments of the public utility in determining
20 the reasonable legal costs and attorney fees to be
21 allowed.

22 3. Except when required by the commerce
23 commission or by other state or federal regulation,
24 the costs of advertising in the following categories
25 by public utilities subject to rate regulation shall
26 not be included directly or indirectly in charges
27 or rates to customers:

28 a. Political advertising expense which includes
29 the cost of labor, materials used, and expenses
30 incurred in advertising whether on a national,
31 regional, or local basis, if the advertising is
32 designed to influence public opinion with respect
33 to the election or appointment of public officials
34 or the adoption, repeal, revocation, or modification
35 of referenda, legislation, or ordinances. This
36 category also includes expenditures for influencing
37 the decisions of public officials except for those
38 expenditures which are directly related to appearances
39 before regulatory or other governmental bodies in
40 connection with the utility's existing or proposed
41 operations.

42 b. Promotional advertising expense which includes
43 the cost of labor, materials used, and expenses
44 incurred in advertising designed to promote or retain
45 the use of utility service.

46 c. Institutional or goodwill advertising expense
47 which includes the cost of labor, materials used,
48 and expenses incurred in advertising which is designed
49 to create, enhance, or sustain the utility's image
or goodwill to the general public or its customers.

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1 d. Rate justification advertising expense which
2 includes the cost of labor, materials used, and
3 expenses incurred in advertising, whether on a regional
4 or local basis which is designed to promote public
5 acceptance of utility rate increases or the utility's
6 filed rates. This category also includes all costs
7 incurred by the utility for advertising in opposition
8 to a decision of the regulatory agency. However,
9 the expenses associated with simply informing customers
10 that new rates have been requested may be included
11 in charges, if permitted by the commission.

12 4. This section does not apply to a rural electric
13 cooperative.

14 Sec. 30. Section 476.20, Code 1983, is amended
15 to read as follows:

16 476.20 CUSTOMER PAYMENTS, ABANDONMENT AND
17 TERMINATION OF SERVICE--DEPOSITS.

18 1. ~~No~~ A utility shall not, except in cases of
19 emergency, discontinue, reduce, or impair service
20 to a community, or a part of a community, except for
21 nonpayment of account or violation of rules and
22 regulations, unless and until ~~there shall have been~~
23 first permission to do so is obtained from the
24 commission ~~permission-to-do-so.~~

25 2. The commerce commission shall establish rules
26 requiring a regulated public utility furnishing gas
27 or electricity to include in the utility's notice
28 of pending disconnection of service a written statement
29 advising the customer that the customer may be eligible
30 to participate in the low income home energy assistance
31 program or weatherization assistance program
32 administered by the energy policy council. The written
33 statement shall also state that the customer is advised
34 to contact the public utility to settle any of the
35 customer's complaints with the public utility, but
36 if a complaint is not settled to the customer's
37 satisfaction, the customer may file the complaint
38 with the commerce commission. The written statement
39 shall include the address and phone number of the
40 commerce commission. The commerce commission shall
41 establish rules requiring that the written notice
42 contain such additional information as it deems
43 necessary and appropriate.

44 3. The commerce commission shall establish rules
45 which shall be uniform with respect to all public
46 utilities furnishing gas or electricity relating to
47 disconnection of service.

48 4. A public utility which violates a provision
49 of this section relating to the disconnection of
50 service or which violates a rule of the commerce

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1 commission relating to disconnection of service is
2 subject to civil penalties imposed by the commission
3 under section 476.35.

4 5. The commerce commission shall establish rules
5 which shall be uniform with respect to all public
6 utilities furnishing gas or electricity relating to
7 deposits which may be required by the public utility
8 for the initiation or reinstatement of service. The
9 deposit for a residence which has previously received
10 service shall not be greater than the highest billing
11 of service for two consecutive months to the residence
12 in the previous twelve-month period. This subsection
13 does not prohibit a public utility from requiring
14 payment of a customer's past due account with the
15 utility prior to reinstatement of service.

16 Sec. 31. Section 476.33, subsection 1, Code 1983,
17 is amended to read as follows:

18 1. The commission shall adopt rules pursuant to
19 chapter 17A to provide for the completion of
20 proceedings under section 476.3 within ~~one-hundred~~
21 ~~eighty-days~~ ten months after the date of the filing
22 of a complaint or petition under section 476.3,
23 subsection 2, and to provide for the completion of
24 proceedings under section 476.6 within ten months
25 after the date of filing of the new or changed rates,
26 charges, schedules or regulations under that section.
27 These rules shall include reasonable time limitations
28 for the submission or completion of comments and
29 testimony, and exhibits, briefs and hearings, and
30 may provide for the granting of additional time upon
31 the request of a party to the proceeding or commission
32 staff for good cause shown.

33 Sec. 32. Section 476.33, subsection 3, Code 1983,
34 is amended to read as follows:

35 3. If in a proceeding under section 476.6
36 additional time is granted to a party or commission
37 staff under subsection 1, the commission may extend
38 the ten-month period during which a utility is
39 prohibited from placing its entire rate increase
40 request into effect under section 476.6, but an
41 extension shall not exceed ~~one-half-of~~ the aggregate
42 amount of all additional time granted under subsection
43 1.

44 Sec. 33. NEW SECTION. 476.35 CIVIL PENALTY.
45 A public utility which willfully violates a provision
46 of this chapter, a rule adopted by the commission,
47 or a provision of an order lawfully issued by the
48 commission, is subject to a civil penalty, which may
be levied by the commission, of not more than one
hundred dollars per violation or one thousand dollars

1 per day of a continuing violation, whichever is
2 greater. Civil penalties collected pursuant to this
3 section shall be forwarded by the executive secretary
4 of the commission to the treasurer of state to be
5 credited to the energy research and development fund
6 and to be used only for the low income home energy
7 assistance program and the weatherization assistance
8 program administered by the energy policy council.
9 Penalties paid by a rate-regulated public utility
10 pursuant to this section shall be excluded from the
11 utility's costs when determining the utility's revenue
12 requirement, and shall not be included either directly
13 or indirectly in the utility's rates or charges to
14 customers.

15 Sec. 34. NEW SECTION. 476.36 MANAGEMENT
16 EFFICIENCY. It is the policy of this state that a
17 public utility shall operate in an efficient manner.
18 The commission may adopt rules establishing a method
19 for an analysis of a utility's management efficiency.

20 Sec. 35. NEW SECTION. 476.37 EXCESS CAPACITY.
21 The commerce commission shall not allow a return on
22 common equity on that portion of a public utility's
23 electric generating capacity which is determined to
24 be excess electric generating capacity. Excess
25 electric generating capacity is that portion of the
26 public utility's electric generating capacity which
27 exceeds the amount reasonably necessary to provide
28 adequate and reliable service as determined by the
29 commission.

30 Electric generating capacity sold pursuant to the
31 terms of contracts entered into between June 28, 1978
32 and June 30, 1978 for power delivered on or before
33 May 1, 1983 to May 1, 1993, shall not be included
34 in the determination of excess electric generating
35 capacity.

36 Electric generating capacity purchased from
37 qualifying cogeneration and small power production
38 facilities shall not be included in the determination
39 of excess electric generating capacity.

40 Sec. 36. NEW SECTION. 476.38 DELAYED PAYMENT
41 CHARGES. A public utility shall not apply delayed
42 payment charges on a customer's account if the
43 scheduled payment was made by the customer within
44 twenty days from the date the billing was sent to
45 the customer.

46 Sec. 37. NEW SECTION. 476.39 COMPLAINT OF
47 ANTITRUST ACTIVITIES. An application for new or
48 changed rates, charges, schedules or regulations filed
49 under this chapter, or an application for a certificate
50 or an amendment to a certificate submitted under

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1 chapter 476A, by an electric transmission line utility
2 or a gas pipeline utility or a subsidiary of either
3 shall not be approved by the commerce commission if,
4 upon complaint by an Iowa electric or gas utility,
5 the commission finds activities which create or
6 maintain a situation inconsistent with antitrust laws
7 and the policies which underlie them. The commission
8 may grant the rate or facility certification request
9 once it determines that those activities which led
10 to the antitrust complaint have been eliminated.

11 However, this subsection does not apply to an
12 application for new or changed rates, charges,
13 schedules or regulations after the expiration of the
14 ten-month limitation and applicable extensions.

15 Sec. 38. Section 476A.6, Code 1983, is amended
16 to read as follows:

17 476A.6 DECISION--CRITERIA. The commission shall
18 render a decision on the application in an expeditious
19 manner. A certificate shall be issued to the applicant
20 if the commission finds ~~that~~ all of the following:

21 1. The services and operations resulting from
22 the construction of the facility are required by the
23 present or future public convenience, use and
24 necessity ~~and~~.

25 2. The applicant is willing to perform such
26 services and construct, maintain, and operate the
27 facility pursuant to the provisions of the certificate
28 and this chapter ~~and~~.

29 3. The construction, maintenance, and operation
30 of the facility will cause minimum adverse land use,
31 environmental, and aesthetic impact and are consonant
32 with reasonable utilization of air, land and water
33 resources for beneficial purposes considering available
34 technology and the economics of available alternatives.

35 4. The applicant has in effect a comprehensive
36 energy management program designed to reduce peak
37 loads and to increase efficiency of use of energy
38 by all classes of customers of the utility, and the
39 facility in the application is necessary
40 notwithstanding the existence of the comprehensive
41 energy management program. As used in this subsection,
42 a "comprehensive energy management program" includes
43 at a minimum the following:

44 a. Establishment of load management and
45 interruptible service programs, where cost effective.

46 b. Development of wheeling agreements and other
47 energy sharing agreements, where cost effective with
48 utilities that have available capacity.

49 c. Establishment of cost-effective energy
50 conservation and renewable energy services and

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1 programs.

2 d. Compliance with commission rules on energy
3 management procedures.

4 5. The applicant has considered all feasible
5 alternatives to the proposed facility including
6 nongeneration alternatives; has ranked those
7 alternatives by cost; has implemented the least-cost
8 alternatives first; and the facility in the applica-
9 tion is necessary notwithstanding the implementation
10 of these alternatives.

11 Sec. 39. NEW SECTION. 476A.15 ENERGY SHARING
12 AGREEMENTS.

13 Before a certificate is issued under section 476A.6,
14 the public utility shall demonstrate to the commission
15 that the utility has considered sources for long term
16 electric supply from either purchase of electricity
17 or investment in facilities owned by other utilities.

18 Sec. 40. Section 478.7, Code 1983, is amended
19 to read as follows:

20 478.7 FORM OF FRANCHISE. The commerce general
21 counsel for the Iowa state commerce commission shall
22 prepare a blank form of franchise ~~for such purposes,~~
23 which shall provide space for a general description
24 of the improvement authorized ~~thereby,~~ the name and
25 address of the person or corporation to whom granted,
26 the general terms and conditions upon which ~~it the~~
27 franchise is granted, and ~~such~~ other things as may
28 be necessary. This blank form shall be filled out
29 and signed by the ~~chairman~~ chairperson of the
30 commission which grants the franchise, and the official
31 seal shall be attached. ~~Such~~ The franchise shall
32 be ~~is~~ subject to ~~such~~ regulations and restrictions
33 as the general assembly ~~from-time-to-time-may-prescribe~~
34 prescribes, and to ~~such~~ rules, not inconsistent with
35 statutes, as the Iowa state commerce commission may
36 establish ~~from-time-to-time.~~

37 Sec. 41. Section 478.29, Code 1983, is amended
38 to read as follows:

39 478.29 PENALTY--ENFORCEMENT. Any A person or
40 corporation who ~~shall-string~~ strings or ~~maintain-any~~
41 maintains wire across any a railroad track in this
42 state at a different height or in a different manner
43 from that prescribed by the Iowa state commerce
44 commission shall forfeit and pay to the state ~~the~~
45 sum-~~of~~ one hundred dollars for each separate period
46 of ten days during which ~~such~~ the wire is so
47 maintained. ~~Such~~ The forfeiture shall be recovered
48 in a civil action in the name of the state by the
49 commerce general counsel for the Iowa state commerce
50 commission, or by the county attorney of the county

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1 in which ~~such~~ the wire is situated, at the request
2 of the state commerce commission.

3 Sec. 42. Chapter 602, Code 1983, is amended by
4 adding the following new section as section 602.23:
5 NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

6 1. The supreme court shall designate at least
7 one district judge in each judicial district in the
8 state who shall be subject to assignment by the chief
9 justice to preside as necessary in this state in
10 judicial review proceedings referred to in section
11 476.13, subsection 1. Designations shall be made
12 on the basis of qualifications and experience, and
13 shall be for the purpose of developing a pool of
14 district judges who will have the knowledge and
15 experience needed to expedite judicial review
16 proceedings in those cases.

17 2. Upon receipt of notice from a district court
18 clerk under section 476.13, subsection 2, the chief
19 justice of the supreme court shall assign one of the
20 district judges selected under subsection 1 to preside
21 at the judicial review proceeding under section 476.13.

22 Sec. 43. 1981 Iowa Acts, chapter 9, section 7,
23 subsections 6 and 7, are amended to read as follows:

24 6. The following are range four positions:
25 superintendent of banking, director of the Iowa beer
26 and liquor control department, ~~chairperson and members~~
27 ~~of the Iowa state commerce commission~~, director of
28 the state conservation commission, director of the
29 Iowa development commission, director of the
30 educational radio and television facility board,
31 director of the Iowa department of job service,
32 director of the department of general services,
33 commissioner of health, director of the office for
34 planning and programming, and commissioner of public
35 safety.

36 7. The following are range five positions: state
37 comptroller, superintendent of public instruction,
38 executive secretary of the state board of regents,
39 chairperson and members of the Iowa state commerce
40 commission, consumer advocate, director of the
41 department of revenue, commissioner of social services,
42 and director of the department of transportation.

43 Sec. 44. The legislative council shall authorize
44 an interim study by a joint subcommittee composed
45 of members of the senate committee on commerce and
46 the house committee on small business and commerce
47 to study the areas of utility rate regulation affected
48 by the passage of House File 312. The study committee
49 shall report its findings and recommendations with
50 legislative bill drafts required to implement its

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1 recommendations, to the respective standing com-
2 mittees, the legislative council, and the general
3 assembly.

4 Sec. 45. In order to implement sections of this
5 Act creating the office of consumer advocate and the
6 general counsel for the Iowa state commerce commission,
7 the commerce counsel appointed by the Iowa state
8 commerce commission in 1983 and approved by the senate
9 is the consumer advocate commencing July 1, 1983 and
10 the consumer advocate's term shall expire on April
11 30, 1985. If a vacancy occurs in the office of the
12 consumer advocate after July 1, 1983, the governor
13 shall appoint the consumer advocate to serve the
14 remaining unexpired term subject to sections 475.1
15 and 475.2. The commerce counsel's assistants employed
16 by the counsel on June 30, 1983, are the assistants
17 to the consumer advocate commencing July 1, 1983.
18 The office space, supplies, equipment and support
19 staff provided to the office of commerce counsel on
20 June 30, 1983, are the same space, supplies, equipment
21 and support staff provided to the office of consumer
22 advocate on July 1, 1983.

23 Sec. 46. In order to implement section 475A.7
24 created under this Act, the governor shall appoint
25 four members to the consumer advisory panel whose
26 terms shall commence upon appointment and shall expire
27 April 30, 1985. The governor shall also appoint five
28 members to the consumer advisory panel whose terms
29 shall commence upon appointment and shall expire April
30 30, 1987.

31 Sec. 47. On July 1, 1983, the participation of
32 the office of commerce counsel in proceedings pending
33 before the commission shall end and the office of
34 consumer advocate shall continue to participate in
35 place of the office of commerce counsel. All rights
36 of participation of the office of commerce counsel
37 shall be transferred to the office of consumer
38 advocate.

39 Sec. 48. On July 1, 1983, for all pending pro-
40 ceedings before the commission, the general counsel
41 of the commission shall assume the duties of rendering
42 legal advice to the commission. The general counsel
43 shall represent the commission in all court appeals
44 pending July 1, 1983, with assistance from the consumer
45 advocate if requested.

46 Sec. 49. On or after the effective date of this
47 Act, the Iowa state commerce commission shall not
48 approve an application for a new or changed rate,
49 charge, schedule, or regulation filed with the commerce
50 commission by a public utility furnishing electricity

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1 which includes as part of the rate base the costs
2 of an electrical generating facility which does not
3 go on line until after the effective date of this
4 Act, unless the new or changed rate, charge, schedule,
5 or regulation complies with section 476.37 created
6 under this Act.

7 Sec. 50. Except as provided under section 49 of
8 this Act, this Act applies to complaints or petitions
9 filed with the Iowa state commerce commission under
10 section 476.3, and to applications for new or changed
11 rates, charges, schedules, or regulations filed with
12 the Iowa state commerce commission under section
13 476.6, which are filed on or after the effective date
14 of this Act.

15 Sec. 51. Chapter 475, Code 1983, is repealed."

H-3716 FILED APRIL 13, 1983

RECEIVED FROM THE SENATE

*Amended by 3760, 3871, & 3875
1 Concurred 4/27/83 (p. 1625)*

SENATE 34
APRIL 13, 1983

HOUSE FILE 312

S-3544

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:
4 1. Page 3, line 49, by inserting after the word
5 "utility." the following: "Such correspondence and
6 information shall be provided to the consumer advocate
7 by the commission, if the commission determines it
8 to be in the public interest."

S-3544 FILED BY DALE TIEDEN
APRIL 12, 1983
RULED OUT OF ORDER (p. 1214)

HOUSE FILE 312

S-3545

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:
4 1. Page 3, by inserting before line 50 the follow-
5 ing: "Such correspondence and information shall be
6 provided to the consumer advocate by the commission,
7 if the commission determines it to be in the public
8 interest."

S-3545 FILED & ADOPTED BY DALE TIEDEN
APRIL 12, 1983 (p. 1214)

S-3543

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

4 1. Page 18, by striking lines 6 through 9 and
5 inserting in lieu thereof the following:

6 "3. Notwithstanding subsection 1, a residential
7 customer of a public utility which furnishes gas or
8 electricity who has failed to make required payments
9 to the public utility for service may avoid
10 disconnection of service by establishing a reasonable
11 payment plan with the public utility with a minimum
12 of twelve months to pay the past due bill. However,
13 if requested by a customer, the payment plan may be
14 for a period of less than twelve months. A residential
15 customer who enters into a reasonable payment plan
16 and remains current on payments agreed to under the
17 plan shall not be subject to disconnection of service.

18 A customer who has demonstrated to such public
19 utility that the customer is eligible for the low
20 income home energy assistance program or similar
21 programs administered by the energy policy council
22 shall not be subject to disconnection of service by
23 the public utility from November 1 through April 1
24 for failing to make payments on the customer's account.
25 The unavailability of monetary assistance from the
26 low income home energy assistance program or similar
27 programs for an eligible customer shall not make that
28 customer subject to disconnection of service.

29 The commerce commission shall adopt rules
30 implementing this subsection."

31 2. Page 18, by inserting after line 9 the
32 following:

33 "____. Notwithstanding subsection 1, a residential
34 customer who has demonstrated to a public utility
35 which furnishes gas or electricity that the customer's
36 primary source of income is unemployment benefits
37 under chapter 96 shall not be subject to disconnection
38 of service by the public utility from November 1
39 through April 1 for failing to make payments on the
40 customer's account. The commerce commission shall
41 adopt rules implementing this subsection."

42 3. Page 18, line 22, by inserting after the word
43 "highest" the word "monthly".

44 4. Page 18, line 23, by striking the words "for
45 two consecutive months".

46 5. By renumbering subsections as necessary.

HOUSE FILE 312

S-3537

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:

1. Page 4, line 7, by inserting after the word
"commission." the following: "However, any commerce
6 commission employee utilized by the consumer advocate
7 shall not participate on behalf of the commission
8 in its decision."

S-3537 FILED & ADOPTED
APRIL 12, 1983 (p. 1210)

BY BERL E. PRIEBE
EMIL HUSAK

HOUSE FILE 312

S-3538

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:

1. Page 2, by inserting after line 35 the
5 following:
6 "Within sixty days following the introduction of
7 a resolution in the senate signed by at least ten
8 senators calling for the reconfirmation of the consumer
9 advocate, the senate shall either approve, disapprove,
10 or by resolution defer consideration of the
11 reconfirmation of the appointment. However the senate
12 shall not adjourn that session until the reconfirmation
13 of the consumer advocate has been approved or
14 disapproved. Sixty days after a person's
15 reconfirmation as consumer advocate has been
16 disapproved by the senate, the person shall not serve
17 as an interim appointment or by holding over and the
18 governor shall appoint another person to the office
19 of consumer advocate before the sixty-day period
20 expires."

S-3538 FILED & LOST
APRIL 12, 1983 (p. 1210)

BY JOE WELSH

HOUSE FILE 312

S-3540

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:

1. Page 19, by striking lines 22 through 25, and
5 inserting in lieu thereof the following: "exceeds
6 the amount reasonably necessary to provide adequate
7 and reliable service as determined".

S-3540 FILED & ADOPTED
APRIL 12, 1983 (p. 1213)

BY DALE TIEDEN

S-3536

- 1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
- 4 1. Page 7, line 16, by striking the words "one
5 hundred eighty days" and inserting in lieu thereof
6 the words "~~one-hundred-eighty-days~~ ten months".
7 2. Page 7, line 20, by striking the words "one
8 hundred eighty-day" and inserting in lieu thereof
9 the words "~~one-hundred-eighty-day~~ ten-month".
10 3. Page 16, by striking lines 1 and 2 and inserting
11 in lieu thereof the following:
12 "1. Notwithstanding the Iowa administrative".
13 4. Page 16, line 9, by striking the letter "b."
14 and inserting in lieu thereof the numeral "2."
15 5. Page 16, line 10, by striking the words
16 "paragraph a" and inserting in lieu thereof the
17 following: "subsection 1".
18 6. Page 16, line 16, by striking the words
19 "paragraph a" and inserting in lieu thereof the
20 following: "subsection 1".
21 7. Page 16, line 17, by striking the letter "c."
22 and inserting in lieu thereof the numeral "3."
23 8. Page 16, by striking lines 30 through 50.
24 9. Page 18, by inserting after line 27 the
25 following:
26 "Sec. ____ Section 476.33, subsection 1, Code
27 1983, is amended to read as follows:
28 1. The commission shall adopt rules pursuant to
29 chapter 17A to provide for the completion of
30 proceedings under section 476.3 within ~~one-hundred~~
31 ~~eighty-days~~ ten months after the date of the filing
32 of a complaint or petition under section 476.3,
33 subsection 2, and to provide for the completion of
34 proceedings under section 476.6 within ten months
35 after the date of filing of the new or changed rates,
36 charges, schedules or regulations under that section.
37 These rules shall include reasonable time limitations
38 for the submission or completion of comments and
39 testimony, and exhibits, briefs and hearings, and
40 may provide for the granting of additional time upon
41 the request of a party to the proceeding or commission
42 staff for good cause shown."
43 10. Page 21, line 28, by striking the words "
44 paragraph a".
45 11. Page 21, lines 35 and 36, by striking the
46 words and figure "subsection 1, paragraph b" and
47 inserting in lieu thereof the following: "subsection
48 2".
49 12. Renumber sections and internal references
50 as necessary.

S-3536 FILED & ADOPTED
APRIL 12, 1983 (p. 1209)

BY CHARLES BRUNER
EDGAR H. HOLDEN BOB CARR
DALE TIEDEN DOUG RITSEMA

HOUSE FILE 312

S-3533

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 19, by striking line 32 and inserting in
4 lieu thereof the words "investments. Electric gener-
5 ating capacity sold pursuant to the terms of contracts
6 entered into between June 28, 1978 and June 30, 1978
7 for power delivered on or before May 1, 1983 to May
8 1, 1993, shall not be included in the determination
9 of excess electric generating capacity."

S-3533 FILED
APRIL 12, 1983
RULED OUT OF ORDER (p. 4213)

BY RICHARD F. DRAKE
BILL HUTCHINS
JOE WELSH

HOUSE FILE 312

S-3534

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 3, by striking lines 46 through 49 and
4 inserting in lieu thereof the following:
5 "c. Customer information of a confidential nature
6 which could jeopardize the customer's competitive
7 status and is provided by the utility to the commission."

S-3534 FILED & ADOPTED
APRIL 12, 1983 (p. 1209)

BY EDGAR H. HOLDEN

HOUSE FILE 312

S-3535

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 19, by inserting before line 33 the
4 following:
5 "Electric generating capacity sold pursuant to the
6 terms of contracts entered into between June 28, 1978
7 and June 30, 1978 for power delivered on or before
8 May 1, 1983 to May 1, 1993, shall not be included
9 in the determination of excess electric generating
10 capacity."

S-3535 FILED
APRIL 12, 1983
ADOPTED (p. 1213)

BY RICHARD F. DRAKE
BILL HUTCHINS
JOE WELSH

SENATE 22
APRIL 13, 1983

HOUSE FILE 312

S-3530

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 19, by striking lines 25 through 26, and
5 inserting in lieu thereof the following: "service.
6 The commission may adjust the".

S-3530 FILED BY DALE TIEDEN
APRIL 12, 1983
RULED OUT OF ORDER (p. 12/2)

HOUSE FILE 312

S-3531

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 12, by striking lines 13 through 15 and
5 inserting in lieu thereof the following:
6 "NEW SUBSECTION. 15. NATURAL GAS SUPPLY AND COST
7 REVIEW. The commerce commission shall periodically,
8 but not less than annually, conduct a proceeding for
9 the purpose of evaluating".
10 2. Page 12, line 23, by striking the word
11 "annually" and inserting in lieu thereof the word
12 "periodically".

S-3531 FILED & ADOPTED BY WALLY HORN
APRIL 12, 1983 (p. 12/0)

HOUSE FILE 312

S-3532

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:
4 1. Page 4, by striking lines 47 through 50 and
5 inserting in lieu thereof the following: "be members
6 at large. The members shall serve four-year terms
7 at the pleasure of the governor and their appointments
8 are not subject to confirmation. The governor shall
9 fill a vacancy in the same manner as the original
10 appointment for the unexpired portion of the member's
11 term. Members".
12 2. Page 22, by inserting after line 27 the follow-
13 ing:
14 "Sec. _____. In order to implement section 475A.7
15 created under this Act, the governor shall appoint
16 four members to the consumer advisory panel whose
17 terms shall commence upon appointment and shall expire
18 April 30, 1985. The governor shall also appoint five
19 members to the consumer advisory panel whose terms
20 shall commence upon appointment and shall expire April
21 30, 1987."
22 3. Renumber as necessary.

S-3532 FILED & ADOPTED BY PATRICK J. DELUHERY
APRIL 12, 1983 (p. 12/5)

HOUSE FILE 312

S-3520

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed and reprinted
3 by the House, as follows:
4 1. Page 7, line 34, by inserting after the word
5 "~~notice-~~" the following: "Whenever a public utility
6 files an application for a general rate increase,
7 the utility may file a summary of the proposed new
8 or changed rates, charges, schedules, or regulations.
9 Upon final decision in the general rate case, the
10 utility shall file an application for new or changed
11 rates, charges, schedules, or regulations which
12 complies with the commission's decision."

S-3520 FILED & LOST
APRIL 12, 1983 (p. 1210)

BY HURLEY HALL

HOUSE FILE 312

S-3521

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 9, line 17, by striking the words "an
5 application for".

S-3521 FILED & ADOPTED
APRIL 12, 1983 (p. 1210)

BY PATRICK J. DELUHERY

HOUSE FILE 312

S-3522

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. By striking page 20, line 39 through page 21,
5 line 19.

S-3522 FILED
APRIL 12, 1983
RULED OUT OF ORDER (p. 1213)

BY DALE TIEDEN

HOUSE FILE 312

S-3525

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 19, by striking line 32 and inserting in
4 lieu thereof the words "investments. Electric gen-
5 erating capacity sold pursuant to the terms of contracts
6 entered into prior to April 11, 1983 shall not be
7 included in the determination of excess electric gen-
8 erating capacity."

S-3525 FILED
APRIL 12, 1983
RULED OUT OF ORDER (p. 1213)

BY RICHARD F. DRAKE
BILL HUTCHINS

SENATE 17
APRIL 13, 1983

HOUSE FILE 312

S-3516

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 19, by inserting after line 42 the
5 following:
6 "Sec. ____ . NEW SECTION. 476.39 COMPLAINT OF
7 ANTITRUST ACTIVITIES. An application for new or
8 changed rates, charges, schedules or regulations filed
9 under this chapter, or an application for a certificate
10 or an amendment to a certificate submitted under
11 chapter 476A, by an electric transmission line utility
12 or a gas pipeline utility or a subsidiary of either
13 shall not be approved by the commerce commission if,
14 upon complaint by an Iowa electric or gas utility,
15 the commission finds activities which create or
16 maintain a situation inconsistent with antitrust laws
17 and the policies which underlie them. The commission
18 may grant the rate or facility certification request
19 once it determines that those activities which led
20 to the antitrust complaint have been eliminated.
21 However, this subsection does not apply to an
22 application for new or changed rates, charges,
23 schedules or regulations after the expiration of the
24 ten-month limitation and applicable extensions."
25 2. Renumbering sections as necessary.

S-3516 FILED & ADOPTED
APRIL 12, 1983 (p. 1213)

BY C. W. HUTCHINS
RICHARD F. DRAKE
JOE J. WELSH

HOUSE FILE 312

S-3517

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 20, line 41, by striking the figure "1."
4 2. Page 20, by striking lines 43 through 50 and
5 inserting in lieu thereof the words "commission that
6 the utility has considered sources for long term electric
7 supply from either purchase of electricity or investment
8 in facilities owned by other utilities."
9 3. Page 21, by striking lines 1 through 19.

S-3517 FILED & ADOPTED
APRIL 12, 1983 (p. 1213)

BY JOE J. WELSH

HOUSE FILE 312

S-3518

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 3, line 48, by striking the word "and" and
4 inserting in lieu thereof the word "or".

S-3518 FILED

APRIL 12, 1983

RULED OUT OF ORDER (p. 1208)

BY EDGAR H. HOLDEN

HOUSE FILE 312

S-3526

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 21, by striking line 24, and inserting
5 in lieu thereof the following: "three district judges
6 of this".

S-3526 FILED & LOST
APRIL 12, 1983 (p. 1213)

BY JOE WELSH

HOUSE FILE 312

S-3527

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 9, line 33, by inserting after the word
5 "date." the following: "The commission shall permit
6 the public utility to make a subsequent filing at
7 an earlier date, if the utility shows that its current
8 rates, charges, schedules, or regulations are
9 confiscatory."

S-3527 FILED & LOST
APRIL 12, 1983 (p. 1210)

BY DALE TIEDEN

HOUSE FILE 312

S-3529

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. By striking page 4, line 39, through page 5
4 line 4.

S-3529 FILED
APRIL 12, 1983
LOST (p. 1205)

BY JULIA GENTLEMAN
DOUGLAS RITSEMA

HOUSE FILE 312

S-3515

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

4 1. Page 1, by inserting after line 4 the following:
5 "Sec. ____ . Section 13.2, Code 1983, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION.

8 13. a. Act as attorney for, and legal advisor
9 of, the Iowa state commerce commission.
10 b. Investigate the legality of all rates, charges,
11 rules, regulations, and practices of all persons under
12 the jurisdiction of the Iowa state commerce commission,
13 and institute civil proceedings before the commission
14 or any court to correct the illegality on the part
15 of any such person and prosecute the same to final
16 determination.

17 c. Appear for the commission or for the state
18 in all actions instituted in any state or federal
19 court which involves the validity of any rule,
20 regulation, or order of the Iowa state commerce
21 commission, and prosecute in any state or federal
22 court in the name of the state, all actions necessary
23 to enforce or to restrain the violation of any rule
24 or order of the Iowa state commerce commission.

25 Sec. ____ . Section 13.7, Code 1983, is amended
26 to read as follows:

27 13.7 SPECIAL COUNSEL. ~~No-compensation~~ Compensation
28 shall not be allowed to any person for services as
29 an attorney or counselor to any an executive department
30 of the state government, or the head thereof, or to
31 any a state board or commission, ~~but.~~ However, the
32 executive council may employ legal assistance, at
33 a reasonable compensation, in any a pending action
34 or proceeding to protect the interests of the state,
35 but only upon a sufficient showing, in writing, made
36 by the attorney general, that the department of justice
37 cannot for reasons stated by the attorney general
38 perform ~~said~~ the service, which reasons and action
39 of the council shall be entered upon its records.
40 When the attorney general determines that the
41 department of justice cannot perform legal service
42 in an action or proceeding, the executive council
43 shall request the department involved in the action
44 or proceeding to recommend legal counsel to represent
45 the department. If the attorney general concurs with
46 the department that the person recommended is qualified
47 and suitable to represent the department, the person
48 recommended shall be employed. If the attorney general
49 does not concur in the recommendation, the department
50 shall submit a new recommendation. This section shall

1 ~~does not affect the office-of-the-commerce-counsel,~~
2 ~~the transportation regulation authority counsel, or~~
3 ~~the legal counsel of the Iowa department of job service~~
4 ~~or the office of consumer advocate.~~

5 Sec. ____ Section 18.98, subsection 7, Code 1983,
6 is amended to read as follows:

7 7. To the office of governor, secretary of state,
8 auditor of state, treasurer of state, commissioner
9 of insurance, and ~~commerce-counsel~~ consumer advocate,
10 each 1 copy".

11 2. Page 1, by striking lines 41 through 50.

12 3. Page 21, by inserting after line 19 the
13 following:

14 Sec. ____ Section 478.7, Code 1983, is amended
15 to read as follows:

16 478.7 FORM OF FRANCHISE. The ~~commerce-counsel~~
17 Iowa state commerce commission shall prepare a blank
18 form of franchise for such purposes, which shall
19 provide space for a general description of the
20 improvement authorized ~~thereby,~~ the name and address
21 of the person or corporation to whom granted, the
22 general terms and conditions upon which ~~it the~~
23 franchise is granted, and such other things as may
24 be necessary. This blank form shall be filled out
25 and signed by the ~~chairman~~ chairperson of the
26 commission which grants the franchise, and the official
27 seal shall be attached. ~~Such~~ The franchise shall
28 be is subject to such regulations and restrictions
29 as ~~the general assembly from-time-to-time-may-prescribe~~
30 prescribes, and to such rules, not inconsistent with
31 statutes, as the Iowa state commerce commission may
32 establish from-time-to-time.

33 Sec. ____ Section 478.29, Code 1983, is amended
34 to read as follows:

35 478.29 PENALTY--ENFORCEMENT. Any A person or
36 ~~corporation~~ who shall ~~string~~ strings or ~~maintain-any~~
37 maintains wire across any a railroad track in this
38 state at a different height or in a different manner
39 from that prescribed by the Iowa state commerce
40 commission shall forfeit and pay to the state ~~the~~
41 sum-of one hundred dollars for each separate period
42 of ten days during which ~~such~~ the wire is so
43 maintained. ~~Such~~ The forfeiture shall be recovered
44 in a civil action in the name of the state by the
45 ~~commerce-counsel~~ attorney general, or by the county
46 attorney of the county in which ~~such~~ the wire is
47 situated, at the request of the state commerce
48 commission."

49 4. Page 22, by inserting after line 21, the
50 following:

1 Sec. _____. On July 1, 1983, the participation of
 2 the office of commerce counsel in proceedings pending
 3 before the commission shall end and the office of
 4 consumer advocate shall continue to participate in
 5 place of the office of commerce counsel. All rights
 6 of participation of the office of commerce counsel
 7 shall be transferred to the office of consumer
 8 advocate. On July 1, 1983, for all pending pro-
 9 ceedings before the commission, the attorney general
 10 shall assume the duties of rendering legal advice
 11 to the commission. The attorney general shall
 12 represent the commission in all court appeals pending
 13 July 1, 1983, with assistance from the consumer
 14 advocate if requested.

15 Sec. _____. The moneys appropriated to the Iowa
 16 state commerce commission for the fiscal year beginning
 17 July 1, 1983 for the operation of the office of
 18 commerce counsel are transferred to the attorney
 19 general for the purpose of performing the duties of
 20 section 13.2, subsection 13, created in this Act."

21 5. Page 22, by inserting after line 46 the
 22 following:

23 "Sec. _____. Chapter 475, Code 1983, is repealed."

24 6. By renumbering sections and correcting internal
 25 references as necessary.

S-3515 FILED

APRIL 12, 1983

Div A - OUT OF ORDER (p. 1206)

DIV B - WITHDRAWN

BY TOM MANN, JR.

ARTHUR SMALL, JR.

HOUSE FILE 312

S-3514

1 Amend the amendment S-3480 to House File 312 as
 2 amended, passed and reprinted by the House as follows:
 3 1. Page 19, by striking lines 26 through 32 and
 4 inserting in lieu thereof the words "by the commission."

S-3514 FILED & ADOPTED

APRIL 12, 1983 (p. 1213)

BY NORMAN RODGERS

EDGAR H. HOLDEN

HURLEY W. HALL

ARNE WALDSTEIN

HOUSE FILE 312

S-3512

1 Amend the committee on commerce amendment, S-3480,
 2 to House File 312, as amended, passed, and reprinted
 3 by the House, as follows:

4 1. Page 18, by striking lines 40 through 43 and
 5 inserting in lieu thereof the following: "A public
 6 utility which willfully violates a provision of this
 7 chapter, a rule adopted by the commission, or a
 8 provision of an order lawfully issued by the
 9 commission, is subject to a civil penalty,".

S-3512 FILED & ADOPTED

APRIL 12, 1983 (p. 1212)

BY DALE TIEDEN

NORMAN RODGERS

HOUSE FILE 312

S-3510

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

4 1. Page 1, by inserting after line 4 the follow-
5 ing:

6 "Sec. ____ Section 13.7, Code 1983, is amended
7 to read as follows:

8 13.7 SPECIAL COUNSEL. ~~No-compensation~~ Compensation
9 shall not be allowed to any person for services as
10 an attorney or counselor to any an executive department
11 of the state government, or the head thereof, or to
12 any a state board or commission; ~~but.~~ However, the
13 executive council may employ legal assistance, at
14 a reasonable compensation, in any a pending action
15 or proceeding to protect the interests of the state,
16 but only upon a sufficient showing, in writing, made
17 by the attorney general, that the department of justice
18 cannot for reasons stated by the attorney general
19 perform ~~said~~ the service, which reasons and action
20 of the council shall be entered upon its records.
21 When the attorney general determines that the
22 department of justice cannot perform legal service
23 in an action or proceeding, the executive council
24 shall request the department involved in the action
25 or proceeding to recommend legal counsel to represent
26 the department. If the attorney general concurs with
27 the department that the person recommended is qualified
28 and suitable to represent the department, the person
29 recommended shall be employed. If the attorney general
30 does not concur in the recommendation, the department
31 shall submit a new recommendation. This section ~~shall~~
32 does not affect the ~~office-of-the-commerce~~ general
33 counsel for the Iowa state commerce commission, the
34 transportation regulation authority counsel, or the
35 legal counsel of the Iowa department of job service
36 or the office of consumer advocate."

37 2. Page 1, by inserting after line 4 the follow-
38 ing:

39 "Sec. ____ Section 17A.2, subsection 1, Code 1983,
40 is amended to read as follows:

41 1. "Agency" means each board, commission,
42 department, officer or other administrative office,
43 or unit of the state. "Agency" does not mean the
44 general assembly, the courts, the office of consumer
45 advocate, the governor or a political subdivision
46 of the state or its offices and units. Unless provided
47 otherwise by statute, no less than two-thirds of the
48 members eligible to vote of a multimember agency shall
49 constitute a quorum authorized to act in the name
50 of the agency."

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1 3. Page 1, by inserting after line 4 the follow-
2 ing:

3 "Sec. ____ Section 18.98, subsection 7, Code 1983,
4 is amended to read as follows:

5 7. To the office of governor, secretary of state,
6 auditor of state, treasurer of state, commissioner
7 of insurance, general counsel for the Iowa state
8 commerce commission, and ~~commerce-counsel~~ consumer
9 advocate, each 1 copy"

10 4. Page 1, line 38, by striking the words "l
11 chapter 475,".

12 5. Page 1, by inserting after line 40 the follow-
13 ing:

14 "Sec. ____ NEW SECTION. 474.10 GENERAL COUNSEL.
15 The commission shall employ competent attorneys as
16 the general counsel and assistants to the general
17 counsel as it finds necessary for the full and
18 efficient discharge of its duties. The general counsel
19 shall be the attorney for, and legal advisor of, the
20 commission and shall be exempt from chapter 19A.
21 Assistants to the general counsel shall be subject
22 to chapter 19A. The general counsel or assistant
23 to the general counsel shall provide the necessary
24 legal advice to the commission in all matters and
25 represent the commission in all actions instituted
26 in a state or federal court challenging the validity
27 of any rule, regulation, or order of the commission.
28 The general counsel shall also represent the grain
29 warehouse division in all administrative proceedings
30 before the commission brought under chapters 542,
31 542A, and 543. The existence of a fact which
32 disqualifies a person from election or acting as state
33 commerce commissioner disqualifies the person from
34 employment as general counsel or assistant general
35 counsel. The general counsel shall devote the
36 counsel's entire time of employment to the duties
37 of the office; and during employment the counsel shall
38 not be a member of a political committee, contribute
39 to a political campaign fund other than through the
40 income tax checkoff for contributions to the Iowa
41 election campaign fund and the presidential election
42 campaign fund, participate in a political campaign,
43 or be a candidate for a political office."

44 6. Page 1, by striking lines 41 through 50.

45 7. Page 2, by inserting after line 48 the follow-
46 ing:

47 " ____ . Act as attorney for and represent all
48 consumers generally and the public generally in all
49 proceedings before the Iowa state commerce commission."

50 8. Page 3, by inserting after line 7 the follow-

1 ing:

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

7 _____. Appear and participate as a party in the
8 name of the office of consumer advocate in the
9 performance of the duties of the office."

10 9. Page 3, line 13, by inserting after the word
11 "employ" the word "attorneys,".

12 10. Page 3, by inserting after line 29 the follow-
13 ing:

14 "In establishing salaries and benefits for employees
15 the consumer advocate shall provide for an affirmative
16 action plan which shall be based upon guidelines
17 provided by the Iowa state civil rights commission.
18 In addition, when establishing salaries and benefits
19 the consumer advocate shall not discriminate in the
20 employment or pay between employees on the basis of
21 gender by paying wages to employees at a rate less
22 than the rate at which wages are paid to employees
23 of the opposite gender for work of comparable worth.
24 As used in this section "comparable worth" means the
25 value of work as measured by the composite of the
26 skill, effort, responsibility, and working conditions
27 normally required in the performance of work.

28 The consumer advocate shall make a report to the
29 legislative council which shall contain a copy of
30 the affirmative action plan adopted and details
31 regarding the manner in which compliance is made for
32 establishing salaries and benefits based on comparable
33 worth. The report shall be made to the legislative
34 council as soon as possible after the effective date
35 of this Act but not later than August 1, 1983, unless
36 the legislative council shall extend the date for
37 making the report."

38 11. Page 4, line 23, by striking the word
39 "annually" and inserting in lieu thereof the word
40 "quarterly".

41 12. Page 21, by inserting after line 19 the follow-
42 ing:

43 "Sec. _____. Section 478.7, Code 1983, is amended
44 to read as follows:

45 478.7 FORM OF FRANCHISE. The ~~commerce~~ general
46 counsel for the Iowa state commerce commission shall
47 prepare a blank form of franchise ~~for such purposes,~~
48 which shall provide space for a general description
49 of the improvement authorized ~~thereby,~~ the name and
50 address of the person or corporation to whom granted,

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1 the general terms and conditions upon which ~~it~~ the
2 franchise is granted, and ~~such~~ other things as ~~may~~
3 ~~be~~ necessary. This blank form shall be filled out
4 and signed by the ~~chairman~~ chairperson of the
5 commission which grants the franchise, and the official
6 seal shall be attached. ~~Such~~ The franchise shall
7 ~~be is~~ subject to ~~such~~ regulations and restrictions
8 as the general assembly ~~from-time-to-time-may-prescribe~~
9 prescribes, and to ~~such~~ rules, not inconsistent with
10 statutes, as the Iowa state commerce commission may
11 establish ~~from-time-to-time~~.

12 Sec. ____ Section 478.29, Code 1983, is amended
13 to read as follows:

14 478.29 PENALTY--ENFORCEMENT. Any A person or
15 ~~corporation~~ who shall ~~string~~ strings or maintain any
16 maintains wire across any a railroad track in this
17 state at a different height or in a different manner
18 from that prescribed by the Iowa state commerce
19 commission shall forfeit and pay to the state the
20 ~~sum-of~~ one hundred dollars for each separate period
21 of ten days during which ~~such~~ the wire is so
22 maintained. ~~Such~~ The forfeiture shall be recovered
23 in a civil action in the name of the state by the
24 ~~commerce~~ general counsel for the Iowa state commerce
25 commission, or by the county attorney of the county
26 in which ~~such~~ the wire is situated, at the request
27 of the state commerce commission."

28 14. Page 22, by striking lines 22 through 27,
29 and inserting in lieu thereof the following:

30 "Sec. ____ In order to implement sections of this
31 Act creating the office of consumer advocate and the
32 general counsel for the Iowa state commerce commission,
33 the commerce counsel appointed by the Iowa state
34 commerce commission in 1983 and approved by the senate
35 is the consumer advocate commencing July 1, 1983 and
36 the consumer advocate's term shall expire on April
37 30, 1985. If a vacancy occurs in the office of the
38 consumer advocate after July 1, 1983, the governor
39 shall appoint the consumer advocate to serve the
40 remaining unexpired term subject to sections 475.1,
41 and 475.2. The commerce counsel's assistants employed
42 by the counsel on June 30, 1983, are the assistants
43 to the consumer advocate commencing July 1, 1983.
44 The office space, supplies, equipment and support
45 staff provided to the office of commerce counsel on
46 June 30, 1983, are the same space, supplies, equipment
47 and support staff provided to the office of consumer
48 advocate on July 1, 1983."

49 15. Page 22, by inserting after line 27 the follow-
50 ing:

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1 "Sec. _____. On July 1, 1983, the participation
2 of the office of commerce counsel in proceedings
3 pending before the commission shall end and the office
4 of consumer advocate shall continue to participate
5 in place of the office of commerce counsel. All
6 rights of participation of the office of commerce
7 counsel shall be transferred to the office of consumer
8 advocate."

9 16. Page 22, by inserting after line 27 the follow-
10 ing:

11 "Sec. _____. On July 1, 1983, for all pending pro-
12 ceedings before the commission, the general counsel
13 of the commission shall assume the duties of rendering
14 legal advice to the commission. The general counsel
15 shall represent the commission in all court appeals
16 pending July 1, 1983, with assistance from the consumer
17 advocate if requested."

18 17. Page 22, by inserting after line 46 the
19 following:

20 "Sec. _____. Chapter 475, Code 1983, is repealed."

21 18. By renumbering sections, subsections, and
22 internal references as necessary.

S-3510 FILED & ADOPTED
APRIL 12, 1983 (p. 1205)

BY BILL HUTCHINS
DALE TIEDEN
DOUG RITSEMA
JACK NYSTROM

CHARLES BRUNER
JAMES GALLAGHER

HOUSE FILE 312

S-3513

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

4 1. Page 18, by striking lines 6 through 9 and
5 inserting in lieu thereof the following:

6 "3. Notwithstanding subsection 1, a public utility
7 which furnishes gas or electricity shall not disconnect
8 service to a residential customer from November 1
9 through April 1 for nonpayment of the customer's
10 account. The customer who has failed to make the
11 required payments of the account shall establish a
12 reasonable payment plan with the public utility.
13 However, the failure of the customer and public utility
14 to reach an agreement on a reasonable payment plan
15 or the failure of the customer to make payments
16 according to an agreed payment plan does not justify
17 disconnection of service from November 1 through April
18 1."

S-3513 FILED & LOST
APRIL 12, 1983 (p. 1212)

BY TOM SLATER

S-3509

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

- 4 1. Page 15, line 8, by striking the words "~~two-~~
5 ~~tenths~~ one-tenth" and inserting in lieu thereof the
6 word "two-tenths".
7 2. Page 15, line 42, by inserting after the word
8 "operations." the following: "However, the total
9 amount which may be assessed in any one calendar year
10 to a public utility under this section shall not
11 exceed three-tenths of one percent of the utility's
12 total gross operating revenues derived from intrastate
13 public utility operation in the last preceding year."

S-3509 FILED & ADOPTED
APRIL 12, 1983 (p. 1211)

BY CHARLES BRUNER
EDGAR H. HOLDEN

HOUSE FILE 312

S-3511

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

- 4 1. Page 18, by striking lines 6 through 9 and
5 inserting in lieu thereof the following:
6 "3. Notwithstanding subsection 1, a residential
7 customer of a public utility which furnishes gas or
8 electricity who has failed to make required payments
9 to the public utility for service may avoid
10 disconnection of service by establishing a reasonable
11 payment plan with the public utility with a minimum
12 of twelve months to pay the past due bill. However,
13 if requested by a customer, the payment plan may be
14 for a period of less than twelve months. A residential
15 customer who enters into a reasonable payment plan
16 and remains current on payments agreed to under the
17 plan shall not be subject to disconnection of service.
18 A customer who has demonstrated to such public
19 utility that the customer is eligible for the low
20 income home energy assistance program or similar
21 programs administered by the energy policy council
22 shall not be subject to disconnection of service by
23 the public utility from November 1 through April 1
24 for failing to make payments on the customer's account.
25 The unavailability of monetary assistance from the
26 low income home energy assistance program or similar
27 programs for an eligible customer shall not make that
28 customer subject to disconnection of service.
29 A customer who has demonstrated to such public
30 utility that the customer's primary source of income
31 is unemployment benefits under chapter 96 shall not
32 be subject to disconnection of service by the public
33 utility from November 1 through April 1 for failing
34 to make payments on the customer's account.
35 The commerce commission shall adopt rules
36 implementing this subsection."
37 2. Page 18, line 22, by inserting after the word
38 "highest" the word "monthly".
39 3. Page 18, line 23, by striking the words "for
40 two consecutive months".

S-3511 FILED
RULED OUT OF ORDER (p. 1214)

BY TED ANDERSON

S-3508

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:

4 1. Page 17, by striking lines 6 through 9, and
5 inserting in lieu thereof the words "the costs of
6 lobbying."

7 2. Page 17, by inserting after line 23, the
8 following:

9 "____. Except when required by the commerce
10 commission or by other state or federal regulation,
11 the costs of advertising in the following categories
12 by public utilities subject to rate regulation shall
13 not be included directly or indirectly in charges
14 or rates to customers:

15 a. Political advertising expense which includes
16 the cost of labor, materials used, and expenses
17 incurred in advertising whether on a national,
18 regional, or local basis, if the advertising is
19 designed to influence public opinion with respect
20 to the election or appointment of public officials
21 or the adoption, repeal, revocation, or modification
22 of referenda, legislation, or ordinances. This
23 category also includes expenditures for influencing
24 the decisions of public officials except for those
25 expenditures which are directly related to appearances
26 before regulatory or other governmental bodies in
27 connection with the utility's existing or proposed
28 operations.

29 b. Promotional advertising expense which includes
30 the cost of labor, materials used, and expenses
31 incurred in advertising designed to promote or retain
32 the use of utility service.

33 c. Institutional or goodwill advertising expense
34 which includes the cost of labor, materials used,
35 and expenses incurred in advertising which is designed
36 to create, enhance, or sustain the utility's image
37 or goodwill to the general public or its customers.

38 d. Rate justification advertising expense which
39 includes the cost of labor, materials used, and
40 expenses incurred in advertising, whether on a regional
41 or local basis which is designed to promote public
42 acceptance of utility rate increases or the utility's
43 filed rates. This category also includes all costs
44 incurred by the utility for advertising in opposition
45 to a decision of the regulatory agency. However,
46 the expenses associated with simply informing customers
47 that new rates have been requested may be included
48 in charges, if permitted by the commission."

49 3. By renumbering subsections ~~as~~ necessary.

S-3504

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 6, line 24, by inserting after the word
4 "proceeding" the words "if the commission determines
5 that there is any reasonable ground for investigating
6 the complaint".

S-3504 FILED & ADOPTED
APRIL 12, 1983 (p.1206)

BY WILLIAM W. DIELEMAN

HOUSE FILE 312

S-3505

1 Amend the amendment S-3480 to House File 312 as
2 amended, passed and reprinted by the House as follows:
3 1. Page 7, line 31, by striking the word "subsection"
4 and inserting in lieu thereof the words "subsections
5 11 and".
6 2. Page 7, line 47, by striking the word "sixty-
7 two" and inserting in lieu thereof the word "thirty-
8 one".

S-3505 FILED
APRIL 12, 1983

BY EDGAR H. HOLDEN

DIV A - ADOPTED; DIV B - LOST (p.1209)

HOUSE FILE 312

S-3506

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:
4 1. Page 4, by striking lines 47 through 50 and
5 inserting in lieu thereof the following: "be members
6 at large. The members shall serve four-year terms
7 and their appointments are not subject to confirmation.
8 A member may be removed from office as provided in
9 chapter 66. The governor shall fill a vacancy in
10 the same manner as the original appointment for the
11 unexpired portion of the member's term. Members".
12 2. Page 22, by inserting after line 27 the follow-
13 ing:
14 "Sec. _____. In order to implement section 475A.7
15 created under this Act, the governor shall appoint
16 four members to the consumer advisory panel whose
17 terms shall commence upon appointment and shall expire
18 April 30, 1985. The governor shall also appoint five
19 members to the consumer advisory panel whose terms
20 shall commence upon appointment and shall expire April
21 30, 1987."
22 3. Renumber as necessary.

S-3506 FILED
APRIL 12, 1983

BY PATRICK J. DELUHERY

RULED OUT OF ORDER (p.1209)

HOUSE FILE 312

S-3507

1 Amend the Committee on Commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House as follows:
4 1. Page 1, by striking lines 5 through 34.
5 2. By renumbering sections and internal references
6 as necessary.

S-3507 FILED & WITHDRAWN
APRIL 12, 1983 (p.1214)

BY EDGAR H. HOLDEN

S-3499

Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed and reprinted
3 by the House, as follows:

4 1. Page 7, by striking lines 15 through 21 and
5 inserting in lieu thereof the following: "interest,
6 ~~and provided that if the commission fails to render~~
7 ~~a decision within one hundred eighty days following~~
8 ~~the date of filing of the complaint, the commission~~
9 ~~shall not order a refund of any excess amounts that~~
10 ~~are collected after the expiration of that one hundred~~
11 ~~eighty-day period and prior to the date the decision~~
12 ~~is rendered."~~

13 2. By striking page 10, line 49 through page 11,
14 line 3, and inserting in lieu thereof the following:
15 "476.33, subsection 3, the utility may place into
16 effect".

17 3. Page 16, by striking lines 30 through 50 and
18 inserting in lieu thereof the following:

19 "2. REVIEW OF TEMPORARY RATES PROHIBITED.
20 Notwithstanding the Iowa administrative procedure
21 Act, a decision of the commission to grant or deny
22 a request for temporary rates, charges, schedules,
23 or regulations under section 476.6, subsection 13,
24 shall not be subject to judicial review."

4. Page 18, by inserting after line 27 the
following:

27 "Sec. ____ . Section 476.33, subsection 1, Code
28 1983, is amended to read as follows:

29 1. The commission shall adopt rules pursuant to
30 chapter 17A to provide for the completion of
31 proceedings under section 476.3 within ~~one hundred~~
32 ~~eighty days~~ ten months after the date of the filing
33 of a complaint or petition under section 476.3,
34 subsection 2, and to provide for the completion of
35 proceedings under section 476.6 within ten months
36 after the date of filing of the new or changed rates,
37 charges, schedules or regulations under that section.
38 These rules shall include reasonable time limitations
39 for the submission or completion of comments and
40 testimony, and exhibits, briefs and hearings, and
41 may provide for the granting of additional time upon
42 the request of a party to the proceeding or commission
43 staff for good cause shown.

44 Sec. ____ . Section 476.33, subsection 2, Code 1983,
45 is amended by striking the subsection."

46 5. By renumbering as necessary.

S-3499 FILED
APRIL 11, 1983

BY CHARLES BRUNER
BOB CARR

Loan 4/12/83 (pp 1266-7)

HOUSE FILE 312

S-3483

1 Amend the committee on commerce amendment, S-3480,
2 to House File 312, as amended, passed, and reprinted
3 by the House, as follows:
4 1. Page 4, line 38, by inserting after the word
5 "advocate." the following: "Expenses assessed under
6 this section shall not exceed the amount appropriated
7 for the office of consumer advocate."

S-3483 FILED

BY EDGAR H. HOLDEN

APRIL 11, 1983

Adopted 4/12/83 (p. 1214)

HOUSE FILE 312

S-3480

1 Amend House File 312, as amended, passed, and
2 reprinted by the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section 28F.1, unnumbered paragraph
6 1, Code 1983, is amended to read as follows:

7 This chapter ~~is intended to provide~~ provides a
8 means for the joint financing by public agencies of
9 works or facilities useful and necessary for the
10 collection, treatment, purification, and disposal
11 in a sanitary manner of liquid and solid waste, sewage,
12 and industrial waste, also electric power facilities
13 constructed within the state of Iowa except that
14 hydroelectric power facilities may also be located
15 in the waters and on the dams of or on land adjacent
16 to either side of the Mississippi or Missouri river
17 bordering the state of Iowa, water supply systems,
18 swimming pools or golf courses. The provisions of
19 this This chapter apply applies to the acquisition,
20 construction, reconstruction, ownership, operation,
21 repair, extension, or improvement of such works or
22 facilities, by a separate administrative or legal
23 entity created pursuant to chapter 28E. When the
24 legal entity created under this chapter is comprised
25 solely of cities, counties, and sanitary districts
26 established under chapter 358, or any combination
27 thereof or any combination of the foregoing with other
28 public agencies, the entity shall be both a corporation
29 and a political subdivision with the name under which
30 it was organized. The legal entity may sue and be
31 sued, contract, acquire and hold real and personal
32 property necessary for corporate purposes, adopt a
33 corporate seal and alter the same seal at pleasure,
34 and execute all the powers conferred in this chapter.

35 Sec. 2. Section 474.1, unnumbered paragraph 3,
36 Code 1983, is amended to read as follows:

37 As used in this ~~section and sections 474.2 to 474.9~~
38 chapter, chapter 475, and chapter 475A, the words
39 "commission" and "commerce commission" mean the Iowa
40 state commerce commission.

41 Sec. 3. Section 475.7, subsection 3, Code 1983,
42 is amended to read as follows:

43 3. Appear for the Iowa state commerce commission
44 or for the state ~~and its citizens and industries~~ in
45 all actions instituted in any state or federal court
46 which involves the validity of any a rule, regulation,
47 or order of the commission, and prosecute in any state
48 or federal court in the name of the state, all actions
49 necessary to enforce or to restrain the violation
50 of any a rule or order of the commission.

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1 Sec. 4. NEW SECTION. 475A.1 CONSUMER ADVOCATE.

2 1. APPOINTMENT. After the general assembly
3 convenes in 1983, and every four years thereafter,
4 the governor shall appoint a competent attorney to
5 the office of consumer advocate, subject to
6 confirmation by the senate, in accordance with section
7 2.32. The advocate's term of office is for four
8 years. The term begins and ends as provided in section
9 69.19.

10 2. VACANCY. If a vacancy occurs in the office
11 of consumer advocate, the vacancy shall be filled
12 for the unexpired term in the same manner as an
13 original appointment under the procedures of section
14 2.32.

15 3. DISQUALIFICATION. The existence of a fact
16 which disqualifies a person from election or acting
17 as state commerce commissioner under section 474.2
18 disqualifies the person from appointment or acting
19 as consumer advocate.

20 4. POLITICAL ACTIVITY PROHIBITED. The consumer
21 advocate shall devote the advocate's entire time to
22 the duties of the office; and during the advocate's
23 term of office the advocate shall not be a member
24 of a political committee or contribute to a political
25 campaign fund other than through the income tax
26 checkoff for contributions to the Iowa election
27 campaign fund and the presidential election campaign
28 fund or take part in political campaigns or be a
29 candidate for a political office.

30 5. REMOVAL. The governor may remove the consumer
31 advocate for malfeasance or nonfeasance in office,
32 or for any cause which renders the advocate ineligible
33 for appointment, or incapable or unfit to discharge
34 the duties of the advocate's office; and the advocate's
35 removal, when so made, is final.

36 Sec. 5. NEW SECTION. 475A.2 DUTIES. The consumer
37 advocate shall:

38 1. Investigate the legality of all rates, charges,
39 rules, regulations, and practices of all persons under
40 the jurisdiction of the Iowa state commerce commission,
41 and institute civil proceedings before the commission
42 or any court to correct any illegality on the part
43 of any such person. In any such investigation, the
44 person acting for the office of the consumer advocate
45 shall have the power to ask the commission to issue
46 subpoenas, compel the attendance and testimony of
47 witnesses, and the production of papers, books, and
48 documents, at the discretion of the commission.

49 2. Institute as a party judicial review of any
50 decision of the Iowa state commerce commission, if

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1 the consumer advocate deems judicial review to be
2 in the public interest.

3 3. Appear for all consumers generally and the
4 public generally in all actions instituted in any
5 state or federal court which involve the validity
6 of a rule, regulation, or order of the Iowa state
7 commerce commission.

8 Sec. 6. NEW SECTION. 475A.3 OFFICE--EMPLOYEES--
9 -EXPENSES.

10 1. OFFICE. The office of consumer advocate is
11 at the seat of the government at the same location
12 as the Iowa state commerce commission.

13 2. EMPLOYEES. The consumer advocate may employ
14 legal assistants, secretaries, clerks, and other
15 employees the consumer advocate finds necessary for
16 the full and efficient discharge of the duties and
17 responsibilities of the office. The consumer advocate
18 may employ consultants as expert witnesses or technical
19 advisors pursuant to contract in any proceeding in
20 which the consumer advocate is a party.

21 3. SALARIES, EXPENSES, AND APPROPRIATION. The
22 salary of the consumer advocate shall be fixed by
23 the general assembly. The salaries of employees of
24 the consumer advocate and the reimbursement of expenses
25 for the employees and the consumer advocate are as
26 provided by law. The appropriation for the office
27 of consumer advocate shall be a separate line item
28 contained in the appropriation for the Iowa state
29 commerce commission.

30 Sec. 7. NEW SECTION. 475A.4 COMMERCE COMMISSION
31 RECORDS AND EMPLOYEES.

32 1. The consumer advocate has free access to all
33 the files, records, and documents in the office of
34 the Iowa state commerce commission except:

35 a. Personal information in confidential personnel
36 records of the commerce commission.

37 b. Records which represent and constitute the
38 work product of the commerce counsel, and records
39 of confidential communications between commerce
40 commissioners and the commerce counsel, where the
41 records relate to a proceeding before the commerce
42 commission in which the consumer advocate is a party
43 or a proceeding in any state or federal court in which
44 both the commerce commission and the consumer advocate
45 are parties.

46 c. Correspondence and other information submitted
47 to the commerce commission from a utility which is
48 confidential in nature and could jeopardize the
49 competitive status of a customer of the utility.

50 2. The consumer advocate may utilize employees

1 of the commerce commission as expert witnesses or
2 technical advisors in any proceeding in which the
3 consumer advocate is a party. The consumer advocate
4 may utilize employees of the commerce commission to
5 assist in investigations and studies related to rates
6 and services of utilities, as deemed appropriate by
7 the commission.

8 Sec. 8. NEW SECTION. 475A.5 SERVICE. The
9 consumer advocate is entitled to service of all
10 documents required by statute or rule to be served
11 on parties in proceedings before the Iowa state
12 commerce commission and all notices, petitions,
13 applications, complaints, answers, motions, and other
14 pleadings filed pursuant to statute or rule with the
15 commerce commission.

16 Sec. 9. NEW SECTION. 475A.6 CERTIFICATION OF
17 EXPENSES TO COMMERCE COMMISSION. The consumer advocate
18 shall determine the advocate's expenses, including
19 a reasonable allocation of general office expenses,
20 directly attributable to participation in proceedings
21 involving specific utilities, and shall certify the
22 expenses to the Iowa state commerce commission not
23 less than annually. The expenses shall then be
24 includable in the expenses of the commerce commission
25 subject to direct assessment under section 476.10.

26 The consumer advocate shall annually, within ninety
27 days after the close of each fiscal year, determine
28 the advocate's expenses, including a reasonable
29 allocation of general office expenses, attributable
30 to participation in proceedings involving public
31 utilities generally, and shall certify the expenses
32 to the commerce commission. The expenses shall then
33 be includable in the expenses of the commission subject
34 to remainder assessment under section 476.10.

35 The consumer advocate is entitled to notice and
36 opportunity to be heard in any commerce commission
37 proceeding on objection to an assessment for expenses
38 certified by the consumer advocate.

39 Sec. 10. NEW SECTION. 475A.7 CONSUMER ADVISORY
40 PANEL. The governor shall appoint nine members to
41 a consumer advisory panel to meet at the request of
42 the consumer advocate for consultation regarding
43 public utility regulation. A member shall be appointed
44 from each congressional district with the appointee
45 residing within the congressional district at the
46 time of appointment. The remaining appointees shall
47 be members at large. The members shall serve at the
48 pleasure of the governor and are not subject to
49 confirmation. The governor shall fill a vacancy in
50 the same manner as the original appointment. Members

1 of the consumer advisory panel shall serve without
2 compensation, but shall be reimbursed for actual
3 expenses from funds appropriated to the office of
4 consumer advocate.

5 Sec. 11. Section 476.1, Code 1983, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. The jurisdiction of
8 the commission as to the regulation of communications
9 services is not applicable to a service or facility
10 provided by a telephone utility that is or becomes
11 subject to competition, as determined by the
12 commission. In determining whether a service or
13 facility is or becomes subject to competition, the
14 commission shall consider whether a comparable service
15 or facility is available from a supplier other than
16 the telephone utility. When a service or facility
17 provided by a telephone utility becomes subject to
18 competition, the commission shall, within a reasonable
19 period of time, deregulate that service or facility.
20 Upon deregulation, all investment, revenues, and
21 expenses associated with the service or facility shall
22 be removed from the telephone utility's regulated
23 operations and shall not be considered by the
24 commission in setting rates for the telephone utility
25 unless they continue to affect the company's regulated
26 operations. In the event that the commission considers
27 investment, revenues, and expenses associated with
28 unregulated services or facilities in setting rates
29 for the telephone utility, the commission shall not
30 use any profits or costs from such unregulated services
31 or facilities to determine the rates for regulated
32 services or facilities. Nothing in this section shall
33 preclude the commission from considering the
34 investment, revenues and expenses associated with
35 the sale of classified directory advertising by a
36 telephone utility in determining rates for the
37 telephone utility.

38 Sec. 12. Section 476.1, Code 1983, is amended
39 by adding the following new unnumbered paragraph:
40 NEW UNNUMBERED PARAGRAPH. As used in this chapter,
41 "commission" or "commerce commission" means the Iowa
42 state commerce commission.

43 Sec. 13. Section 476.3, subsection 1, Code 1983,
44 is amended to read as follows:

45 1. Every A public utility shall furnish reasonably
46 adequate service at rates and charges in accordance
47 with tariffs filed with the commission. When there
48 is filed with the commission by any person or body
49 politic, or filed by the commission upon its own
50 motion, a written complaint requesting the commission

1 to determine the reasonableness of the rates, charges,
2 schedules, service, regulations, or anything done
3 or omitted to be done by any a public utility subject
4 to this chapter in contravention of ~~the provisions~~
5 of this chapter, the written complaint shall be
6 forwarded by the commission to the public utility,
7 which shall be called upon to satisfy the complaint
8 or to answer it in writing within a reasonable time
9 to be specified by the commission. Copies of the
10 written complaint forwarded by the commission to the
11 public utility and copies of all correspondence from
12 the public utility in response to the complaint shall
13 be provided by the commission in an expeditious manner
14 to the consumer advocate. If ~~the public utility does~~
15 ~~not satisfy~~ the commission with respect to the
16 ~~complaint within the time specified~~ determines the
17 public utility's response is inadequate and there
18 appears to be any reasonable ground for investigating
19 the complaint, the commission shall promptly initiate
20 a formal proceeding. If the consumer advocate
21 determines the public utility's response to the
22 complaint is inadequate, the consumer advocate may
23 file a petition with the commission which shall
24 promptly initiate a formal proceeding. The formal
25 proceeding may be initiated at any time by the
26 commission on its own motion. If a proceeding is
27 initiated upon ~~application or~~ petition filed by the
28 consumer advocate or upon the commission's own motion,
29 the commission shall set the case for hearing and
30 give notice as it deems appropriate. When the
31 commission, after a hearing held after reasonable
32 notice, finds any a public utility's rates, charges,
33 schedules, service, or regulations are unjust,
34 unreasonable, discriminatory, or otherwise in violation
35 of any provision of law, the commission shall determine
36 just, reasonable, and nondiscriminatory rates, charges,
37 schedules, service, or regulations to be observed
38 and enforced.

39 Sec. 14. Section 476.3, subsection 2, Code 1983,
40 is amended to read as follows:

41 2. If, as a result of ~~either~~ a review procedure
42 conducted under section 476.31, ~~or~~ a review conducted
43 under section 476.32, a special audit, an investigation
44 by commission staff, or an investigation by the
45 consumer advocate, a complaint is filed by commission
46 staff, or a petition is filed with the commission
47 by the consumer advocate, alleging that a utility's
48 rates are excessive, the disputed amount shall be
49 specified in the complaint or petition. The public
50 utility shall, within the time prescribed by the

1 commission, file a bond or undertaking approved by
2 the commission conditioned upon the refund in a manner
3 prescribed by the commission of amounts collected
4 after the date of filing of the complaint or petition
5 in excess of rates or charges finally determined by
6 the commission to be lawful. If upon hearing the
7 commission finds that the utility's rates are unlawful,
8 the commission shall order a refund, with interest,
9 of amounts collected after the date of filing of the
10 complaint that are determined to be in excess of the
11 amounts which would have been collected under the
12 rates finally approved, provided that. However, the
13 commission shall not order a refund that is greater
14 than the amount specified in the complaint, plus
15 interest, and provided that if the commission fails
16 to render a decision within one hundred eighty days
17 following the date of filing of the complaint or
18 petition, the commission shall not order a refund
19 of any excess amounts that are collected after the
20 expiration of that one hundred eighty-day period and
21 prior to the date the decision is rendered.

22 Sec. 15. Section 476.6, subsections 1 and 5, Code
23 1983, are amended to read as follows:

24 1. FILING WITH COMMISSION. A public utility
25 subject to rate regulation shall not make effective
26 any a new or changed rate, charge, schedule or
27 ~~regulation except by filing it with the commission~~
28 ~~at least thirty days prior to its effective date until~~
29 ~~the rate, charge, schedule, or regulation has been~~
30 ~~approved by the commission, except as provided in~~
31 ~~subsection 13. The commission, for good cause shown,~~
32 ~~may allow changes in rates, charges, schedules or~~
33 ~~regulations to become effective on less than thirty~~
34 ~~days' notice.~~

35 PARAGRAPH DIVIDED. Any A subscriber of a telephone
36 exchange or service, who is declared to be legally
37 blind under section 422.12, subsection 1, paragraph
38 "e", is exempt from any charges for telephone directory
39 assistance that may be approved by the commerce
40 commission.

41 5. WRITTEN NOTICE OF INCREASE. All public
42 utilities, ~~including except~~ those exempted from rate
43 regulation by ~~the provisions of~~ section 476.1, shall
44 give written notice of any a proposed increase of
45 any rate or charge to all affected customers served
46 by the public utility ~~at least thirty days prior to~~
47 ~~the effective date thereof~~ no more than sixty-two
48 days prior to and prior to the time the application
49 for the increase is filed with the commission. Public
50 utilities exempted from rate regulation by section

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1 476.1 shall give written notice of a proposed increase
2 of any rate or charge to all affected customers served
3 by the public utility at least thirty days prior to
4 the effective date of the increase. If the public
5 utility is subject to rate regulation, the notice
6 to affected customers shall also state that the
7 customer has a right to file a written objection to
8 such the rate increase and that he the affected
9 customers may request the commission to hold a public
10 hearing to determine if such the rate increase should
11 be allowed. The commission shall prescribe the manner
12 and method that the written notice to each affected
13 customer of the public utility shall be served.

14 Sec. 16. Section 476.6, subsections 6, 7, 8, 9,
15 and 10, Code 1983, are amended by striking the
16 subsections and inserting in lieu thereof the
17 following:

18 6. FACTS AND ARGUMENTS SUBMITTED. At the time
19 a public utility subject to rate regulation files
20 with the commission an application for any new or
21 changed rates, charges, schedules, or regulations,
22 the public utility also shall submit factual evidence
23 and written argument offered in support of the filing.
24 If the filing is an application for a general rate
25 increase, the utility shall also file affidavits
26 containing testimonial evidence to be offered in
27 support of the filing, although this requirement does
28 not apply if the public utility is a rural electric
29 cooperative.

30 7. HEARING SET. After the filing of an application
31 for new or changed rates, charges, schedules, or
32 regulations by a public utility subject to rate
33 regulation, the commission, prior to the expiration
34 of thirty days after the filing date, shall docket
35 the case as a formal proceeding and set the case for
36 hearing unless the new or changed rates, charges,
37 schedules, or regulations are approved by the
38 commission. In the case of a rural electric
39 cooperative, the commission may docket the case as
40 a formal proceeding and set the case for hearing prior
41 to the proposed effective date of the tariff. The
42 commission shall give notice of formal proceedings
43 as it deems appropriate. The docketing of a case
44 as a formal proceeding suspends the effective date
45 of the new or changed rates, charges, schedules, or
46 regulations until the rates, charges, schedules, or
47 regulations are approved by the commission, except
48 as provided in subsection 13.

49 8. UTILITY HEARING EXPENSES REPORTED. When a
50 case has been docketed as a formal proceeding under

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1 subsection 7, the public utility, within a reasonable
2 time thereafter, shall file with the commission a
3 report outlining the utility's expected expenses for
4 litigating the case through the time period allowed
5 by the commission in rendering a decision. As part
6 of the findings of the commission under subsection
7 9, the commission shall allow recovery of costs of
8 the litigation expenses over a reasonable period of
9 time to the extent the commission deems the expenses
10 reasonable and just.

11 9. FINDING BY COMMISSION. If, after hearing and
12 decision on all issues presented for determination
13 in the rate proceeding, the commission finds the
14 proposed rates, charges, schedules, or regulations
15 of the utility to be unlawful, the commission shall
16 by order authorize and direct the utility to file
17 an application for new or changed rates, charges,
18 schedules, or regulations which, when approved by
19 the commission and placed in effect, will satisfy
20 the requirements of this chapter. The rates, charges,
21 schedules, or regulations so approved are lawful and
22 effective upon their approval.

23 10. LIMITATION ON FILINGS. A public utility shall
24 not make a subsequent filing of an application for
25 a new or changed rate, charge, schedule, or regulation
26 which relates to services for which a rate filing
27 is pending within twelve months following the date
28 the prior application was filed or until the commission
29 has issued a final order on the prior application,
30 whichever date is earlier, unless the public utility
31 applies to the commission for authority and receives
32 authority to make a subsequent filing at an earlier
33 date.

34 Sec. 17. Section 476.6, Code 1983, is amended
35 by adding the following new subsection:

36 NEW SUBSECTION. 11. AUTOMATIC ADJUSTMENTS
37 PERMITTED. This chapter does not prohibit a public
38 utility from making provision for the automatic
39 adjustment of rates and charges for public utility
40 service provided that a schedule showing the automatic
41 adjustment of rates and charges is first filed with
42 the commission.

43 If an automatic adjustment is used, the adjustment
44 must be reduced to zero at least once in every twelve-
45 month period, and all appropriate charges collected
46 by the automatic adjustment shall be incorporated
47 in the utility's other rates at that time.

48 Sec. 18. Section 476.6, Code 1983, is amended
49 by adding the following new subsection:

50 NEW SUBSECTION. 12. RATE LEVELS FOR TELEPHONE

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1 UTILITIES. The commission may approve a schedule
2 of rate levels for any regulated service provided
3 by a utility providing communication services.

4 Sec. 19. Section 476.6, Code 1983, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 13. TEMPORARY AUTHORITY. Upon
7 the request of a public utility, the commission shall,
8 when required by this subsection, grant the public
9 utility temporary authority to place in effect any
10 or all of the suspended rates, charges, schedules
11 or regulations by filing with the commission a bond
12 or other undertaking approved by the commission
13 conditioned upon the refund in a manner to be
14 prescribed by the commission of any amounts collected
15 in excess of the amounts which would have been
16 collected under rates, charges, schedules or
17 regulations finally approved by the commission. In
18 determining that portion of the new or changed rates,
19 charges, schedules or regulations to be placed in
20 effect prior to a final decision, the commission shall
21 apply previously established regulatory principles
22 and shall, at a minimum, permit rates and charges
23 which will allow the utility the opportunity to earn
24 a return on common stock equity equal to that which
25 the commission held reasonable and just in the most
26 recent rate case involving the same utility or the
27 same type of utility service, provided that if the
28 most recent final decision of the commission in an
29 applicable rate case was rendered more than twelve
30 months prior to the date of filing of the request
31 for temporary rates, the commission shall in addition
32 consider financial market data that is filed or that
33 is otherwise available to the commission and shall
34 adjust the rate of return on common stock equity that
35 was approved in that decision upward or downward as
36 necessary to reflect current conditions. The
37 commission shall render a decision on a request for
38 temporary authority within ninety days after the date
39 of filing of the request. The decision shall be
40 effective immediately. If the commission has not
41 rendered a final decision with respect to suspended
42 rates, charges, schedules or regulations upon the
43 expiration of ten months after the filing date, plus
44 the length of any delay that necessarily results
45 either from the failure of the public utility to
46 exercise due diligence in connection with the
47 proceedings or from intervening judicial proceedings,
48 plus the length of any extension permitted by section
49 476.33, subsection 3, then those portions that were
50 approved by the commission on a temporary basis shall

1 be deemed finally approved by the commission and the
2 utility may place them into effect on a permanent
3 basis, and the utility also may place into effect
4 subject to refund and until the final decision of
5 the commission any portion of the suspended rates,
6 charges, schedules or regulations not previously
7 approved on a temporary basis by filing with the
8 commission a bond or other undertaking approved by
9 the commission.

10 If the commission finds that an extension of the
11 ten-month period is necessary to permit the
12 accumulation of necessary data with respect to the
13 operation of a newly constructed electric generating
14 facility that has a capacity of one hundred megawatts
15 or more of electricity and that is proposed to be
16 included in the rate base for the first time, the
17 commission may extend the ten-month period up to a
18 maximum extension of six months, but only with respect
19 to that portion of the suspended rates, charges,
20 schedules or regulations that are necessarily connected
21 with the inclusion of the generating facility in the
22 rate base. If a utility is proposing to include in
23 its rate base for the first time a newly constructed
24 electric generating facility that has a capacity of
25 one hundred megawatts or more of electricity, the
26 filing date of new or changed rates, charges, schedules
27 or regulations shall, for purposes of computing the
28 ninety-day and ten-month limitations stated above,
29 be the date as determined by the commission that the
30 new plant went into service, but only with respect
31 to that portion of the suspended rates, charges,
32 schedules or regulations that are necessarily connected
33 with the inclusion of the generating facility in the
34 rate base.

35 The commission shall determine the rate of interest
36 to be paid by a public utility to persons receiving
37 refunds. The interest rate to be applied to refunds
38 of moneys collected subject to refund under this
39 subsection is two percent per annum plus the average
40 quarterly interest rate at commercial banks for twenty-
41 four-month loans for personal expenditures, as
42 determined by the commission, compounded annually.
43 The commission shall consider federal reserve
44 statistical release G.19 or its equivalent when
45 determining interest to be paid under this subsection.

46 Sec. 20. Section 476.6, Code 1983, is amended
47 by adding the following new subsection:
48 NEW SUBSECTION. 14. REFUNDS PASSED ON TO
49 CUSTOMERS. If pursuant to federal law or rule a rate-
50 regulated public utility furnishing gas to customers

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1 in the state receives a refund or credit for past
2 gas purchases, the savings shall be passed on to the
3 customers in a manner approved by the commission.
4 Similarly, if pursuant to federal law or rule a rate-
5 regulated public utility furnishing gas to customers
6 in the state receives a rate for future gas purchases
7 which is lower than the price included in the public
8 utility's approved rate application, the savings shall
9 be passed on to the customers in a manner approved
10 by the commission.

11 Sec. 21. Section 476.6, Code 1983, is amended
12 by adding the following new subsection:

13 NEW SUBSECTION. 15. ANNUAL NATURAL GAS SUPPLY
14 AND COST REVIEW. The commerce commission shall conduct
15 an annual proceeding for the purpose of evaluating
16 the reasonableness and prudence of a rate-regulated
17 public utility's natural gas procurement and
18 contracting practices. The natural gas supply and
19 cost review shall be conducted as a contested case
20 pursuant to chapter 17A.

21 Under procedures established by the commerce
22 commission, each rate-regulated public utility
23 furnishing gas shall annually file a complete natural
24 gas procurement plan describing the expected sources
25 and volumes of its gas supply and changes in the cost
26 of gas anticipated over a future twelve-month period
27 specified by the commission. The plan shall describe
28 all major contracts and gas supply arrangements entered
29 into by the utility for obtaining gas during the
30 specified twelve-month period. The description of
31 the major contracts and arrangements shall include
32 the price of gas, the duration of the contract or
33 arrangement, and an explanation or description of
34 any other term or provision as required by the
35 commission. The plan shall also include the utility's
36 evaluation of the reasonableness and prudence of its
37 decisions to obtain gas in the manner described in
38 the plan, an explanation of the legal and regulatory
39 actions taken by the utility to minimize the cost
40 of gas purchased by the utility, and such other
41 information as the commission may require.

42 Contemporaneously with the natural gas procurement
43 plan, the public utility shall file with the commission
44 a five-year forecast of the gas requirement of its
45 customers, its anticipated sources of supply, and
46 projections of gas costs. The forecast shall include
47 a description of all relevant major contracts and
48 gas supply arrangements entered into or contemplated
49 between the gas utility and its suppliers, a
50 description of all major gas supply arrangements which

1 the gas utility knows have been, or expects will be,
2 entered into between the utility's principal pipeline
3 suppliers and their major sources of gas, and such
4 other information as the commission may require.

5 During the natural gas supply and cost review,
6 the commission shall evaluate the reasonableness and
7 prudence of the gas procurement plan. In evaluating
8 the gas procurement plan, the commission shall consider
9 the volume, cost, and reliability of the major
10 alternative gas supplies available to the utility;
11 the cost of alternative fuels available to the
12 utility's customers; the availability of gas in
13 storage; the appropriate legal and regulatory actions
14 which the utility could take to minimize the cost
15 of purchased gas; the gas procurement practices of
16 the utility; and other relevant factors. If a utility
17 is not taking all reasonable actions to minimize its
18 purchase gas costs, consistent with assuring an
19 adequate long-term supply of natural gas, the
20 commission shall not allow the utility to recover
21 from its customers purchase gas costs in excess of
22 those costs that would be incurred under reasonable
23 and prudent policies and practices.

24 The commission shall also evaluate the five-year
25 forecast filed by the public utility. The commission
26 may indicate any cost items in the five-year forecast
27 that on the basis of present evidence in the record
28 the commission would be unlikely to permit the utility
29 to recover from its customers in rates, charges or
30 purchased gas clauses established in the future.
31 Nothing in this section prohibits the commission from
32 disallowing the recovery of other related or unrelated
33 costs on the basis of evidence received in a later
34 contested case proceeding.

35 The commission shall adopt rules pursuant to chapter
36 17A to implement the provisions of this section prior
37 to January 1, 1984.

38 Sec. 22. Section 476.6, Code 1983, is amended
39 by adding the following new subsection:

40 NEW SUBSECTION. 16. ANNUAL ELECTRIC ENERGY SUPPLY
41 AND COST REVIEW. The commerce commission shall conduct
42 an annual proceeding for the purpose of evaluating
43 the reasonableness and prudence of a rate-regulated
44 public utility's procurement and contracting practices
45 related to the acquisition of fuel for use in
46 generating electricity. The proceeding shall be
47 conducted as a contested case pursuant to chapter
48 17A. Under procedures established by the commerce
49 commission, the utility shall file information as
50 the commission deems appropriate. If a utility is

1 not taking all reasonable actions to minimize its
2 fuel costs, the commission shall not allow the utility
3 to recover from its customers fuel costs in excess
4 of those costs that would be incurred under reasonable
5 and prudent policies and practices.

6 Contemporaneously with the annual review proceeding,
7 the commission shall analyze the electric generating
8 capacity needs for the next decade by the public
9 utility's customers, under procedures established
10 by the commission. The utility shall file information
11 regarding future capacity needs of its customers as
12 deemed appropriate by the commission.

13 Sec. 23. Section 476.8, unnumbered paragraph 1,
14 Code 1983, is amended to read as follows:

15 Every public utility is required to furnish
16 reasonably adequate service and facilities.
17 "Reasonably adequate service and facilities" for
18 public utilities furnishing gas or electricity includes
19 programs for customers to encourage the use of energy
20 conservation and renewable energy sources. The charge
21 made by any public utility for any heat, light, gas,
22 energy conservation and renewable energy programs,
23 water or power produced, transmitted, delivered or
24 furnished, or communications services, or for any
25 service rendered or to be rendered in connection
26 therewith shall be reasonable and just, and every
27 unjust or unreasonable charge for such service is
28 prohibited and declared unlawful. In determining
29 reasonable and just rates, the commission shall
30 consider all factors relating to value and shall not
31 be bound by rate base decisions or rulings made prior
32 to the adoption of this chapter.

33 Sec. 24. Section 476.10, unnumbered paragraphs
34 1 and 2, Code 1983, are amended to read as follows:

35 ~~Whenever~~ When the commission ~~shall deem~~ deems it
36 necessary in order to carry out the duties imposed
37 upon it by this chapter for the purpose of determining
38 rate matters to investigate the books, accounts,
39 practices, and activities of, or make appraisals of
40 the property of any public utility, or to render any
41 engineering or accounting services to any public
42 utility, ~~such~~ or to review the operations or annual
43 reports of the public utility under section 476.31
44 or 476.32, the public utility shall pay the expense
45 reasonably attributable to such the investigation,
46 appraisal, or service, or review. The commission
47 shall ascertain ~~such~~ the expenses including certified
48 expenses incurred by the office of consumer advocate
49 directly chargeable to the public utility under section
50 475A.6, and shall render a bill therefor, by certified

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1 mail, to the public utility, either at the conclusion
2 of the investigation, appraisal, ~~or~~ services, or
3 review, or from time to time during its progress,
4 which bill shall-constitute is notice of said the
5 assessment and shall demand payment thereof. The
6 total amount of such expense in any one calendar year,
7 for which any public utility shall become liable,
8 shall not exceed ~~two-tenths~~ one-tenth of one percent
9 of its gross operating revenues derived from intrastate
10 public utility operations in the last preceding
11 calendar year.

12 The commission shall ascertain the total of its
13 expenditures during each year which are reasonably
14 attributable to the performance of its duties under
15 this chapter and. The commission shall add to this
16 total the certified expenses of the consumer advocate
17 as provided under section 475A.6 and shall deduct
18 therefrom all amounts chargeable directly to any
19 specific utility under any law. The remainder shall
20 be assessed by the commission to the ~~several~~ public
21 utilities in proportion to their respective gross
22 operating revenues during the last calendar year
23 derived from intrastate public utility operations
24 and shall be assessed within ninety days of the close
25 of the calendar year based upon an estimate of the
26 commission expenditures for the first half of the
27 commission's fiscal year and again within ninety days
28 of the close of the fiscal year as necessary to conform
29 the amount of the assessment to the requirements of
30 this section. Public utilities exempt from rate
31 regulation under this chapter shall not be assessed
32 for remainder expenses incurred during review of rate-
33 regulated public utilities under section 476.31 or
34 476.32, but such remainder expenses shall be assessed
35 proportionally as provided in this section among only
36 the rate-regulated public utilities. The total amount
37 which may be assessed to the public utilities under
38 authority of this paragraph shall not exceed ~~one-tenth~~
39 two-tenths of one percent of the total gross operating
40 revenues of such the public utilities during such
41 the calendar year derived from intrastate public
42 utility operations. For public utilities exempted
43 from rate regulation under this chapter, the
44 assessments under this paragraph shall be computed
45 at one-half the rate used in computing the assessment
46 for other utilities.

47 Sec. 25. Section 476.13, Code 1983, is amended
48 by striking the section and inserting in lieu thereof
49 the following:

50 476.13 JUDICIAL REVIEW.

2580 1 1. VENUE FOR JUDICIAL REVIEW.
2 a. Notwithstanding the Iowa administrative
3 procedure Act, the district court for Polk county
4 or for the county in which a public utility maintains
5 its principal place of business has exclusive venue
6 for the judicial review under chapter 17A of actions
7 of the commission pursuant to rate-regulatory powers
8 over that public utility.
9 b. Upon the filing of a petition for judicial
10 review in an action referred to in paragraph a, the
11 clerk of the district court shall notify the chief
12 justice of the supreme court for purposes of assignment
13 of a district judge under section 602.23. The judicial
14 review proceeding shall be heard by the district judge
15 appointed by the supreme court under section 602.23,
16 but in the county of venue under paragraph a.
17 c. Notwithstanding the Iowa administrative
18 procedure Act, if a public utility seeks judicial
19 review of an order approving rates for the public
20 utility, the level of rates that may be collected,
21 under bond and subject to refund, while the appeal
22 is pending shall be limited to the level of the
23 temporary rates set by the commission, or the level
24 of the final rates set by the commission, whichever
25 is greater. During the period the judicial review
26 proceeding is pending, the commission shall retain
27 jurisdiction to determine the rate of interest to
28 be paid on any refunds eventually required on rates
29 collected during judicial review.

30 2. DISCRETIONARY REVIEW OF TEMPORARY RATES BY
31 SUPREME COURT. If an action for judicial review of
32 a utility's temporary rates, charges, schedules or
33 regulations, as established by the commission under
34 section 476.6, subsection 13, is commenced in the
35 district court as provided under this section, a
36 decision of the district court in that action on
37 temporary rates, charges, schedules or regulations
38 is subject to review by an appellate court only if
39 the supreme court, in the exercise of its discretion,
40 grants discretionary review. Discretionary review
41 shall be had in the same manner as under the rules
42 pertaining to interlocutory appeals and certiorari
43 in civil cases. The supreme court may adopt addi-
44 tional rules to control access to discretionary review
45 of temporary rates, charges, schedules or regulations
46 under this section. However, if an application for
47 discretionary review under this section is not granted
48 by the supreme court within thirty days after the
49 application is filed, the application for discretionary
50 review shall be deemed denied.

1 Sec. 26. NEW SECTION. 476.18 IMPERMISSIBLE
2 CHARGES.

3505 3 1. Public utilities subject to rate regulation
4 are prohibited from including either directly or
5 indirectly in their charges or rates to customers
6 the costs of advertising or lobbying. However, this
7 paragraph does not apply to advertising which is
8 required by the commerce commission or by other state
9 or federal regulation.

10 2. Legal costs and attorney fees incurred by a
11 public utility subject to rate regulation in an appeal
12 in state or federal court involving the validity of
13 any action of the commission shall not be included
14 either directly or indirectly in the public utility's
15 charges or rates to customers except to the extent
16 that recovery of legal costs and attorney fees is
17 allowed by the commission. The commission shall allow
18 a public utility to recover reasonable legal costs
19 and attorney fees incurred in the appeal. The
20 commission may consider the degree of success of the
21 legal arguments of the public utility in determining
22 the reasonable legal costs and attorney fees to be
23 allowed.

24 3. This section does not apply to a rural electric
25 cooperative.

26 Sec. 27. Section 476.20, Code 1983, is amended
27 to read as follows:

28 476.20 CUSTOMER PAYMENTS, ABANDONMENT AND
29 TERMINATION OF SERVICE--DEPOSITS.

30 1. No A utility shall not, except in cases of
31 emergency, discontinue, reduce, or impair service
32 to a community, or a part of a community, except for
33 nonpayment of account or violation of rules and
34 regulations, unless and until ~~there-shall-have-been~~
35 ~~first~~ permission to do so is obtained from the
36 commission ~~permission-to-do-so.~~

37 2. The commerce commission shall establish rules
38 requiring a regulated public utility furnishing gas
39 or electricity to include in the utility's notice
40 of pending disconnection of service a written statement
41 advising the customer that the customer may be eligible
42 to participate in the low income home energy assistance
43 program or weatherization assistance program
44 administered by the energy policy council. The written
45 statement shall also state that the customer is advised
46 to contact the public utility to settle any of the
47 customer's complaints with the public utility, but
48 if a complaint is not settled to the customer's
49 satisfaction, the customer may file the complaint
50 with the commerce commission. The written statement

1 shall include the address and phone number of the
2 commerce commission. The commerce commission shall
3 establish rules requiring that the written notice
4 contain such additional information as it deems
5 necessary and appropriate.

6 3. The commerce commission shall establish rules
7 which shall be uniform with respect to all public
8 utilities furnishing gas or electricity relating to
9 disconnection of service.

10 4. A public utility which violates a provision
11 of this section relating to the disconnection of
12 service or which violates a rule of the commerce
13 commission relating to disconnection of service is
14 subject to civil penalties imposed by the commission
15 under section 476.35.

16 5. The commerce commission shall establish rules
17 which shall be uniform with respect to all public
18 utilities furnishing gas or electricity relating to
19 deposits which may be required by the public utility
20 for the initiation or reinstatement of service. The
21 deposit for a residence which has previously received
22 service shall not be greater than the highest billing
23 of service for two consecutive months to the residence
24 in the previous twelve-month period. This subsection
25 does not prohibit a public utility from requiring
26 payment of a customer's past due account with the
27 utility prior to reinstatement of service.

28 Sec. 28. Section 476.33, subsection 3, Code 1983,
29 is amended to read as follows:

30 3. If in a proceeding under section 476.6
31 additional time is granted to a party or commission
32 staff under subsection 1, the commission may extend
33 the ten-month period during which a utility is
34 prohibited from placing its entire rate increase
35 request into effect under section 476.6, but an
36 extension shall not exceed ~~one-half of~~ the aggregate
37 amount of all additional time granted under subsection
38 1.

39 Sec. 29. NEW SECTION. 476.35 CIVIL PENALTY.

40 A public utility which violates a provision of this
41 chapter, or violates a rule adopted by the commission,
42 or violates a provision of an order lawfully issued
43 by the commission, is liable for a civil penalty,
44 which may be levied by the commission, of not more
45 than one hundred dollars per violation or one thousand
46 dollars per day of a continuing violation, whichever
47 is greater. Civil penalties collected pursuant to
48 this section shall be forwarded by the executive
49 secretary of the commission to the treasurer of state
50 to be credited to the energy research and development

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1 fund and to be used only for the low income home
2 energy assistance program and the weatherization
3 assistance program administered by the energy policy
4 council. Penalties paid by a rate-regulated public
5 utility pursuant to this section shall be excluded
6 from the utility's costs when determining the utility's
7 revenue requirement, and shall not be included either
8 directly or indirectly in the utility's rates or
9 charges to customers.

10 Sec. 30. NEW SECTION. 476.36 MANAGEMENT
11 EFFICIENCY. It is the policy of this state that a
12 public utility shall operate in an efficient manner.
13 The commission may adopt rules establishing a method
14 for an analysis of a utility's management efficiency.

15 Sec. 31. NEW SECTION. 476.37 EXCESS CAPACITY.
16 The commerce commission shall not allow a return on
17 common equity on that portion of a public utility's
18 electric generating capacity which is determined to
19 be excess electric generating capacity. Excess
20 electric generating capacity is that portion of the
21 public utility's electric generating capacity which
22 exceeds one hundred twenty-five percent of the
23 utility's peak demand and which exceeds the amount
24 reasonably necessary to provide adequate and reliable
25 service at the lowest cost to consumers as determined
26 by the commission. The commission may adjust the
27 rate base, rate of return and revenue requirement
28 of the public utility regardless of whether or not
29 the commission determines that the investment in the
30 excess electric generating capacity by the public
31 utility was prudent or imprudent at the time of the
32 investment.

33 Electric generating capacity purchased from
34 qualifying cogeneration and small power production
35 facilities shall not be included in the determination
36 of excess electric generating capacity.

37 Sec. 32. NEW SECTION. 476.38 DELAYED PAYMENT
38 CHARGES. A public utility shall not apply delayed
39 payment charges on a customer's account if the
40 scheduled payment was made by the customer within
41 twenty days from the date the billing was sent to
42 the customer.

43 Sec. 33. Section 476A.6, Code 1983, is amended
44 to read as follows:

45 476A.6 DECISION--CRITERIA. The commission shall
46 render a decision on the application in an expeditious
47 manner. A certificate shall be issued to the applicant
48 if the commission finds that all of the following:

49 1. The services and operations resulting from
50 the construction of the facility are required by the

1 present or future public convenience, use and
2 necessity, ~~and~~.

3 2. The applicant is willing to perform such
4 services and construct, maintain, and operate the
5 facility pursuant to the provisions of the certificate
6 and this chapter, ~~and~~.

7 3. The construction, maintenance, and operation
8 of the facility will cause minimum adverse land use,
9 environmental, and aesthetic impact and are consonant
10 with reasonable utilization of air, land and water
11 resources for beneficial purposes considering available
12 technology and the economics of available alternatives.

13 4. The applicant has in effect a comprehensive
14 energy management program designed to reduce peak
15 loads and to increase efficiency of use of energy
16 by all classes of customers of the utility, and the
17 facility in the application is necessary
18 notwithstanding the existence of the comprehensive
19 energy management program. As used in this subsection,
20 a "comprehensive energy management program" includes
21 at a minimum the following:

22 a. Establishment of load management and
23 interruptible service programs, where cost effective.

24 b. Development of wheeling agreements and other
25 energy sharing agreements, where cost effective with
26 utilities that have available capacity.

27 c. Establishment of cost-effective energy
28 conservation and renewable energy services and
29 programs.

30 d. Compliance with commission rules on energy
31 management procedures.

32 5. The applicant has considered all feasible
33 alternatives to the proposed facility including
34 nongeneration alternatives; has ranked those
35 alternatives by cost; has implemented the least-cost
36 alternatives first; and the facility in the applica-
37 tion is necessary notwithstanding the implementation
38 of these alternatives.

39 Sec. 34. NEW SECTION. 476A.15 ENERGY SHARING
40 AGREEMENTS.

41 1. Before a certificate is issued under section
42 476A.6, the public utility shall demonstrate to the
43 commission that the utility's demand for capacity
44 cannot be met in a cost effective manner through an
45 energy sharing agreement with another utility.

46 2. If a public utility, as defined under section
47 476.1, requires additional electrical capacity for
48 its customers, the public utility shall explore
49 entering into an agreement with any other public
50 utility which has available excess generating capacity.

1 If the public utilities cannot reach an energy
2 sharing agreement, and both public utilities are
3 located within the state, either public utility may
4 submit the matter to the commission for mediation.
5 The commission shall have the authority to propose
6 an energy sharing agreement between the affected
7 public utilities, but is not required to do so if
8 the agreement is not in the best interests of utility
9 customers in the state. The energy sharing agreement
10 proposed may include a provision allowing the public
11 utility supplying the capacity to reduce the quantity
12 of capacity delivered under the agreement in order
13 to meet the capacity of the needs of the supplying
14 utility's customers. The capacity provided to the
15 public utility in need of additional capacity shall
16 be at a reasonable cost which shall at least be
17 comparable to the cost the public utility would incur
18 from obtaining the capacity from sources available
19 to the public utility outside of the state.

20 Sec. 35. Chapter 602, Code 1983, is amended by
21 adding the following new section as section 602.23:

22 NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

23 1. The supreme court shall designate at least
24 one district judge in each judicial district in the
25 state who shall be subject to assignment by the chief
26 justice to preside as necessary in this state in
27 judicial review proceedings referred to in section
28 476.13, subsection 1, paragraph a. Designations shall
29 be made on the basis of qualifications and experience,
30 and shall be for the purpose of developing a pool
31 of district judges who will have the knowledge and
32 experience needed to expedite judicial review
33 proceedings in those cases.

34 2. Upon receipt of notice from a district court
35 clerk under section 476.13, subsection 1, paragraph
36 b, the chief justice of the supreme court shall assign
37 one of the district judges selected under subsection
38 1 to preside at the judicial review proceeding under
39 section 476.13.

40 Sec. 36. 1981 Iowa Acts, chapter 9, section 7,
41 subsections 6 and 7, are amended to read as follows:

42 6. The following are range four positions:
43 superintendent of banking, director of the Iowa beer
44 and liquor control department, ~~chairperson and members~~
45 ~~of the Iowa state commerce commission~~, director of
46 the state conservation commission, director of the
47 Iowa development commission, director of the
48 educational radio and television facility board,
49 director of the Iowa department of job service,
50 director of the department of general services,

1 commissioner of health, director of the office for
2 planning and programming, and commissioner of public
3 safety.

4 7. The following are range five positions: state
5 comptroller, superintendent of public instruction,
6 executive secretary of the state board of regents,
7 chairperson and members of the Iowa state commerce
8 commission, consumer advocate, director of the
9 department of revenue, commissioner of social services,
10 and director of the department of transportation.

11 Sec. 37. The legislative council shall authorize
12 an interim study by a joint subcommittee composed
13 of members of the senate committee on commerce and
14 the house committee on small business and commerce
15 to study the areas of utility rate regulation affected
16 by the passage of House File 312. The study committee
17 shall report its findings and recommendations with
18 legislative bill drafts required to implement its
19 recommendations, to the respective standing com-
20 mittees, the legislative council, and the general
21 assembly.

22 Sec. 38. Notwithstanding section 69.19, the person
23 initially appointed by the governor as consumer
24 advocate shall serve as the acting consumer advocate
25 upon appointment, subject to the confirmation
26 procedures of section 2.32. The term of the person
27 so appointed shall expire on April 30, 1987.

28 Sec. 39. On or after the effective date of this
29 Act, the Iowa state commerce commission shall not
30 approve an application for a new or changed rate,
31 charge, schedule, or regulation filed with the commerce
32 commission by a public utility furnishing electricity
33 which includes as part of the rate base the costs
34 of an electrical generating facility which does not
35 go on line until after the effective date of this
36 Act, unless the new or changed rate, charge, schedule,
37 or regulation complies with section 476.37 created
38 under this Act.

39 Sec. 40. Except as provided under section 39 of
40 this Act, this Act applies to complaints or petitions
41 filed with the Iowa state commerce commission under
42 section 476.3, and to applications for new or changed
43 rates, charges, schedules, or regulations filed with
44 the Iowa state commerce commission under section
45 476.6, which are filed on or after the effective date
46 of this Act."

S-3480 FILED
APRIL 8, 1983

BY COMMITTEE ON COMMERCE
GEORGE R. KINLEY, CHAIR

*Adopted as amended by 3510, 3504, 3534,
3532, 3536, 3505A, 3537, 3521,
3531, 3509, 3508, 3512, 3540, 3514,
3535, 3516, 3517, 3545, & 3483
4/12/83 (p. 1214)*

HOUSE FILE 312
FISCAL NOTE

REQUESTED BY SENATOR DELUHERY

In compliance with a written request there is hereby submitted a Fiscal Note for S-3480, the Senate Commerce Committee Amendment to House File 312 pursuant to Joint Rule 17.

Summary of Amendment

There are several differences between the Senate Commerce Committee amendment and House File 312 that have a fiscal effect. These include:

The amendment creates a separate consumer advocate's office with new staff. It is expected that 17.00 FTE of staff will be needed by the consumer advocate to perform the duties described. The amendment does not significantly change the duties of the commerce counsel from current law. It is therefore expected that the staff of the commerce counsel will be maintained at the current level of 18.00 FTE. The bill also creates a consumer advocate's office, but under the bill the commerce counsel's duties are reduced. It is expected that the consumer advocate's office under the bill will use 16.00 FTE of staff and the general counsel staff FTE will be reduced to 6.50.

Under the amendment, the appropriation for the office of consumer advocate is a separate line item contained in the commerce commission appropriation. The bill does not require the separate appropriation.

A consumer advisory panel is created by the amendment to meet at the request of the consumer advocate for consultation regarding public utility regulation. No per diem is provided but members of the panel are reimbursed for actual expenses. The bill creates a consumer roundtable of nine members, and both per diem compensation and expense reimbursement is provided.

The amendment requires the commerce commission to do an annual natural gas supply and cost review, and an annual electric energy supply and cost review. It is expected that two additional staff will be needed to perform these new functions.

All of the operations of the Commerce Commission's utilities division and 90% of the operations of the general administration division are self-supporting through direct and remainder assessments billed to the regulated utilities. Under the amendment, the limit on direct assessments against the companies is changed to one-tenth of one percent of the gross operating revenues derived from intrastate operations. The current limit is two-tenths of one percent. The limit on remainder assessments against the companies is changed to two-tenths of one percent of the total gross operating revenues of these companies derived from intrastate operations. The current limit is one-tenths of one percent.

Under the amendment, the salary of the chairperson and members of the state commerce commission and consumer advocate are salary range five positions. Under the bill, the salary of the consumer advocate is fixed by the General Assembly.

Fiscal Effect

It is estimated that the total cost of the Office of Consumer Advocate, including approximately \$4,000 for the consumer advisory panel, is as follows:

	<u>FY 1984</u>	<u>FY 1985</u>
Salaries (17.00 FTE)	\$490,605	\$493,436
Travel	16,050	18,125
Office Supplies	28,000	28,500
Telephone	10,200	10,750
Equipment Rental	8,000	8,800
Equipment (office furniture, typewriters, word processor)	83,785	4,000
Professional and Scientific	270,000	295,000
	-----	-----
Total Expenditure - State Funds (100% reimbursed by utilities, if remainder assessment limit raised)	\$906,640	\$858,611

The cost of the office furniture is based on purchase of Herman Miller offices (currently used by the rest of Commerce Commission staff) for 15 staff, and 2 enclosed offices for the Consumer Advocate and Consumer Solicitor. Costs could be reduced if Prison Industries products were purchased.

The cost of the 2 FTE additional staff to perform the annual natural gas and electric energy supply and costs reviews is estimated to be as follows:

	<u>FY 1984</u>	<u>FY 1985</u>
Salaries (2.00 FTE)	\$45,002	\$45,164
Equipment	5,820	--
Support	2,000	2,200
	-----	-----
Total Expenditure - State Funds (100% reimbursed by utilities, if remainder assessment limit raised)	\$52,822	\$47,364

The total additional expenditures required by the Senate Commerce Committee amendment to House File 312 is \$959,462 in FY 1984 and \$905,975 in FY 1985. If the remainder assessment is increased then 100% of this amount will be reimbursed by the regulated utility companies.

(312.310, 83-472, JMN)

Source: Iowa State Commerce Commission

RECEIVED BY THE SECRETARY OF THE SENATE, APRIL 12, 1983
FILED BY LEGISLATIVE FISCAL BUREAU
APRIL 14, 1983 DENNIS C. PROUTY, DIRECTOR

HOUSE FILE 312

AN ACT

RELATING TO PUBLIC UTILITIES AND PROVIDING CIVIL PENALTIES.

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

Section 1. Section 13.7, Code 1983, is amended to read as follows:

13.7 SPECIAL COUNSEL. ~~No-compensation~~ Compensation shall not be allowed to any person for services as an attorney or counselor to any an executive department of the state government, or the head thereof, or to any a state board or commission, ~~but~~ However, the executive council may employ legal assistance, at a reasonable compensation, in any a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform ~~said~~ the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines

that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section ~~shall~~ does not affect the ~~office-of-the-commerce~~ general counsel for the Iowa state commerce commission, the transportation regulation authority counsel, ~~or~~ the legal counsel of the Iowa department of job service or the office of consumer advocate.

Sec. 2. Section 17A.2, subsection 1, Code 1983, is amended to read as follows:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly, the courts, the office of consumer advocate, the governor or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency shall constitute a quorum authorized to act in the name of the agency.

Sec. 3. Section 18.98, subsection 7, Code 1983, is amended to read as follows:

7. To the office of governor, secretary of state, auditor of state, treasurer of state, commissioner of insurance, general counsel for the Iowa state commerce commission, and ~~commerce-counsel~~ consumer advocate, each 1 copy

Sec. 4. Section 28F.1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

This chapter ~~is-intended-to-provide~~ provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid

H.F. 312

and solid waste, sewage, and industrial waste, also electric power facilities constructed within the state of Iowa except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or Missouri river bordering the state of Iowa, water supply systems, swimming pools or golf courses. ~~The provisions of this~~ This chapter apply applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the ~~name~~ seal at pleasure, and execute all the powers conferred in this chapter.

Sec. 5. Section 364.2, subsection 4, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer.

Sec. 6. Section 474.1, unnumbered paragraph 3, Code 1983, is amended to read as follows:

As used in this ~~section and sections 474.2 to 474.9~~ chapter and chapter 475A, the words "commission" and "commerce commission" mean the Iowa state commerce commission.

Sec. 7. NEW SECTION. 474.10 GENERAL COUNSEL. The commission shall employ competent attorneys as the general counsel and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel shall be the attorney for, and legal advisor of, the commission and shall be exempt from chapter

19A. Assistants to the general counsel shall be subject to chapter 19A. The general counsel or assistant to the general counsel shall provide the necessary legal advice to the commission in all matters and represent the commission in all actions instituted in a state or federal court challenging the validity of any rule, regulation, or order of the commission. The general counsel shall also represent the grain warehouse division in all administrative proceedings before the commission brought under chapters 542, 542A, and 543. The existence of a fact which disqualifies a person from election or acting as state commerce commissioner disqualifies the person from employment as general counsel or assistant general counsel. The general counsel shall devote the counsel's entire time of employment to the duties of the office; and during employment the counsel shall not be a member of a political committee, 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, participate in a political campaign, or be a candidate for a political office.

Sec. 8. NEW SECTION. 475A.1 CONSUMER ADVOCATE.

1. APPOINTMENT. After the general assembly convenes in 1983, and every four years thereafter, the governor shall appoint a competent attorney to the office of consumer advocate, subject to confirmation by the senate, in accordance with section 2.32. The advocate's term of office is for four years. The term begins and ends as provided 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 state commerce commissioner 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 governor 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.

Sec. 9. NEW SECTION. 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 Iowa state commerce commission, and institute civil proceedings before the commission 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 commission to issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents, at the discretion of the commission.

2. Act as attorney for and represent all consumers generally and the public generally in all proceedings before the Iowa state commerce commission.

3. Institute as a party judicial review of any decision of the Iowa state commerce commission, 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 Iowa state commerce commission.

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.

Sec. 10. NEW SECTION. 475A.3 OFFICE--EMPLOYEES--EXPENSES.

1. OFFICE. The office of consumer advocate is at the seat of the government at the same location as the Iowa state commerce commission.

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 in any proceeding in which the consumer advocate is a party.

3. SALARIES, EXPENSES, AND APPROPRIATION. The salary of the consumer advocate shall be fixed by the general assembly. The salaries of employees of the consumer advocate and the reimbursement of expenses for the employees and the consumer advocate are as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation for the Iowa state commerce commission.

In establishing salaries and benefits for employees the consumer advocate shall provide for an affirmative action plan which shall be based upon guidelines provided by the Iowa state civil rights commission. In addition, when establishing salaries and benefits the consumer advocate shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section "comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

The consumer advocate shall make a report to the legislative council which shall contain a copy of the affirmative action plan adopted and details regarding the manner in which compliance is made for establishing salaries and benefits based on comparable worth. The report shall be made to the legislative council as soon as possible after the effective date of this Act but not later than August 1, 1983, unless the legislative council shall extend the date for making the report.

Sec. 11. NEW SECTION. 475A.4 COMMERCE COMMISSION RECORDS AND EMPLOYEES.

1. The consumer advocate has free access to all the files, records, and documents in the office of the Iowa state commerce commission except:

- a. Personal information in confidential personnel records of the commerce commission.
- b. Records which represent and constitute the work product of the general counsel of the commerce commission, and records of confidential communications between commerce commissioners and their general counsel, where the records relate to a proceeding before the commerce commission in which the consumer advocate is a party or a proceeding in any state or federal court in which both the commerce commission and the consumer advocate are parties.
- c. Customer information of a confidential nature which could jeopardize the customer's competitive status and is provided by the utility to the commission. Such information shall be provided to the consumer advocate by the commission, if the commission determines it to be in the public interest.
- d. Financial statements which are confidential under section 542.16 or 543.24.

2. The consumer advocate may utilize employees of the commerce commission as expert witnesses or technical advisors in any proceeding in which the consumer advocate is a party. The consumer advocate may utilize employees of the commerce commission to assist in investigations and studies related to rates and services of utilities, as deemed appropriate

by the commission. However, any commerce commission employee utilized by the consumer advocate shall not participate on behalf of the commission in its decision.

Sec. 12. NEW SECTION. 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 Iowa state commerce commission and all notices, petitions, applications, complaints, answers, motions, and other pleadings filed pursuant to statute or rule with the commerce commission.

Sec. 13. NEW SECTION. 475A.6 CERTIFICATION OF EXPENSES TO COMMERCE COMMISSION. The consumer advocate shall determine the advocate's expenses, including a reasonable allocation of general office expenses, directly attributable to participation in proceedings involving specific utilities, and shall certify the expenses to the Iowa state commerce commission not less than quarterly. The expenses shall then be includable in the expenses of the commerce commission subject to direct assessment under section 476.10.

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

The consumer advocate is entitled to notice and opportunity to be heard in any commerce commission 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 office of consumer advocate.

Sec. 14. NEW SECTION. 475A.7 CONSUMER ADVISORY PANEL. The governor shall appoint nine 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. The members shall serve four-year terms at the pleasure of the governor and their appointments are not subject to confirmation. The governor 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 office of consumer advocate.

Sec. 15. Section 476.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The jurisdiction of the commission as to the regulation of communications services is not applicable to a service or facility provided by a telephone utility that is or becomes subject to competition, as determined by the commission. In determining whether a service or facility is or becomes subject to competition, the commission shall consider whether a comparable service or facility is available from a supplier other than the telephone utility. When a service or facility provided by a telephone utility becomes subject to competition, the commission shall, within a reasonable period of time, deregulate that service or facility. Upon deregulation, all investment, revenues, and expenses associated with the service or facility shall be removed from the telephone utility's regulated operations and shall not be considered by the commission in setting rates for the telephone utility unless they continue to affect the company's regulated operations. In the event that the commission considers investment, revenues, and expenses associated with unregulated services or facilities in setting rates for the telephone utility, the commission shall not use any profits or costs from such unregulated services or facilities to determine the rates

for regulated services or facilities. Nothing in this section shall preclude the commission from considering the investment, revenues and expenses associated with the sale of classified directory advertising by a telephone utility in determining rates for the telephone utility.

Sec. 16. Section 476.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, "commission" or "commerce commission" means the Iowa state commerce commission.

Sec. 17. Section 476.3, subsection 1, Code 1983, is amended to read as follows:

1. Every A public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed with the commission. When there is filed with the commission by any person or body politic, or filed by the commission upon its own motion, a written complaint requesting the commission to determine the reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by any a public utility subject to this chapter in contravention of ~~the provisions of~~ this chapter, the written complaint shall be forwarded by the commission to the public utility, which shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be specified by the commission. Copies of the written complaint forwarded by the commission to the public utility and copies of all correspondence from the public utility in response to the complaint shall be provided by the commission in an expeditious manner to the consumer advocate. ~~If the public-utility-does-not-satisfy~~ the commission ~~with-respect to-the-complaint-within-the-time-specified~~ determines the public utility's response is inadequate and there appears to be any reasonable ground for investigating the complaint, the commission shall promptly initiate a formal proceeding. If the consumer advocate determines the public utility's response to the complaint is inadequate, the consumer advocate may file a petition with the commission which shall promptly

initiate a formal proceeding if the commission determines that there is any reasonable ground for investigating the complaint. The formal proceeding may be initiated at any time by the commission on its own motion. If a proceeding is initiated upon ~~application or~~ petition filed by the consumer advocate or upon the commission's own motion, the commission shall set the case for hearing and give notice as it deems appropriate. When the commission, after a hearing held after reasonable notice, finds any a public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the commission shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced.

Sec. 18. Section 476.3, subsection 2, Code 1983, is amended to read as follows:

2. If, as a result of either a review procedure conducted under section 476.31, or a review conducted under section 476.32, a special audit, an investigation by commission staff, or an investigation by the consumer advocate, a complaint is filed by commission staff, or a petition is filed with the commission by the consumer advocate, alleging that a utility's rates are excessive, the disputed amount shall be specified in the complaint or petition. The public utility shall, within the time prescribed by the commission, file a bond or undertaking approved by the commission conditioned upon the refund in a manner prescribed by the commission of amounts collected after the date of filing of the complaint or petition in excess of rates or charges finally determined by the commission to be lawful. If upon hearing the commission finds that the utility's rates are unlawful, the commission shall order a refund, with interest, of amounts collected after the date of filing of the complaint or petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved, provided that. However, the commission shall not order a refund that is greater than the amount specified in the complaint or

petition, plus interest, and provided that if the commission fails to render a decision within one-hundred-eighty-days ten months following the date of filing of the complaint or petition, the commission shall not order a refund of any excess amounts that are collected after the expiration of that one-hundred-eighty-day ten-month period and prior to the date the decision is rendered.

Sec. 19. Section 476.6, subsections 1 and 5, Code 1983, are amended to read as follows:

1. FILING WITH COMMISSION. A public utility subject to rate regulation shall not make effective any a new or changed rate, charge, schedule or regulation except-by-filing-it-with the-commission-at-least-thirty-days-prior-to-its-effective date until the rate, charge, schedule, or regulation has been approved by the commission, except as provided in subsections 11 and 13. The-commission, for-good-cause-shown, may-allow changes-in-rates, charges, schedules-or-regulations-to-become effective-on-less-than-thirty-days+notice.

PARAGRAPH DIVIDED. Any A subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.12, subsection 1, paragraph "e", is exempt from any charges for telephone directory assistance that may be approved by the commerce commission.

5. WRITTEN NOTICE OF INCREASE. All public utilities, including except those exempted from rate regulation by the provisions-of section 476.1, shall give written notice of any a proposed increase of any rate or charge to all affected customers served by the public utility at-least-thirty-days prior-to-the-effective-date-thereof no more than sixty-two days prior to and prior to the time the application for the increase is filed with the commission. Public utilities exempted from rate regulation by section 476.1 shall give written notice of a proposed increase of any rate or charge to all affected customers served by the public utility at least thirty days prior to the effective date of the increase. If the public utility is subject to rate regulation, the notice to affected customers shall also state that the customer

has a right to file a written objection to such the rate increase and that he the affected customers may request the commission to hold a public hearing to determine if such the rate increase should be allowed. The commission shall prescribe the manner and method that the written notice to each affected customer of the public utility shall be served.

Sec. 20. Section 476.6, subsections 6, 7, 8, 9, and 10, Code 1983, are amended by striking the subsections and inserting in lieu thereof the following:

6. **FACTS AND ARGUMENTS SUBMITTED.** At the time a public utility subject to rate regulation files with the commission an application for any new or changed rates, charges, schedules, or regulations, the public utility also shall submit factual evidence and written argument offered in support of the filing. If the filing is an application for a general rate increase, the utility shall also file affidavits containing testimonial evidence to be offered in support of the filing, although this requirement does not apply if the public utility is a rural electric cooperative.

7. **HEARING SET.** After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the commission, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the commission. In the case of a rural electric cooperative, the commission may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The commission shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the commission, except as provided in subsection 13.

8. **UTILITY HEARING EXPENSES REPORTED.** When a case has been docketed as a formal proceeding under subsection 7, the

public utility, within a reasonable time thereafter, shall file with the commission a report outlining the utility's expected expenses for litigating the case through the time period allowed by the commission in rendering a decision. At the conclusion of the utility's presentation of comments, testimony, exhibits, or briefs the utility shall submit to the commission a listing of the utility's actual litigation expenses in the proceeding. As part of the findings of the commission under subsection 9, the commission shall allow recovery of costs of the litigation expenses over a reasonable period of time to the extent the commission deems the expenses reasonable and just.

9. **FINDING BY COMMISSION.** If, after hearing and decision on all issues presented for determination in the rate proceeding, the commission finds the proposed rates, charges, schedules, or regulations of the utility to be unlawful, the commission shall by order authorize and direct the utility to file new or changed rates, charges, schedules, or regulations which, when approved by the commission and placed in effect, will satisfy the requirements of this chapter. The rates, charges, schedules, or regulations so approved are lawful and effective upon their approval.

10. **LIMITATION ON FILINGS.** A public utility shall not make a subsequent filing of an application for a new or changed rate, charge, schedule, or regulation which relates to services for which a rate filing is pending within twelve months following the date the prior application was filed or until the commission has issued a final order on the prior application, whichever date is earlier, unless the public utility applies to the commission for authority and receives authority to make a subsequent filing at an earlier date.

Sec. 21. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 11. AUTOMATIC ADJUSTMENTS PERMITTED. This chapter does not prohibit a public utility from making provision for the automatic adjustment of rates and charges for public utility service provided that a schedule showing

the automatic adjustment of rates and charges is first filed with the commission.

If an automatic adjustment is used, the adjustment must be reduced to zero at least once in every twelve-month period, and all appropriate charges collected by the automatic adjustment shall be incorporated in the utility's other rates at that time.

Sec. 22. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 12. RATE LEVELS FOR TELEPHONE UTILITIES. The commission may approve a schedule of rate levels for any regulated service provided by a utility providing communication services.

Sec. 23. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 13. TEMPORARY AUTHORITY. Upon the request of a public utility, the commission shall, when required by this subsection, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commission conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules or regulations finally approved by the commission. In determining that portion of the new or changed rates, charges, schedules or regulations to be placed in effect prior to a final decision, the commission shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the commission held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the commission in an applicable rate case was rendered more than twelve months prior to the date of filing of the request for temporary rates, the commission shall in addition consider

financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority within ninety days after the date of filing of the request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 476.33, subsection 3, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission.

If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred

megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base.

The commission shall determine the rate of interest to be paid by a public utility to persons receiving refunds. The interest rate to be applied to refunds of moneys collected subject to refund under this subsection is two percent per annum plus the average quarterly interest rate at commercial banks for twenty-four-month loans for personal expenditures, as determined by the commission, compounded annually. The commission shall consider federal reserve statistical release G.19 or its equivalent when determining interest to be paid under this subsection.

Sec. 24. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 14. REFUNDS PASSED ON TO CUSTOMERS.

If pursuant to federal law or rule a rate-regulated public utility furnishing gas to customers in the state receives a refund or credit for past gas purchases, the savings shall be passed on to the customers in a manner approved by the commission. Similarly, if pursuant to federal law or rule a rate-regulated public utility furnishing gas to customers in the state receives a rate for future gas purchases which is lower than the price included in the public utility's approved rate application, the savings shall be passed on to the customers in a manner approved by the commission.

Sec. 25. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 15. NATURAL GAS SUPPLY AND COST REVIEW.

The commerce commission shall periodically, but not less than annually, conduct a proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public

utility's natural gas procurement and contracting practices. The natural gas supply and cost review shall be conducted as a contested case pursuant to chapter 17A.

Under procedures established by the commerce commission, each rate-regulated public utility furnishing gas shall periodically file a complete natural gas procurement plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future twelve-month period specified by the commission. The plan shall describe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified twelve-month period. The description of the major contracts and arrangements shall include the price of gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility, and such other information as the commission may require.

Contemporaneously with the natural gas procurement plan, the public utility shall file with the commission a five-year forecast of the gas requirement of its customers, its anticipated sources of supply, and projections of gas costs. The forecast shall include a description of all relevant major contracts and gas supply arrangements entered into or contemplated between the gas utility and its suppliers, a description of all major gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the utility's principal pipeline suppliers and their major sources of gas, and such other information as the commission may require.

During the natural gas supply and cost review, the commission shall evaluate the reasonableness and prudence of the gas procurement plan. In evaluating the gas procurement plan, the commission shall consider the volume, cost, and

reliability of the major alternative gas supplies available to the utility; the cost of alternative fuels available to the utility's customers; the availability of gas in storage; the appropriate legal and regulatory actions which the utility could take to minimize the cost of purchased gas; the gas procurement practices of the utility; and other relevant factors. If a utility is not taking all reasonable actions to minimize its purchase gas costs, consistent with assuring an adequate long-term supply of natural gas, the commission shall not allow the utility to recover from its customers purchase gas costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

The commission shall also evaluate the five-year forecast filed by the public utility. The commission may indicate any cost items in the five-year forecast that on the basis of present evidence in the record the commission would be unlikely to permit the utility to recover from its customers in rates, charges or purchased gas clauses established in the future. Nothing in this section prohibits the commission from disallowing the recovery of other related or unrelated costs on the basis of evidence received in a later contested case proceeding.

The commission shall adopt rules pursuant to chapter 17A to implement the provisions of this section prior to January 1, 1984.

Sec. 26. Section 476.6, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 16. ANNUAL ELECTRIC ENERGY SUPPLY AND COST REVIEW. The commerce commission shall conduct an annual proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's procurement and contracting practices related to the acquisition of fuel for use in generating electricity. The proceeding shall be conducted as a contested case pursuant to chapter 17A. Under procedures established by the commerce commission, the utility shall file information as the commission deems appropriate. If a utility is not taking all reasonable actions to minimize

its fuel costs, the commission shall not allow the utility to recover from its customers fuel costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

Contemporaneously with the annual review proceeding, the commission shall analyze the electric generating capacity needs for the next decade by the public utility's customers, under procedures established by the commission. The utility shall file information regarding future capacity needs of its customers as deemed appropriate by the commission.

Sec. 27. Section 476.8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Every public utility is required to furnish reasonably adequate service and facilities. "Reasonably adequate service and facilities" for public utilities furnishing gas or electricity includes programs for customers to encourage the use of energy conservation and renewable energy sources. The charge made by any public utility for any heat, light, gas, energy conservation and renewable energy programs, water or power produced, transmitted, delivered or furnished, or communications services, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In determining reasonable and just rates, the commission shall consider all factors relating to value and shall not be bound by rate base decisions or rulings made prior to the adoption of this chapter.

Sec. 28. Section 476.10, unnumbered paragraphs 1 and 2, Code 1983, are amended to read as follows:

Whenever when the commission ~~shall deem~~ 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, ~~such~~ or to review the operations or annual reports of the public utility under section 476.31 or 476.32,

the public utility shall pay the expense reasonably attributable to ~~such~~ the investigation, appraisal, ~~or~~ service, or review. The commission shall ascertain ~~such~~ the expenses including certified expenses incurred by the office of consumer advocate directly chargeable to the public utility under section 475A.6, and shall render a bill therefor, by certified mail, to the public utility, either at the conclusion of the investigation, appraisal, ~~or~~ services, or review, or from time to time during its progress, which bill shall ~~constitute~~ is notice of said the assessment and shall demand payment thereof. 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.

The commission shall ascertain the total of its expenditures during each year which are reasonably attributable to the performance of its duties under this chapter and. The commission shall add to this total the certified expenses of the consumer advocate as provided under section 475A.6 and shall deduct therefrom all amounts chargeable directly to any specific utility under any law. The remainder shall be assessed by the commission to the several public utilities in proportion to their respective gross operating revenues during the last calendar year derived from intrastate public utility operations and shall be assessed within ninety days of the close of the calendar year based upon an estimate of the commission expenditures for the first half of the commission's fiscal year and again within ninety days of the close of the fiscal year as necessary to conform the amount of the assessment to the requirements of this section. Public utilities exempt from rate regulation under this chapter shall not be assessed for remainder expenses incurred during review of rate-regulated public utilities under section 476.31 or 476.32, but such remainder expenses shall be assessed proportionally as provided in this section among only the rate-regulated public utilities. The total amount which may

be assessed to the public utilities under authority of this paragraph shall not exceed ~~one-tenth~~ two-tenths of one percent of the total gross operating revenues of ~~such~~ the public utilities during ~~such~~ the calendar year derived from intrastate public utility operations. However, the total amount which may be assessed in any one calendar year to a public utility under this section shall not exceed three-tenths of one percent of the utility's total gross operating revenues derived from intrastate public utility operation in the last preceding year. For public utilities exempted from rate regulation under this chapter, the assessments under this paragraph shall be computed at one-half the rate used in computing the assessment for other utilities.

Sec. 29. Section 476.13, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

476.13 JUDICIAL REVIEW.

1. Notwithstanding the Iowa administrative procedure Act, the district court for Polk county or for the county in which a public utility maintains its principal place of business has exclusive venue for the judicial review under chapter 17A of actions of the commission pursuant to rate-regulatory powers over that public utility.

2. Upon the filing of a petition for judicial review in an action referred to in subsection 1, the clerk of the district court shall notify the chief justice of the supreme court for purposes of assignment of a district judge under section 602.23. The judicial review proceeding shall be heard by the district judge appointed by the supreme court under section 602.23, but in the county of venue under subsection 1.

3. Notwithstanding the Iowa administrative procedure Act, if a public utility seeks judicial review of an order approving rates for the public utility, the level of rates that may be collected, under bond and subject to refund, while the appeal is pending shall be limited to the level of the temporary rates set by the commission, or the level of the final rates set by the commission, whichever is greater.

During the period the judicial review proceeding is pending, the commission shall retain jurisdiction to determine the rate of interest to be paid on any refunds eventually required on rates collected during judicial review.

Sec. 30. NEW SECTION. 476.18 IMPERMISSIBLE CHARGES.

1. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of lobbying.

2. Legal costs and attorney fees incurred by a public utility subject to rate regulation in an appeal in state or federal court involving the validity of any action of the commission shall not be included either directly or indirectly in the public utility's charges or rates to customers except to the extent that recovery of legal costs and attorney fees is allowed by the commission. The commission shall allow a public utility to recover reasonable legal costs and attorney fees incurred in the appeal. The commission may consider the degree of success of the legal arguments of the public utility in determining the reasonable legal costs and attorney fees to be allowed.

3. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of advertising other than advertising which is required by the commerce commission or by other state or federal regulation. However, this subsection does not apply to a utility's advertising which is deemed by the commission to be necessary for the utility's customers and which is approved by the commission.

4. This section does not apply to a rural electric cooperative.

Sec. 31. Section 476.20, Code 1983, is amended to read as follows:

476.20 CUSTOMER PAYMENTS, ABANDONMENT AND TERMINATION OF SERVICE--DEPOSITS.

1. ~~No~~ A utility shall not, except in cases of emergency, discontinue, reduce, or impair service to a community, or a part of a community, except for nonpayment of account or

violation of rules and regulations, unless and until ~~there shall have been first permission to do so~~ is obtained from the commission ~~permission-to-do-so~~.

2. The commerce commission shall establish rules requiring a regulated public utility furnishing gas or electricity to include in the utility's notice of pending disconnection of service a written statement advising the customer that the customer may be eligible to participate in the low income home energy assistance program or weatherization assistance program administered by the energy policy council. The written statement shall also state that the customer is advised to contact the public utility to settle any of the customer's complaints with the public utility, but if a complaint is not settled to the customer's satisfaction, the customer may file the complaint with the commerce commission. The written statement shall include the address and phone number of the commerce commission. The commerce commission shall establish rules requiring that the written notice contain such additional information as it deems necessary and appropriate.

3. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to disconnection of service.

4. A public utility which violates a provision of this section relating to the disconnection of service or which violates a rule of the commerce commission relating to disconnection of service is subject to civil penalties imposed by the commission under section 476.35.

5. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to deposits which may be required by the public utility for the initiation or reinstatement of service. The deposit for a residence which has previously received service shall not be greater than the highest billing of service for one month to the residence in the previous twelve-month period. This subsection does not prohibit a public utility from requiring payment of a

customer's past due account with the utility prior to reinstatement of service.

Sec. 32. Section 476.33, subsection 1, Code 1983, is amended to read as follows:

1. The commission shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ~~one-hundred-eighty-days~~ ten months after the date of the filing of a complaint or petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or commission staff for good cause shown.

Sec. 33. Section 476.33, subsection 3, Code 1983, is amended to read as follows:

3. If in a proceeding under section 476.6 additional time is granted to a party or commission staff under subsection 1, the commission may extend the ten-month period during which a utility is prohibited from placing its entire rate increase request into effect under section 476.6, but an extension shall not exceed ~~one-half-of~~ the aggregate amount of all additional time granted under subsection 1.

Sec. 34. NEW SECTION. 476.35 CIVIL PENALTY. A public utility which willfully violates a provision of this chapter, a rule adopted by the commission, or a provision of an order lawfully issued by the commission, is subject to a civil penalty, which may be levied by the commission, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the commission to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income

home energy assistance program and the weatherization assistance program administered by the energy policy council. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Sec. 35. NEW SECTION. 476.36 MANAGEMENT EFFICIENCY. It is the policy of this state that a public utility shall operate in an efficient manner. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in an inefficient manner, or is not exercising ordinary, prudent management, or in comparison with other utilities in the state the commission determines that the utility is performing in a less beneficial manner than other utilities, the commission may reduce the level of profit or adjust the revenue requirement for the utility to the extent the commission believes appropriate to provide incentives to the utility to correct its inefficient operation. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in such an extraordinarily efficient manner that tangible financial benefits result to the ratepayer, the commission may increase the level of profit or adjust the revenue requirement for the utility. The commission shall adopt rules for determining the level of profit or the revenue requirement adjustment that would be appropriate.

The commission shall also adopt rules establishing a methodology for an analysis of a utility's management efficiency.

Sec. 36. NEW SECTION. 476.37 EXCESS CAPACITY. It is the intent of the general assembly of the state of Iowa to provide for the development of a fair resolution concerning the allocation of costs associated with excess electric generating capacity. It is the policy of this state that it is in the public interest that public utilities subject

to rate regulation, at a minimum, be prohibited from including either directly or indirectly in their charges or rates to customers the return on common equity associated with excess electric generating capacity, however this shall not apply to rural electric cooperatives. The commerce commission shall not allow a return on common equity on that portion of a public utility's electric generating capacity which is determined to be excess electric generating capacity. Excess electric generating capacity is that portion of the public utility's electric generating capacity which exceeds the amount reasonably necessary to provide adequate and reliable service as determined by the commission.

Electric generating capacity sold pursuant to the terms of contracts entered into between June 28, 1978 and June 30, 1978 for power delivered on or before May 1, 1983 to May 1, 1993, shall not be included in the determination of excess electric generating capacity.

Electric generating capacity purchased from qualifying cogeneration and small power production facilities shall not be included in the determination of excess electric generating capacity.

Sec. 37. NEW SECTION. 476.38 DELAYED PAYMENT CHARGES. A public utility shall not apply delayed payment charges on a customer's account if the scheduled payment was made by the customer within twenty days from the date the billing was sent to the customer. Delayed payment charges on a customer's account shall not exceed one and one-half percent per month of the past-due amount.

Sec. 38. NEW SECTION. 476.39 COMPLAINT OF ANTITRUST ACTIVITIES. An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the commerce commission if, upon complaint by an Iowa electric or gas utility, the commission finds activities which create or maintain a

situation inconsistent with antitrust laws and the policies which underlie them. The commission may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

Sec. 39. Section 476A.6, Code 1983, is amended to read as follows:

476A.6 DECISION--CRITERIA. The commission shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the commission finds that all of the following:

1. The services and operations resulting from the construction of the facility are required by the present or future public convenience, use and necessity; ~~and,~~
2. The applicant is willing to perform such services and construct, maintain, and operate the facility pursuant to the provisions of the certificate and this chapter; ~~and,~~
3. The construction, maintenance, and operation of the facility will cause minimum adverse land use, environmental, and aesthetic impact and are consonant with reasonable utilization of air, land and water resources for beneficial purposes considering available technology and the economics of available alternatives.
4. The applicant has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:
 - a. Establishment of load management and interruptible service programs, where cost effective.

b. Development of wheeling agreements and other energy sharing agreements, where cost effective with utilities that have available capacity.

c. Establishment of cost-effective energy conservation and renewable energy services and programs.

d. Compliance with commission rules on energy management procedures.

5. The applicant has considered all feasible alternatives to the proposed facility including nongeneration alternatives; has ranked those alternatives by cost; has implemented the least-cost alternatives first; and the facility in the application is necessary notwithstanding the implementation of these alternatives.

Sec. 40. NEW SECTION. 476A.15 ENERGY SHARING AGREEMENTS. Before a certificate is issued under section 476A.6, the public utility shall demonstrate to the commission that the utility has considered sources for long term electric supply from either purchase of electricity or investment in facilities owned by other utilities.

Sec. 41. Section 478.7, Code 1983, is amended to read as follows:

478.7 FORM OF FRANCHISE. The commerce general counsel for the Iowa state commerce commission shall prepare a blank form of franchise ~~for such purposes~~, which shall provide space for a general description of the improvement authorized thereby, the name and address of the person or corporation to whom granted, the general terms and conditions upon which ~~it~~ the franchise is granted, and ~~such~~ other things as may be necessary. This blank form shall be filled out and signed by the ~~chairman~~ chairperson of the commission which grants the franchise, and the official seal shall be attached. ~~Such~~ The franchise ~~shall be~~ is subject to ~~such~~ regulations and restrictions as the general assembly ~~from time to time may prescribe~~ prescribes, and to ~~such~~ rules, not inconsistent with statutes, as the Iowa state commerce commission may establish ~~from time to time~~.

Sec. 42. Section 478.29, Code 1983, is amended to read as follows:

478.29 PENALTY--ENFORCEMENT. ~~Any A person or corporation who shall string strings or maintain-any maintains~~ wire across any a railroad track in this state at a different height or in a different manner from that prescribed by the Iowa state commerce commission shall forfeit and pay to the state ~~the~~ sum of one hundred dollars for each separate period of ten days during which ~~such~~ the wire is so maintained. ~~Such~~ The forfeiture shall be recovered in a civil action in the name of the state by the ~~commerce~~ general counsel for the Iowa state commerce commission, or by the county attorney of the county in which ~~such~~ the wire is situated, at the request of the state commerce commission.

Sec. 43. Chapter 602, Code 1983, is amended by adding the following new section as section 602.23:

NEW SECTION. 602.23 PUBLIC UTILITY RATE CASES.

1. The supreme court shall designate at least one district judge in each judicial district in the state who shall be subject to assignment by the chief justice to preside as necessary in this state in judicial review proceedings referred to in section 476.13, subsection 1. Designations shall be made on the basis of qualifications and experience, and shall be for the purpose of developing a pool of district judges who will have the knowledge and experience needed to expedite judicial review proceedings in those cases.

2. Upon receipt of notice from a district court clerk under section 476.13, subsection 2, the chief justice of the supreme court shall assign one of the district judges selected under subsection 1 to preside at the judicial review proceeding under section 476.13.

Sec. 44. 1981 Iowa Acts, chapter 9, section 7, subsections 6 and 7, are amended to read as follows:

6. The following are range four positions: superintendent of banking, director of the Iowa beer and liquor control department, ~~chairperson-and-members-of-the-Iowa-state-commerce commission~~, director of the state conservation commission.

director of the Iowa development commission, director of the educational radio and television facility board, director of the Iowa department of job service, director of the department of general services, commissioner of health, director of the office for planning and programming, and commissioner of public safety.

7. The following are range five positions: state comptroller, superintendent of public instruction, executive secretary of the state board of regents, chairperson and members of the Iowa state commerce commission, consumer advocate, director of the department of revenue, commissioner of social services, and director of the department of transportation.

Sec. 45. The legislative council shall authorize an interim study by a joint subcommittee composed of members of the senate committee on commerce and the house committee on small business and commerce to study the areas of utility rate regulation affected by the passage of House File 312. The study committee shall report its findings and recommendations with legislative bill drafts required to implement its recommendations, to the respective standing committees, the legislative council, and the general assembly.

Sec. 46. In order to implement sections of this Act creating the office of consumer advocate and the general counsel for the Iowa state commerce commission, the commerce counsel appointed by the Iowa state commerce commission in 1983 and approved by the senate is the consumer advocate commencing July 1, 1983 and the consumer advocate's term shall expire on April 30, 1985. If a vacancy occurs in the office of the consumer advocate after July 1, 1983, the governor shall appoint the consumer advocate to serve the remaining unexpired term subject to sections 475.1 and 475.2. The commerce counsel's assistants employed by the counsel on June 30, 1983, are the assistants to the consumer advocate commencing July 1, 1983. The office space, supplies, equipment and support staff provided to the office of commerce counsel on June 30, 1983, are the same space, supplies, equipment

and support staff provided to the office of consumer advocate on July 1, 1983.

Sec. 47. In order to implement section 475A.7 created under this Act, the governor shall appoint four members to the consumer advisory panel whose terms shall commence upon appointment and shall expire April 30, 1985. The governor shall also appoint five members to the consumer advisory panel whose terms shall commence upon appointment and shall expire April 30, 1987.

Sec. 48. On July 1, 1983, the participation of the office of commerce counsel in proceedings pending before the commission shall end and the office of consumer advocate shall continue to participate in place of the office of commerce counsel. All rights of participation of the office of commerce counsel shall be transferred to the office of consumer advocate.

Sec. 49. On July 1, 1983, for all pending proceedings before the commission, the general counsel of the commission shall assume the duties of rendering legal advice to the commission. The general counsel shall represent the commission in all court appeals pending July 1, 1983, with assistance from the consumer advocate if requested.

Sec. 50. On or after the effective date of this Act, the Iowa state commerce commission shall not approve an application for a new or changed rate, charge, schedule, or regulation filed with the commerce commission by a public utility furnishing electricity which includes as part of the rate base the costs of an electrical generating facility which does not go on line until after the effective date of this Act, unless the new or changed rate, charge, schedule, or regulation complies with section 476.37 created under this Act.

Sec. 51. Except as provided under section 50 of this Act, this Act applies to complaints or petitions filed with the Iowa state commerce commission under section 476.3, and to applications for new or changed rates, charges, schedules, or regulations filed with the Iowa state commerce commission

under section 476.6, which are filed on or after the effective date of this Act.

Sec. 52. Chapter 475, Code 1983, is repealed.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 312, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 17, 1983

TERRY E. BRANSTAD
Governor

H.F. 312