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Place On Calendar

HOUSE FILE **2530**
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HF 740)

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

A BILL FOR

1 An Act relating to the restructuring of the electric utility
2 industry by providing for consumer choice for certain electric
3 services, making appropriations, providing penalties, and
4 providing an effective date.

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

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HF 2530

1 Section 1. NEW SECTION. 476B.1 TITLE.

2 This chapter shall be known and may be cited as the
3 "Electric Choice and Competition Act".

4 Sec. 2. NEW SECTION. 476B.2 LEGISLATIVE FINDINGS.

5 The general assembly finds and declares all of the
6 following:

7 1. Electricity is essential and vital to the health and
8 well-being of all citizens of this state.

9 2. The citizens of the state are dependent upon the
10 availability of reliable, low-cost electricity, which is
11 essential to sustained economic development and the continued
12 quality of life now enjoyed by Iowans.

13 3. Advances in electric generation technology and federal
14 initiatives to introduce competition into the wholesale
15 electric market favor and compliment the introduction of
16 competition into the retail electric market in Iowa.

17 4. Restructuring the electric industry to provide greater
18 competition and more efficient regulation is a nationwide
19 trend, and Iowa must pursue restructuring and increased
20 consumer choice to introduce competitive incentives to provide
21 electric service at fair and reasonable prices to the
22 businesses and citizens of this state.

23 5. It is in the public interest to allow and encourage the
24 development of competitive markets for electric generation and
25 other electric services in both rural and urban Iowa because a
26 competitive market may be more effective than regulation in
27 determining the efficient price for these services and in
28 promoting efficiency in operations.

29 6. A competitive electric market holds the potential for
30 end-use consumers of electricity to have access to reliable
31 and safe competitive electric services at fair and reasonable
32 prices while providing for competitive choice, more effective
33 use of resources, and an improved quality and variety of
34 competitive electric services.

35 7. A competitive electric industry shall have adequate and

1 reasonable safeguards to protect the public interest.

2 Residential and small commercial consumer service safeguards
3 and protections shall be maintained or improved.

4 8. Encouraging the development of a competitive market can
5 be accomplished in a manner that protects the environment.

6 9. A competitive market encourages economic development by
7 permitting competitive markets to determine the most efficient
8 use of resources.

9 10. The needs of Iowa's low-income consumers of electric
10 services, including the need for economic energy efficiency
11 improvements and programs, can be met while restructuring the
12 electric industry.

13 11. Recognizing that the full costs of generation, fuel,
14 power, and energy owned or purchased by an incumbent provider
15 or consumer-owned utility, to the extent included in regulated
16 rates, have been determined to be just, reasonable, prudent,
17 and used and useful, incumbent providers and consumer-owned
18 utilities should be afforded an opportunity to prepare for the
19 transition from regulation to competition and afforded an
20 opportunity to recover a reasonable amount of the costs of the
21 transition.

22 12. Consumer-owned utilities can participate successfully
23 in a competitive electric environment by retaining their local
24 control over their own governance, including setting rates,
25 terms, and conditions for products and services.

26 13. Facilities and personnel needed to maintain the safety
27 of the electric supply, as well as all other competitive and
28 regulated electric services, must remain available and
29 operational.

30 14. The establishment of competitive electric markets
31 should be undertaken in a manner that mitigates any
32 detrimental effect on the safety and reliability of the
33 electric system and on utility employees.

34 15. Delivery services should remain regulated. In
35 recognition of their exclusive assigned service areas,

1 delivery service providers should have an obligation to extend
2 the delivery grid to all consumers within the assigned service
3 area. Standards of conduct for delivery service providers and
4 provisions regarding transactions between delivery service
5 providers and their affiliates shall be implemented.

6 16. Full and fair competition in the markets for
7 generation and electric services other than delivery service
8 should be encouraged and promoted. It is not the intent of
9 this chapter to displace applicable antitrust and unfair
10 competition laws and the enforcement of the same with respect
11 to competitive electric services or to weaken regulation with
12 respect to delivery services subject to the jurisdiction of
13 the Iowa utilities board.

14 Sec. 3. NEW SECTION. 476B.3 DEFINITIONS.

15 As used in this chapter, unless the context otherwise
16 requires:

17 1. "Affiliate" means a person, other than a municipal
18 utility or other political subdivision, that directly, or
19 indirectly, through one or more intermediaries, controls, is
20 controlled by, or is under common control with another person.

21 2. "Aggregation" means the process of organizing end-use
22 consumers into a group for the acquisition of competitive
23 electric services.

24 3. "Aggregator" means a person that organizes end-use
25 consumers into a group and arranges for the acquisition of
26 competitive electric services from a competitive electric
27 service provider without taking title to those services.

28 4. "Alliance" means a group of electric cooperatives or
29 their consumer-owned affiliates.

30 5. "Ancillary services" means those services that are
31 necessary to support the transmission of demand and energy
32 from generation to the point of usage while maintaining
33 reliable operation of the delivery system in accordance with
34 good operating practices. Ancillary services, as defined by
35 the federal energy regulatory commission as of the effective

1 date of this chapter, include all of the following:

2 a. Scheduling, system control, and dispatch.

3 b. Reactive supply and voltage control from generation
4 sources.

5 c. Regulation and frequency response.

6 d. Energy imbalance.

7 e. Operating reserve -- spinning.

8 f. Operating reserve -- supplemental.

9 6. "Assigned service area" means a geographic area
10 designated by the board within which a designated person has
11 the exclusive right to provide bundled electric services prior
12 to October 1, 2002, or unbundled delivery services on or after
13 October 1, 2002.

14 7. "Assignee" means a person, other than an incumbent
15 provider or grantee, to which an interest in intangible
16 transition property is assigned, sold, or transferred.

17 8. "Balancing" means the responsibility of a control area
18 operator to make necessary changes in the output of the
19 sources of generation under its control to maintain the
20 required voltage and frequency of the grid under its control.

21 9. "Basic energy service" means power supply services
22 provided by a consumer-owned utility to an end-use consumer
23 who has not chosen a competitive electric service provider or
24 is otherwise without a competitive electric service provider.

25 10. "Bilateral contract" means a contract between two
26 persons.

27 11. "Board" means the Iowa utilities board within the
28 department of commerce created in section 474.1.

29 12. "Board's website" means an electronic posting site
30 maintained or approved by the board.

31 13. "Bundled electric service" means combining generation,
32 transmission, distribution, and other electric services, and
33 pricing the combination as an undifferentiated package rather
34 than as individual services.

35 14. "Business unit" means a division or other economic

1 unit of a person and is considered to be an affiliate of other
2 business units of the person.

3 15. "Capacity" means a measurement of the electrical
4 output of a generating plant usually expressed in kilowatts or
5 megawatts.

6 16. "Comparable service" means regulated services provided
7 to any person on the same or functionally equivalent basis,
8 and under the same or functionally equivalent terms and
9 conditions, as the regulated services provided by a delivery
10 service provider to itself or its affiliates.

11 17. "Competitive electric services" means competitive
12 power supply services sold at retail in this state commencing
13 on or after October 1, 2002, in the assigned service areas of
14 delivery service providers. Electric metering services,
15 electric meter information gathering services, and electric
16 billing services sold at retail in the assigned service areas
17 of electric companies by competitive electric service
18 providers commencing on or after October 1, 2002, and other
19 services of electric companies determined by the board after
20 December 31, 2003, to be competitive pursuant to this chapter
21 are competitive electric services. Electric metering
22 services, electric meter information gathering services, and
23 electric billing services sold at retail in the assigned
24 service area of a consumer-owned utility by a competitive
25 electric service provider shall not be regulated by the board
26 or local governing body except as provided in this chapter.
27 Services provided pursuant to section 476B.8 are regulated
28 electric services and not competitive electric services.

29 18. "Competitive electric service provider" means a person
30 that provides or offers to provide competitive electric
31 services in this state and includes an aggregator.

32 19. "Competitive power supply services" means demand,
33 energy, and ancillary services sold at retail in this state,
34 excluding scheduling, system control, load profiling and
35 financial settlement when related to distribution, whether

1 subject to the regulation of the board or a local governing
2 body.

3 20. "Consumer-owned utility" means a municipal utility or
4 electric cooperative.

5 21. "Control" means the possession, direct or indirect, of
6 the power to direct or cause the direction of the management
7 and policies of a person through ownership, by contract, or
8 otherwise.

9 22. "Control area" means an electric delivery system or
10 combination of electric delivery systems to which a common
11 automatic control scheme is applied in order to do the
12 following:

13 a. Match, at all times, the sum of the power output of the
14 generators within the electric delivery systems and demand and
15 energy purchased from entities outside the electric delivery
16 systems with the load in the electric delivery systems.

17 b. Maintain, within the limits of good operating practice,
18 scheduled interchange with other control areas.

19 c. Maintain the frequency of the electric delivery systems
20 within reasonable limits in accordance with good operating
21 practices.

22 d. Arrange for, provide, or verify that sufficient
23 generating capacity or the right to sufficient generating
24 capacity is available to maintain operating reserves in
25 accordance with good operating practice.

26 23. "Control area operator" means a person operating a
27 control area.

28 24. "Delivery service" means the transportation of
29 electricity from one point on a delivery service provider's
30 system to another point on that system in this state.
31 Delivery service includes transmission service and
32 distribution service.

33 25. "Delivery service provider" means a person that
34 provides delivery service in this state but does not include a
35 licensed competitive electric service provider that purchases

1 delivery service from an electric company or consumer-owned
2 utility and resells the delivery service at retail to an end-
3 use consumer. A delivery service provider is deemed to be a
4 public utility for all purposes under the Code, except where
5 otherwise expressly provided to the contrary.

6 26. "Demand" means electric power measured in kilowatts or
7 megawatts.

8 27. "Distribution service" means that portion of delivery
9 service provided in this state that is not subject to the
10 exclusive jurisdiction of the federal energy regulatory
11 commission, or for consumer-owned utilities is not subject to
12 section 211 of the federal Power Act. If a provider of
13 distribution service is an electric company that is also a
14 control area operator, the control area operations which are
15 not subject to the exclusive jurisdiction of the federal
16 energy regulatory commission, if any, shall be considered to
17 be a part of distribution service and subject to the
18 jurisdiction of the board.

19 28. "Electric company" means a delivery service provider,
20 either on a bundled basis prior to October 1, 2002, or on an
21 unbundled basis on or after October 1, 2002, but does not
22 include a consumer-owned utility, municipal electric
23 cooperative association, or governmental subdivision.

24 29. "Electric cooperative" means a person formed or
25 organized as a cooperative under the laws of this state or
26 elsewhere, that engages in any of the following activities:
27 generation of electricity, transmission of electricity,
28 distribution of electricity, sale of electricity, control area
29 operator services, or performance of ancillary services as
30 designated by the federal energy regulatory commission. An
31 electric cooperative includes a consumer-owned affiliate of an
32 electric cooperative, an alliance, and an incorporated city
33 utility provider.

34 30. "Electric power agency" means a political subdivision
35 that acquires or finances electric facilities pursuant to

1 chapter 28E or 28F.

2 31. "Eligible rates" means those rates specified in an
3 application for a transitional funding order from which
4 instrument funding charges may be deducted and collected.
5 Eligible rates may include any of the following: bundled
6 electric rates, unbundled distribution service rates, other
7 unbundled rates, standard offer service rates, universal
8 service rates, transitional service rates, basic energy
9 service rates, transition charges, any other charges
10 authorized under section 476B.15, or any other rates for
11 tariffed services.

12 32. "End-use consumer" means a person that prior to having
13 the option to choose competitive electric service, purchases
14 for use in this state bundled electric service or that
15 participates in an electric retail access pilot project
16 approved by the board or local governing body. On and after
17 the date a person has the option to choose competitive
18 electric service, "end-use consumer" means a person that
19 purchases, directly or through a competitive electric service
20 provider, for use in this state, standard offer service,
21 transitional service, universal service, basic energy service,
22 or unbundled distribution service sold at retail.

23 33. "Energy" means electric power measured in kilowatt-
24 hours (kWh).

25 34. "Good operating practices" means any of the practices,
26 methods, and acts engaged in or approved by a significant
27 portion of the electric industry during a relevant time
28 period, or any of the practices, methods, or acts which, in
29 the exercise of reasonable judgment in light of the facts
30 known at the time the decision was made, could reasonably have
31 been expected to accomplish the desired result at reasonable
32 cost consistent with good business practices, reliability,
33 safety, and expedition. "Good operating practices" is not
34 limited to the optimum practice, method, or act, to the
35 exclusion of all others, but rather to acceptable practices,

1 methods, or acts consistently adhered to and generally
2 accepted in the region.

3 35. "Grantee" means a person, other than an incumbent
4 provider or an assignee which acquires its interest from an
5 incumbent provider, to whom or for whose benefit the board
6 creates, establishes, and grants rights in, to, or under
7 intangible transition property.

8 36. "Grid" means the interconnected system used for
9 delivering electricity within this state.

10 37. "Holder" means a holder of transitional funding
11 instruments, including a trustee, collateral agent, nominee,
12 or other such person acting for the benefit of such a holder.

13 38. "Incorporated city utility provider" means a
14 corporation, existing on the effective date of this chapter,
15 with assets worth one million dollars or more, which has one
16 or more platted villages located within the territorial limits
17 of the tract of land which it owns, and which provides
18 electricity to ten thousand or fewer end-use consumers.

19 39. "Incumbent provider" means a person, or the person's
20 successor or assign, that provided bundled electric service
21 within an assigned service area on the effective date of this
22 chapter.

23 40. "Instrument funding charge" means a nonbypassable
24 charge authorized in a transitional funding order to be
25 applied and invoiced to each responsible consumer, a class of
26 responsible consumers of an incumbent provider, or other
27 person or group of persons obligated to pay eligible rates
28 from which the instrument funding charge has been deducted and
29 stated separately pursuant to section 476B.17, subsection 4,
30 paragraph "d".

31 41. "Intangible transition property" means the right,
32 title, and interest of an incumbent provider, grantee, or
33 assignee arising pursuant to a transitional funding order to
34 impose and receive instrument funding charges, and all related
35 revenues, collections, claims, payments, money, or proceeds of

1 the transitional funding order, including all right, title,
2 and interest of an incumbent provider, grantee, or assignee
3 in, to, under, and pursuant to such transitional funding
4 order, whether or not such intangible transition property is
5 characterized on the books of the incumbent provider as a
6 regulatory asset, a cost incurred by the incumbent provider,
7 or otherwise. Intangible transition property arises and
8 exists only to the extent that instrument funding charges are
9 authorized in a transitional funding order that becomes
10 effective in accordance with this chapter. Such intangible
11 transition property shall continue to exist to the extent
12 provided in the transitional funding order.

13 42. "Interval metering" means metering that records end-
14 use consumer usage on the same time frame as pricing changes
15 in the market, typically hourly or more frequently.

16 43. "Issuer" means a person, other than an incumbent
17 provider, which has issued transitional funding instruments.

18 44. "Load" means the amount of demand or energy delivered
19 to or required by an end-use consumer or consumers.

20 45. "Load profiling" means the process of estimating
21 rather than directly measuring the demand and energy
22 consumption of an end-use consumer during a period of time.

23 46. "Local governing body" means the board of directors of
24 an electric cooperative as provided in section 499.36, the
25 utility board of a municipal electric utility as defined in
26 section 388.1, or the council of a city, as defined in section
27 362.2, whose municipal electric utility is not operated by a
28 utility board.

29 47. "Municipal electric cooperative association" means an
30 electric cooperative, the membership of which is composed
31 entirely of municipal utilities.

32 48. "Municipal utility" means all or part of an electric
33 light and power plant system which is owned by a city,
34 including all land, easements, rights of way, fixtures,
35 equipment, accessories, improvement, appurtenances, and other

1 property necessary or useful for the operation of a municipal
2 electric utility. Municipal utility includes a combined
3 utility system, as defined in section 384.80, in which at
4 least one of the components of the combined utility system is
5 a municipal electric utility.

6 49. "Nonbypassable charge" means a charge assessed by a
7 delivery service provider to each end-use consumer located
8 within the delivery service provider's assigned service area
9 or to a competitive electric service provider serving that
10 end-use consumer, regardless of whether the consumer purchases
11 delivery service from that delivery service provider.

12 50. "Nuclear decommissioning" means a series of activities
13 undertaken at the time a nuclear power plant is permanently
14 retired from service to ensure that the final entombment,
15 decontamination, dismantlement, removal, and disposal of the
16 structures, systems, and components of the power plant,
17 including the plant site, and any radioactive components and
18 materials associated with the plant, is accomplished in
19 compliance with all applicable state and federal laws, and to
20 ensure that such final disposition does not pose any material
21 threat to the public health and safety.

22 51. "Nuclear decommissioning costs" means all reasonable
23 costs and expenses that are expected to be incurred or are
24 actually incurred in connection with nuclear decommissioning
25 including all costs and expenses to prepare a unit of a plant
26 for decommissioning, such as the cost of moving spent fuel
27 off-site, interim spent fuel storage costs, and interim costs
28 incurred pursuant to a SAFSTOR decommissioning phase as
29 approved and defined by the nuclear regulatory commission, and
30 all costs and expenses after the actual decommissioning
31 occurs, such as physical security and radiation monitoring
32 expenses. "Nuclear decommissioning costs" also includes
33 reasonable costs and expenses to return the plant site to a
34 condition suitable for public use.

35 52. "Person" means person as defined in section 4.1.

1 53. "Renewable energy" means electric energy measured in
2 kilowatt-hours produced from a renewable energy facility.

3 54. "Renewable energy facility" means an electric
4 generating unit whose energy input is derived, in whole or in
5 part, from solar, wind, geothermal, landfill gas, refuse-
6 derived fuel, agricultural crops or residues, wood, or other
7 renewable energy sources as determined by the board.
8 "Renewable energy facility" also includes a hydroelectric
9 generating unit with a nameplate capacity, or a contract for
10 hydroelectric capacity, no greater than one hundred megawatts.

11 55. "Responsible consumer" means all of the following:

12 a. Prior to October 1, 2002, a person who receives bundled
13 electric service pursuant to a tariff or contract.

14 b. On or after October 1, 2002, a person responsible for
15 payment for distribution services pursuant to a tariff or
16 contract.

17 c. At any time, any other person responsible for payment
18 of eligible rates pursuant to a tariff or contract as
19 specified by an incumbent provider in its application for a
20 transitional funding order.

21 56. "Scheduling" means the process by which a person
22 notifies the control area operator of the amounts of demand
23 and energy it intends to provide to the grid for a specified
24 period of time, and the source and destination of that demand
25 and energy.

26 57. "Tariff" means a document containing rates, charges,
27 schedules, regulations, terms, or conditions of regulated
28 electric service, filed or posted with the appropriate
29 regulatory authority.

30 58. "Transition charges" means nonbypassable charges to
31 end-use consumers, competitive electric service providers, or
32 delivery service providers that are consumer-owned utilities,
33 that are designed to compensate an incumbent provider or
34 electric cooperative for all or a portion of the provider's or
35 cooperative's transition costs.

1 59. "Transition costs" means both of the following:

2 a. Costs and reduced revenues as calculated pursuant to
3 section 476B.15 incurred by an incumbent provider as a result
4 of changing from electric regulation under chapter 476 to a
5 competitive electric industry pursuant to this chapter.

6 b. Costs and reduced revenues as calculated by an electric
7 cooperative pursuant to section 476B.15, subsection 5, as a
8 result of changing from electric regulation under chapter 476
9 to a competitive electric industry pursuant to this chapter.

10 60. "Transitional funding instruments" means any
11 instruments, pass-through certificates, notes, debentures,
12 certificates of participation, bonds, certificates of
13 beneficial interest, or other evidences of indebtedness or
14 instruments evidencing a beneficial interest which are issued
15 by or on behalf of an incumbent provider or issuer pursuant to
16 a transitional funding order; which are issued pursuant to an
17 executed indenture, pooling agreement, security agreement, or
18 other similar agreement of an incumbent provider or issuer
19 creating a security interest, ownership interest, or other
20 beneficial interest in intangible transition property; and the
21 proceeds of which are to be used for the purposes set forth in
22 section 476B.17, subsection 3, paragraph "c".

23 61. "Transitional funding order" means an order of the
24 board issued under section 476B.17 creating and establishing
25 intangible transition property and the rights of any person in
26 such property, and approving the sale, pledge, assignment, or
27 other transfer of intangible transition property, the issuance
28 of transitional funding instruments, and the imposition and
29 collection of instrument funding charges.

30 62. "Transmission service" means the portion of delivery
31 service that is subject to the exclusive jurisdiction of the
32 federal energy regulatory commission or, for consumer-owned
33 utilities, the portion of delivery service subject to section
34 211 of the federal Power Act.

35 63. "Unbundled rates" means separate charges for

1 components of regulated electric services such as distribution
2 services.

3 64. "Unbundled services" means distribution service and
4 other services specified in section 476B.4.

5 Sec. 4. NEW SECTION. 476B.4 UNBUNDLING OF RATES AND
6 SERVICES.

7 1. ELECTRIC COMPANIES. On or before October 1, 2000, an
8 incumbent provider that is an electric company shall file with
9 the board unbundled rates as provided in this subsection. At
10 a minimum, unbundled rates for an electric company shall
11 reflect separate charges for distribution service; types of
12 delivery service metering; supplying competitive electric
13 service providers with meter information, if applicable;
14 delivery service billings issued to competitive electric
15 service providers; delivery service billings issued to end-use
16 consumers; connecting to the delivery system those meters not
17 owned by the delivery service provider; processing a change in
18 an end-use consumer's competitive electric service provider;
19 transition charges pursuant to section 476B.15, if applicable;
20 and nuclear decommissioning cost recovery pursuant to section
21 476B.16, if applicable. To the extent it elects to perform
22 billing services for competitive electric service providers
23 through its regulated delivery service function under section
24 476B.12 or elects to perform meter reading or meter
25 information gathering through its regulated delivery service
26 function under section 476B.11, an electric company shall also
27 propose unbundled rates for such services that shall apply to
28 all competitive electric service providers in a
29 nondiscriminatory manner. An electric company may propose
30 other regulated, unbundled rates and charges associated with
31 delivery service, as appropriate. Terms and conditions
32 associated with all unbundled rates and charges shall be filed
33 with the board at the time of filing unbundled rates. The
34 board shall treat the filing as a submission under section
35 476.6, except that subsection 5 of that section shall not

1 apply.

2 The initial unbundled rates for the services specified in
3 this subsection shall be based upon cost of service, including
4 current cost of capital. The electric company shall submit
5 written evidence with its initial unbundled rate filing to
6 support its proposed unbundled rates and charges, including
7 direct and allocated costs associated with the levels of the
8 unbundled rates and charges. The method used to determine
9 class cost of service, to the maximum extent practicable,
10 shall permit identification of cost differences attributable
11 to variations in demand, energy, voltage delivery level,
12 customer components of cost, and other factors.

13 The board shall approve rates, charges, terms, and
14 conditions that are just, reasonable, and nondiscriminatory.
15 The unbundled rates, charges, terms, and conditions approved
16 by the board shall be posted on the board's website for
17 informational purposes by no later than April 1, 2002, and
18 shall become effective on October 1, 2002.

19 2. ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES. Each
20 incumbent provider that is a consumer-owned utility, pursuant
21 to its local governing process, shall unbundle and post on the
22 board's website its rates and charges by April 1, 2002. At a
23 minimum, unbundled rates for a consumer-owned utility shall
24 reflect separate charges for distribution service; connecting
25 to the delivery system meters not owned by the delivery
26 service provider; supplying meter information to competitive
27 electric service providers, if applicable; and processing a
28 change in an end-use consumer's competitive electric service
29 provider. A consumer-owned utility may unbundle and post
30 other rates and charges, such as transition costs including
31 nuclear decommissioning costs, as determined by its local
32 governing body. The costs associated with meter reading or
33 meter information gathering may be included in the
34 distribution service rate as long as, for each metered
35 location, the consumer-owned utility makes the information

1 available at a reasonable cost-based fee to the competitive
2 electric service provider serving the metered location. Meter
3 reading, meter information, and billing charges, if
4 applicable, shall be posted. Terms and conditions associated
5 with all unbundled rates shall be posted at the same time as
6 the posting of unbundled rates. The unbundled rates, charges,
7 terms, and conditions of service of each consumer-owned
8 utility shall be established by its local governing body, be
9 nondiscriminatory, comply with section 476B.9, subsection 6,
10 and become effective when the first end-use consumer within
11 the assigned service area of the consumer-owned utility has
12 the option to choose competitive electric services.

13 3. CONTROL AREA OPERATORS.

14 a. A control area operator that is an electric company
15 shall file control area service rates, charges, terms, and
16 conditions applicable to distribution service with the board
17 by May 1, 2001. The filing shall also include the processes
18 proposed to be used by the control area operator for
19 scheduling and system control related to distribution service,
20 load profiling, and financial settlement, if applicable. The
21 filing shall be subject to review and approval by the board
22 pursuant to section 476B.9, subsection 7. Control area
23 service rates, charges, terms, conditions, and processes
24 approved by the board shall be posted on the board's website
25 for informational purposes by no later than April 1, 2002, and
26 shall become effective October 1, 2002.

27 b. A control area operator that is a consumer-owned
28 utility shall post on the board's website control area service
29 rates, charges, terms, and conditions applicable to
30 distribution service and the processes for load profiling and
31 financial settlement to be used by the control area operator.
32 The rates, charges, terms, conditions, and processes shall be
33 nondiscriminatory, comply with section 476B.9, subsection 6,
34 be regulated by the consumer-owned utility's local governing
35 body unless subject to the exclusive jurisdiction of the

1 federal energy regulatory commission or the exclusive
2 jurisdiction of another federal agency or, for consumer-owned
3 utilities, subject to section 211 of the federal Power Act, be
4 posted on the board's website for informational purposes by no
5 later than April 1, 2002, and become effective when the first
6 Iowa end-use consumer in the control area has the option to
7 choose competitive electric services.

8 4. INFORMATIONAL POSTING OF TRANSMISSION TARIFFS. On or
9 before April 1, 2002, each delivery service provider that
10 provides transmission service and each control area operator
11 shall post on the board's website, for informational purposes
12 only, all tariffs for transmission service and ancillary
13 services applicable to competitive electric service provider
14 and end-use consumer transactions that have been accepted by
15 the federal energy regulatory commission or another federal
16 agency with jurisdiction. The posting on the board's website
17 shall be updated at the time the delivery service provider
18 updates its comparable posting on the federal website.

19 Sec. 5. NEW SECTION. 476B.5 CONSUMER EDUCATION.

20 1. OBJECTIVE. Educated consumers and the availability of
21 information sufficient to allow consumers to evaluate the
22 prices, terms, and conditions of service offered are essential
23 to the development of an efficient competitive marketplace.
24 It is the intent of this section to establish a consumer
25 education program that explains changes in the retail electric
26 market, increases awareness of the opportunity to choose a
27 competitive electric service provider, and provides
28 information necessary to help consumers make appropriate
29 choices regarding their electric service, to understand their
30 rights and responsibilities as consumers, including rights
31 under the federal Telemarketing and Consumer Fraud and Abuse
32 Prevention Act, and to understand the legal obligations of the
33 competitive electric service providers and delivery service
34 providers. Targeted education initiatives shall be developed
35 for low-income, senior citizen, and non-English speaking end-

1 use consumers and shall be implemented, to the extent
2 possible, by utilizing local community-based organizations. A
3 collaborative process shall be used to develop a consumer
4 education program to assist consumers in understanding their
5 rights and opportunities. The board shall determine the date
6 for commencement of the education program approved by the
7 board.

8 2. COLLABORATIVE PROCESS. Within ninety days after the
9 effective date of this chapter, the board shall convene an
10 initial meeting of persons interested in participating in the
11 development of a consumer education program. Additional
12 meetings shall be scheduled by the board as necessary.
13 Interested persons shall be provided an opportunity for input,
14 consistent with the objective of commencing the consumer
15 education program on a date determined by the board.

16 3. STANDARDS. A consumer education program shall be
17 developed in a two-step process, including message development
18 and message dissemination. Message development shall be
19 designed to educate consumers about all of the following:

20 a. The existing electric industry structure and the
21 difference between that structure and the purchase of
22 competitive and regulated electric services in a competitive
23 market.

24 b. Consumers' rights and responsibilities in a competitive
25 electric market.

26 c. The rights and responsibilities of competitive electric
27 service providers, aggregators, and delivery service
28 providers.

29 d. The role of the board and the office of consumer
30 advocate.

31 The messages shall focus upon the educational and
32 informational needs of nonresidential consumers using fewer
33 than one hundred thousand kilowatt-hours annually and
34 residential consumers including rural consumers. The content
35 and dissemination of the messages shall be as competitively

1 neutral as practicable.

2 The board shall specify the methods of message
3 dissemination for electric companies. The method of message
4 dissemination for consumer-owned utilities shall be determined
5 by each local governing body with due consideration of the
6 recommendations of the board. However, the board shall
7 specify the minimum number of times that consumer-owned
8 utilities must disseminate the messages. The board shall
9 develop the messages and, for electric companies, the method
10 of message dissemination, giving due consideration to the
11 comments and suggestions received through the collaborative
12 process.

13 4. MAXIMUM COST. The total cost of message development
14 and dissemination shall not exceed six million dollars.

15 5. FUNDING. To the extent not funded through the interim
16 funding mechanism provided by section 476B.13, subsection 5,
17 paragraph "c", the costs of message development and
18 dissemination shall be funded through nonbypassable charges on
19 the bills issued for bundled electric service, with collection
20 to be completed by October 1, 2002. The costs of message
21 development shall be apportioned among the incumbent providers
22 in proportion to the number of kilowatt-hours used within an
23 incumbent provider's assigned service area in 1998 to the
24 total number of kilowatt-hours used in 1998 in all assigned
25 service areas. Ninety percent of the costs of message
26 dissemination shall be allocated to incumbent providers that
27 are electric companies and shall be apportioned among electric
28 companies in proportion to the number of kilowatt-hours used
29 within the electric company's assigned service area in 1998 to
30 the total number of kilowatt-hours used in 1998 in the
31 assigned service areas of all electric companies. The
32 remaining ten percent of the costs of message dissemination,
33 not to exceed six hundred thousand dollars, shall be allocated
34 to consumer-owned incumbent providers and shall be apportioned
35 among them in proportion to the number of kilowatt-hours used

1 in 1998 within the assigned service area of each to the total
2 number of kilowatt-hours used in 1998 in the assigned service
3 areas of all consumer-owned incumbent providers.

4 The board shall determine the date for commencement of
5 collection of the nonbypassable charge and shall specify for
6 electric companies by December 31, 2000, the method of
7 allocating the costs among rates, which method may differ from
8 the method used for apportioning costs among incumbent
9 providers. Moneys collected from the nonbypassable charges
10 shall be forwarded to the board quarterly. To the extent the
11 amount collected through the nonbypassable charge exceeds by
12 more than five percent the amount authorized to be collected,
13 the electric company shall be required to refund such
14 overcollections to the end-use consumers who paid those
15 amounts in a manner to be approved by the board. A consumer-
16 owned utility may collect its share of message development
17 costs and the costs of its own message dissemination program
18 through a nonbypassable delivery charge.

19 6. ADVANCEMENT OF FUNDS. The board may direct all
20 incumbent providers that are electric companies to advance to
21 the treasurer of state, on an as needed basis, a maximum of
22 six million dollars to fund the costs of message development
23 and dissemination. The board may direct all or a portion of
24 these amounts to be advanced at any time after the effective
25 date of this Act. Notwithstanding section 12C.7, subsection
26 2, interest or earnings on investments or time deposits of the
27 moneys advanced and remitted under this subsection shall be
28 retained and used for message development and dissemination.
29 An electric company advancing funds for message development
30 and dissemination shall be reimbursed first from funds
31 collected pursuant to section 476B.13, subsection 5, paragraph
32 "c". If those funds are not sufficient, any remaining funds
33 advanced shall be reimbursed from funds collected pursuant to
34 subsection 5. An electric company shall be paid interest on
35 any funds advanced at the rate of twelve percent per annum.

1 7. OTHER COMMUNICATIONS. Nothing in this section shall
2 prohibit a person from communicating to an end-use consumer in
3 an accurate and truthful manner regarding the competitive
4 electric market and regulated electric services through a
5 means other than the consumer education program developed
6 under this section. In addition, the board may continue to
7 provide information and education following the conclusion of
8 the consumer education program, but shall not continue the
9 nonbypassable charge established for that purpose.

10 Sec. 6. NEW SECTION. 476B.6 CONSUMER PROTECTIONS --
11 RIGHTS AND RESPONSIBILITIES OF CONSUMERS.

12 1. POLICY. It is the policy of this state that consumer
13 protection shall not be diminished as a result of the
14 implementation of this chapter.

15 2. LICENSE REQUIRED.

16 a. Except as provided in this section, a person shall not
17 provide or offer to provide competitive electric services to
18 an end-use consumer, or aggregate end-use consumers for the
19 acquisition of competitive electric services without first
20 obtaining a license from the board. This section does not
21 prohibit a person from communicating to an end-use consumer in
22 an accurate and truthful manner regarding the emerging
23 competitive electric market in this state and the person's
24 planned role in that market. In addition to the licensing
25 requirements in this section, the board may adopt, by rule,
26 additional licensing requirements consistent with this section
27 that are required to protect the public from fraud and unfair,
28 deceptive, or other abusive business sales practices, to
29 provide for reasonable disclosure of service terms and
30 conditions and consumer rights and responsibilities, and to
31 protect the integrity of the delivery system. The board shall
32 adopt rules providing additional protections that require
33 competitive electric service providers to disclose to a
34 residential end-use consumer information regarding service
35 prices, terms, and conditions with a written statement which

1 the residential end-use consumer may retain. The board shall
2 adopt rules regarding the form, content, and distribution of
3 the residential end-use consumer information, which shall
4 include, but not be limited to, the following: prices, fees,
5 charges, and penalties and other terms and conditions of
6 service; whether a credit agency will be contacted; deposit
7 requirements and interest paid on deposits; due dates of bills
8 and consequences of late payments; deferred payment
9 arrangements; limits, if any, on warranties and damages; any
10 other fees, charges, or penalties; whether the competitive
11 electric service provider or its primary power supplier, if
12 known, operates under a collective bargaining agreement and
13 whether it operates with employees hired as replacements
14 during the course of a labor dispute; and the methods by which
15 residential end-use consumers shall be notified of any changes
16 to these items. The competitive electric service provider, in
17 an informational booklet form, shall describe residential end-
18 use consumer rights under this chapter and annually mail this
19 booklet to its residential end-use consumers. The board may
20 adopt, by rule, additional licensing requirements regarding
21 adequate notice to end-use consumers prior to automatic
22 contract renewal. The board shall also adopt rules regarding
23 the circumstances under which residential end-use consumers
24 would have the right to terminate competitive electric service
25 contracts. The board may establish reasonable conditions or
26 restrictions on a license. Unless otherwise expressly
27 provided by this chapter, the licensing rules adopted by the
28 board shall not discriminate in favor of or against any
29 prospective licensee. The initial licensing rules shall be
30 proposed by the board no later than October 1, 2000.

31 b. The board may reject a request for a license if the
32 request does not contain sufficient information for the board
33 to evaluate the request, but must reject such a request within
34 thirty days of the request's filing. The board shall fully
35 describe in writing any deficiencies in a license request that

1 is rejected.

2 c. The board shall rule upon a request for a license that
3 is not found to be deficient within one hundred twenty days of
4 the filing of the request with the board. However, the board
5 may process a request for a license, but shall not make a
6 license effective until one hundred eighty days after the
7 adoption of the initial rules under paragraph "a".

8 d. The board shall maintain a current list of all licensed
9 providers of competitive electric services. The board shall
10 make such a list available to a person upon request and shall
11 post the list on its website. This list shall be updated as
12 soon as practicable following the issuance of a license to a
13 competitive electric service provider or upon revocation of
14 the license of a competitive electric service provider.

15 e. A license shall not be required for an incumbent
16 provider that is a consumer-owned utility who chooses to
17 provide competitive electric services only within its assigned
18 service area, either through the incumbent provider or its
19 affiliate.

20 f. The board may charge reasonable fees for licensing
21 requests and for administering licenses.

22 3. LICENSE REQUIREMENTS FOR COMPETITIVE ELECTRIC SERVICE
23 PROVIDERS OTHER THAN AGGREGATORS. In addition to other
24 requirements that the board may adopt under subsection 1, a
25 competitive electric service provider, except one acting only
26 as an aggregator, shall file with the board as a condition of
27 obtaining a license under this section all of the following:

28 a. The legal name and all trade names under which the
29 licensee will operate, a description of the business structure
30 of the licensee, evidence of authorization to do business in
31 the state if required, and, if applicable, the state of
32 organization.

33 b. The names, business addresses, and business telephone
34 numbers of the principal officers of the licensee, the name
35 and business address of the agent for the licensee who can be

1 contacted regarding its operations in this state, and a
2 telephone number at which the agent can be contacted twenty-
3 four hours a day.

4 c. Identification of any affiliates that are licensees
5 under this section and a listing of the names and addresses of
6 all affiliates of the competitive electric service provider
7 engaged in the provision of competitive electric services in
8 any other state.

9 d. Identification of any state in which the licensee or an
10 affiliate has had a comparable license suspended, revoked, or
11 denied, including identification of the title and number of
12 any applicable proceedings and a copy of any final orders in
13 such proceedings or the citation to the website where the text
14 of the orders can be found.

15 e. A listing of all pending and completed legal actions
16 and formal complaints pertaining to the provision of retail or
17 wholesale electric service in the United States that have been
18 filed against the licensee or its affiliates with a public
19 utility regulatory body other than the board in the twelve
20 months prior to the date of the request for a license,
21 including identification of the title and number of any
22 applicable proceedings and a copy of any final orders in such
23 proceedings or the citation to the website where the text of
24 the orders can be found.

25 f. Unless the licensee is an incumbent provider or a
26 consumer-owned utility with delivery service property in this
27 state on the effective date of this chapter, or a municipal
28 electric cooperative association established prior to the
29 effective date of this chapter, a demonstration that the
30 licensee has the operational and financial capability to
31 obtain and deliver the services it proposes to offer.

32 g. A commitment to provide the board, upon the board's
33 request, with evidence supporting the basis of any advertising
34 claims made regarding fuel sources.

35 h. A commitment to disclose to each prospective end-use

1 consumer prior to the initiation of service those terms and
2 conditions of service and those rights and responsibilities of
3 the end-use consumer associated with the offered service that
4 are required to be disclosed by rules adopted by the board
5 pursuant to subsection 1 and section 476B.8, subsection 3.

6 i. A bond or other demonstration of the financial
7 capability to satisfy claims and expenses that can reasonably
8 be anticipated to occur as part of operations under its
9 license, including the failure to honor contractual
10 commitments. The adequacy of the bond or demonstration shall
11 be determined by the board and reviewed by the board from time
12 to time. In determining the adequacy of the bond or
13 demonstration, the board shall consider the extent of the
14 services to be offered, the size of the licensee, and the size
15 of the load to be served, with the objective of ensuring that
16 the board's financial requirements do not unreasonably erect
17 barriers to market entry. In no event shall the board require
18 a bond or other demonstration of financial capability in
19 excess of ten million dollars. A person not subject to
20 paragraph "f" is deemed by the board to have fulfilled the
21 requirements of this paragraph.

22 j. A commitment not to terminate the provision of
23 competitive electric service to an end-use consumer without
24 providing at least twelve calendar days' prior notice to the
25 end-use consumer, unless the contract between a nonresidential
26 end-use consumer and the licensee provides otherwise.

27 k. A commitment to comply with the applicable rules of the
28 board and this chapter, and to recognize an end-use consumer's
29 rights including the right to voluntarily aggregate under
30 subsection 5, paragraph "e".

31 l. A commitment to comply with all applicable federal,
32 state, and regional rules and procedures, including those for
33 the use, operation, and maintenance of the electric delivery
34 system including control area operations. This shall include
35 a commitment by the proposed licensee to accept, to the extent

1 required by the applicable authority, the responsibility to
2 report the loads of the end-use consumers served by the
3 proposed licensee to the North American electric reliability
4 council or its successor, or a person performing similar
5 functions.

6 m. A commitment that competitive electric services, when
7 offered to residential end-use consumers, will be provided for
8 a minimum of thirty days.

9 n. A commitment to advise each end-use consumer of the
10 right to rescind the selection of a competitive electric
11 service offered by the licensee within three business days of
12 selection, in accordance with rules adopted pursuant to
13 subsection 5, paragraph "o".

14 o. A commitment not to transfer to another person the
15 competitive electric service account of any end-use consumer
16 except with the consent of the end-use consumer or in
17 accordance with any applicable statute. This chapter does not
18 preclude a competitive electric service provider from
19 transferring all or a portion of its end-use consumers and
20 competitive electric service accounts pursuant to a sale or
21 transfer of all or a substantial portion of a competitive
22 electric service provider's competitive electric service
23 business in this state, provided that the transfer satisfies
24 all of the following conditions:

25 (1) The transferee will serve the affected end-use
26 consumers through a licensed competitive electric service
27 provider.

28 (2) The transferee will honor the transferor's contracts
29 with affected end-use consumers.

30 (3) The transferor provides written notice of the transfer
31 to each affected end-use consumer not less than thirty days
32 prior to the transfer.

33 (4) An affected residential end-use consumer is given
34 thirty days to change to a competing competitive electric
35 service provider without penalty.

1 p. A commitment not to charge or attempt to collect any
2 charges from end-use consumers for any competitive electric
3 service or electric equipment not contracted for or otherwise
4 agreed to by the end-use consumer.

5 q. A commitment that the licensee will have the facilities
6 and the personnel to contact the delivery service provider in
7 a timely fashion, as provided by rules adopted by the board,
8 upon receipt of information from an end-use consumer of the
9 existence of an emergency situation with respect to delivery
10 service. The initial rules shall be proposed by October 1,
11 2000.

12 r. A commitment that if the licensee ceases to comply with
13 contractual commitments to end-use consumers, fails to
14 schedule energy with the control area operator for two
15 consecutive twenty-four-hour periods, fails to deliver energy
16 scheduled with or committed to a control area operator for two
17 consecutive twenty-four-hour periods, ceases operation under
18 its license, or otherwise substantially defaults on its
19 obligations under its license, within eight hours of such
20 occurrence, the licensee shall do both of the following:

21 (1) Provide the board with the names and addresses of all
22 end-use consumers of the licensee.

23 (2) If any of the end-use consumers of the licensee are
24 located in the assigned service area of a delivery service
25 provider that is a consumer-owned utility, the licensee shall
26 provide that delivery service provider with the names and
27 addresses of such consumers.

28 s. A commitment to include on bills rendered to
29 residential end-use consumers and all other end-use consumers
30 with usage at or below the threshold for standard offer
31 service all of the following:

32 (1) The period of time for which the billing is
33 applicable.

34 (2) The amount owed for current service, including an
35 itemization of all charges.

1 (3) Any past due amount owed.

2 (4) The last date for timely payment.

3 (5) The amount of penalty for any late payment.

4 (6) The location for or method of remitting payment.

5 (7) A toll-free telephone number for the end-use consumer
6 to contact for information and to make complaints regarding
7 the licensee.

8 (8) A toll-free telephone number for the end-use consumer
9 to contact the licensee in the event of an emergency.

10 (9) A toll-free telephone number for the end-use consumer
11 to notify the delivery service provider of an emergency
12 regarding delivery service.

13 (10) If the bill is to an end-use consumer in the assigned
14 service area of a delivery service provider that is an
15 electric company, information regarding regulated rates,
16 charges, refunds, and services as provided in rules adopted by
17 the board as being required by the public interest. The
18 initial rules shall be proposed by October 1, 2000.

19 t. A commitment to notify the board during the pendency of
20 the license request and after the issuance of the license of
21 any substantial change in the representations and commitments
22 required by this subsection within fourteen days of such
23 change.

24 u. A commitment to annually submit to the board such
25 information as the board reasonably determines by rule is
26 necessary to monitor the development of competitive electric
27 services in this state and the licensee's compliance with this
28 chapter. Information submitted pursuant to this paragraph
29 shall be kept confidential and shall not be available for
30 public examination. The initial rules shall be proposed by
31 October 1, 2000.

32 v. For a competitive electric service provider operating
33 generating facilities in Iowa, or involved in meter
34 installation, meter maintenance, or meter reading within Iowa,
35 including a competitive electric service provider that is a

1 consumer-owned utility but only to the extent that it provides
2 competitive electric service outside its assigned service
3 area, a commitment to conduct these activities in a prompt,
4 safe, and reliable manner; to maintain within the state those
5 administrative, technical, and operating personnel necessary
6 for the provision of reasonably safe, reliable, and prompt
7 generation and metering services and facilities; and to
8 demonstrate that personnel involved in installing, operating,
9 and maintaining generating facilities or electric meters and
10 metering equipment have the requisite skills, knowledge,
11 experience, and training to perform those work functions
12 necessary to provide high-quality, safe, reliable, and prompt
13 services. Such demonstration may include a showing that
14 applicable personnel have completed an accredited or
15 recognized apprenticeship training program for the particular
16 skill, trade, or craft.

17 w. A commitment to collect and remit to the department of
18 revenue and finance any sales, use, and local option taxes
19 imposed under chapter 422, 422B, 422E, or 423, upon the gross
20 receipts from the sale, furnishing, or service of electricity,
21 whether bundled or unbundled, to end-use consumers of the use
22 of electricity or electric service by end-use consumers in
23 this state, and a certified copy of a permit to collect tax
24 issued to the competitive electric service provider pursuant
25 to section 422.53 or section 423.10. For purposes of applying
26 the provisions of section 476B.20, failure to maintain the
27 permit to collect tax required by this paragraph constitutes a
28 substantial violation of the licensing requirements.

29 x. If the competitive electric service provider is a
30 foreign competitive electric service provider, a certified
31 copy of registration issued to a competitive electric service
32 provider pursuant to section 487.902 or a certified copy of a
33 certificate of authority to transact business or conduct
34 affairs in this state issued to the competitive electric
35 service provider by this state pursuant to section 490.1503,

1 490A.1402, or 504A.70, and a commitment to maintain a
2 registered office and registered agent in this state as
3 provided in section 487.104, 490.501, 490A.501, 499.72, or
4 504A.72.

5 4. LICENSE REQUIREMENTS FOR AGGREGATORS. In addition to
6 other requirements that the board may adopt under subsection
7 1, each competitive electric service provider that acts only
8 as an aggregator shall file with the board the information
9 specified in subsection 3, paragraphs "a", "b", "c", "d", "e",
10 "g", "h", "j", "k", "m", "n", "o", "t", and "u". If the
11 aggregator will be issuing bills to end-use consumers, then it
12 shall also file the information required in subsection 2,
13 paragraphs "p", "q", "s", "w", and "x".

14 5. RIGHTS OF CONSUMERS.

15 a. An end-use consumer shall have access to competitive
16 electric services and regulated delivery services in
17 accordance with this chapter. All such services shall be
18 provided in a safe, reliable, and prompt manner.

19 b. The electric grid shall be extended to every end-use
20 consumer in accordance with section 476B.9 and such applicable
21 rules as are adopted by the board, or, for a consumer-owned
22 utility, policies adopted by the local governing body.

23 c. An end-use consumer shall have nondiscriminatory access
24 to use the electric grid in accordance with this chapter.

25 d. An end-use consumer shall not be refused competitive
26 electric services, regulated delivery services, standard offer
27 service, transitional service, basic energy service, or
28 universal service on the basis of age, race, religion,
29 national origin, gender, or disability within the meaning of
30 the federal Americans with Disabilities Act.

31 e. An end-use consumer shall have the right to voluntarily
32 aggregate with other end-use consumers for the purpose of
33 seeking competitive electric services. Aggregation shall not
34 be restricted by any rule or regulation except those
35 determined necessary by the board to maintain the safety or

1 reliability of the delivery system or to prevent fraud or
2 unfair advantage. An end-use consumer shall not be forced to
3 aggregate with any group of end-use consumers or other persons
4 without the end-use consumer's express consent.

5 f. An end-use consumer that has the option to choose
6 competitive electric services under this chapter may negotiate
7 a bilateral contract for these services.

8 g. An end-use consumer or an account of an end-use
9 consumer shall not be transferred by a competitive electric
10 service provider to another person except as provided in
11 subsection 3, paragraph "o".

12 h. An end-use consumer located in the assigned service
13 area of an incumbent provider that is an electric company
14 shall have the right not to choose another competitive
15 electric service provider and automatically receive service
16 under section 476B.8, subsection 1 or 2, as applicable, from
17 their incumbent provider without further action by the end-use
18 consumer.

19 i. An end-use consumer located in the assigned service
20 area of an incumbent provider that is a consumer-owned utility
21 shall have the right not to choose another competitive
22 electric service provider and automatically receive service
23 from the consumer-owned utility under section 476B.8,
24 subsection 4, without further action by the end-use consumer.

25 j. A residential end-use consumer who is located in the
26 assigned service area of an electric company and who either
27 has made an effort to secure competitive electric services
28 from a competitive electric service provider, at reasonable
29 terms and conditions, as defined by board rules, but has not
30 been able to do so, or qualifies for assistance under section
31 476B.13, subsection 1, shall have the option to receive
32 electric services pursuant to section 476B.8, subsection 3,
33 and the rules adopted pursuant to that subsection. An end-use
34 consumer who is located in the assigned service area of a
35 consumer-owned utility and who is without a competitive

1 electric service provider shall have the option to receive
2 electric services pursuant to section 476B.8, subsection 4.
3 k. Except as otherwise provided in this chapter, on or
4 after October 1, 2002, information regarding the electric
5 usage history or electric account credit history of an
6 individual end-use consumer in the possession of an electric
7 company, consumer-owned utility, delivery service provider,
8 control area operator, competitive electric service provider,
9 or aggregator shall not be provided to any other electric
10 company, consumer-owned utility, delivery service provider,
11 control area operator, competitive electric service provider,
12 or aggregator except pursuant to an order of the board or a
13 court having jurisdiction, pursuant to a final determination
14 of an appropriate governmental entity with authority to compel
15 disclosure of such information, with the consent of the end-
16 use consumer, or pursuant to a proposed sale or transfer of
17 all or a substantial portion of the electric business in this
18 state of the person disclosing the information.

19 1. An end-use consumer shall be entitled to request from
20 its incumbent provider or competitive electric service
21 provider the most recent twenty-four months of the consumer's
22 historical usage information, if reasonably available, from
23 its account. The requested information shall be provided to
24 the end-use consumer without charge one time per calendar
25 year. If requested more than once per calendar year, the end-
26 use consumer may be charged the reasonable cost incurred by
27 the incumbent provider or competitive electric service
28 provider in providing the information.

29 m. The board may adopt rules regarding physical
30 disconnection procedures. Only a delivery service provider
31 with an assigned service area shall physically disconnect end-
32 use consumers located within its assigned service area. Rules
33 adopted, at a minimum, shall provide that disconnection is
34 warranted by any of the following:

35 (1) Failure to pay charges for delivery service including

1 nonbypassable charges.

2 (2) Failure of an end-use consumer that does not qualify
3 for service under section 476B.8 to designate one or more
4 competitive electric service providers to provide competitive
5 power supply services, and, where applicable, electric
6 metering, or electric billing services.

7 (3) Failure to pay for standard offer service,
8 transitional service, basic energy service, or universal
9 service.

10 The initial rules shall be proposed by October 1, 2001.

11 n. An end-use consumer shall have the right to install
12 metering in accordance with section 476B.11.

13 o. An end-use consumer shall have three business days
14 after the selection of a competitive electric service provider
15 or a competitive electric service, but prior to the initiation
16 of the service, within which to rescind the selection. The
17 board shall propose rules by October 1, 2001, applicable to
18 competitive electric service providers regarding the manner,
19 method, and content of the notice to be provided to end-use
20 consumers regarding this right.

21 p. Provisions addressing consumer fraud, including
22 misrepresentations regarding service and terms of service,
23 contained in section 714.16, subsection 2, paragraph "a", and
24 all accompanying provisions of chapter 714 shall apply to
25 competitive electric service providers.

26 q. A residential end-use consumer that is certified as a
27 low-income consumer shall have the opportunity to receive
28 assistance for bill payment and energy efficiency programs as
29 provided in section 476B.13, subsection 1, and is eligible to
30 request electric service under section 476B.8, subsection 3 or
31 4, as applicable.

32 r. The board shall establish rules of uniform
33 applicability to all competitive electric service providers
34 that it determines to be required to protect the public
35 interest regarding credit practices, consumer deposit

1 practices, collection practices, service termination
2 practices, billing practices, accuracy of information, public
3 safety, electric service reliability, and quality of electric
4 service. The initial rules shall be proposed by October 1,
5 2001.

6 Sec. 7. NEW SECTION. 476B.7 AVAILABILITY OF CHOICE.

7 1. Beginning on October 1, 2002, an end-use consumer
8 located in the assigned service area of a delivery service
9 provider shall have the option to choose competitive electric
10 services from competitive electric service providers and
11 unbundled delivery services from the delivery service
12 provider. The board shall adopt rules regarding the
13 procedures to be used by delivery service providers,
14 competitive electric service providers, and end-use consumers
15 for those end-use consumers exercising their option to choose
16 competitive electric services, including the amount of notice
17 that must be provided to the delivery service provider prior
18 to switching from bundled electric service to unbundled
19 delivery service. The initial rules shall be proposed by
20 October 1, 2000.

21 2. After January 1, 1999, the board shall not initiate or
22 order an increase or a reduction in any of the bundled
23 electric rates or standard offer service rates of an electric
24 company except as provided in section 476B.8.

25 3. A consumer-owned utility pursuant to a decision by its
26 local governing body may implement a retail access pilot
27 project at any time prior to the time end-use consumers within
28 the assigned service area have the option to choose
29 competitive electric services. Such pilot projects shall be
30 terminated at the time end-use consumers within the consumer-
31 owned utility's assigned service area have the option to
32 choose competitive electric services. An incumbent provider
33 that is an electric company may propose a retail access pilot
34 project to the board.

35 4. The board shall order the suspension of the dates for

1 commencement of the option to choose competitive electric
2 services specified in subsection 1 if the board determines
3 that essential deadlines cannot reasonably be met or there is
4 a threat to service reliability or the public safety. The
5 suspension may apply to all end-use consumers or some portion
6 of such consumers. The suspension shall continue until the
7 board determines the concern has been resolved or until the
8 conclusion of the next regular session of the Iowa general
9 assembly following the suspension, whichever occurs first.

10 5. If nationally recognized bond counsel determines that
11 access to a municipal utility's delivery system by a
12 competitive electric service provider, or provision of
13 competitive electric services by the municipal utility, will
14 result in the loss of exemption from federal income taxation
15 for interest on debt incurred for electric facilities prior to
16 the effective date of this chapter, the governing body of the
17 municipal utility may defer the commencement of the option to
18 choose competitive electric service in its assigned service
19 area for a period of up to six months following the date on
20 which the debt is eligible to be currently refunded. The
21 reasonable costs of replacing tax-exempt bonds with taxable
22 bonds may be collected as a nonbypassable charge. This
23 subsection shall not be used to unreasonably impair the
24 ability of consumers to choose competitive electric services.

25 6. The board may adopt rules for evaluating whether other
26 regulated electric services of electric companies subject to
27 the jurisdiction of the board should become competitive
28 services, in addition to the competitive electric services
29 specified in this chapter. For the purpose of this
30 subsection, the board's authority shall not include
31 distribution service except the control area services subject
32 to its jurisdiction. The initial rules shall be proposed by
33 June 1, 2002. Upon a board determination that a service
34 provided by an electric company is subject to effective
35 competition, the board shall deregulate the price of the

1 service. Service regulation, but not rate regulation, shall
2 continue if the service is deemed essential and the public
3 interest requires retention of service regulation.

4 Sec. 8. NEW SECTION. 476B.8 PRICE PROTECTIONS FOR
5 CERTAIN CONSUMERS.

6 1. STANDARD OFFER SERVICE.

7 a. (1) A nonresidential end-use consumer using, or
8 expected to use, fewer than seventy-five thousand kilowatt-
9 hours of electric service annually and a residential end-use
10 consumer located within the assigned service area of an
11 incumbent provider that is an electric company shall be
12 provided electric service by the incumbent provider under this
13 subsection commencing October 1, 2002. This service shall be
14 provided by the incumbent provider's competitive electric
15 service provider or its delivery service provider, at its
16 option, and shall be a regulated service. This service shall
17 continue until the earlier of any of the following:

18 (a) The end-use consumer selects an electric service
19 offering other than the one provided in this subsection.

20 (b) The end-use consumer no longer qualifies to receive
21 service under the terms and conditions of this paragraph "a"
22 or the applicable standard offer service tariff or board
23 rules.

24 (c) January 1, 2009.

25 (2) (a) Termination of standard offer service on January
26 1, 2009, is conditioned upon the board finding, after a
27 contested case proceeding concluding not later than January 1,
28 2008, that all of the following conditions exist:

29 (i) Transition cost recovery under section 476B.15,
30 subsection 1, will have concluded.

31 (ii) The delivery service provider substantially complies
32 with all applicable board rules governing the administration
33 of open access and comparable distribution service adopted
34 pursuant to section 476B.9, subsection 2.

35 (iii) The delivery service provider has in place an

1 enforceable dispute resolution process.

2 (iv) Transaction costs assessed by the delivery service
3 provider to end-use consumers exercising their option to
4 choose competitive electric services are reasonable.

5 (b) In addition to the conditions in subparagraph
6 subdivision (a), the board must also find that one of the
7 following three conditions exists:

8 (i) Competitive electric services purchased by end-use
9 consumers eligible for standard offer service are subject to
10 effective competition in the relevant markets.

11 (ii) The incumbent provider has divested its generation
12 assets in this state.

13 (iii) The incumbent provider's delivery service assets and
14 operations that are subject to rate regulation by the board
15 are maintained in a legal entity separate from the competitive
16 electric service assets and operations, including electric
17 generation assets and operations, of the incumbent provider
18 and its affiliates, and the incumbent provider has joined or
19 committed to join a regional entity accepted by the federal
20 energy regulatory commission, or its successor, that operates
21 the portion of the delivery system in this state subject to
22 federal regulation independently from the wholesale electric
23 sales function of the incumbent provider.

24 In determining whether a service is or becomes subject to
25 effective competition in the relevant markets, the board, in
26 addition to other factors, shall consider whether a comparable
27 service is available from a competitive electric service
28 provider other than the incumbent provider and whether market
29 forces are sufficient to assure competitively priced services
30 without regulation.

31 (3) If the board finds that the required conditions have
32 not been satisfied to terminate standard offer service,
33 standard offer service shall continue until a showing is made
34 by the incumbent provider, and the board determines, that the
35 required conditions are satisfied. An incumbent provider

1 shall not file for such a determination within six months of a
2 previous filing.

3 (4) If the board finds that the required conditions to
4 terminate standard offer service have been satisfied, the
5 provider of the service shall furnish the board with the names
6 and addresses of all end-use consumers that would be affected
7 by the termination. The information shall be provided within
8 thirty days of the board's finding. The board shall notify
9 each affected end-use consumer at least twice of the date that
10 standard offer service will terminate, and of the need to
11 secure another service or competitive electric service
12 provider by a specified date. The notice shall advise the
13 affected end-use consumer that if another service or
14 competitive electric service provider is not secured by the
15 consumer by the date specified, the end-use consumer may be
16 assigned to another service or competitive electric service
17 provider. The costs of the notice required under this
18 subparagraph shall be assessed to delivery service providers
19 that are electric companies and recovered by them as a charge
20 upon unbundled distribution service rates.

21 (5) Six months prior to the termination of standard offer
22 service, the provider of the service shall provide the board
23 with an updated list of the names and addresses of end-use
24 consumers still receiving standard offer service. The board
25 may request additional information from the provider of
26 standard offer service necessary to enable the board to seek
27 offers from competitive electric service providers to serve
28 the affected end-use consumers. If the board determines that
29 a reasonable competitive offer to serve a standard offer
30 service consumer that will be affected by the termination of
31 standard offer service is not received, the consumer shall be
32 transferred to universal service upon the termination of
33 standard offer service, even if the affected consumer is a
34 nonresidential consumer.

35 (6) An end-use consumer has no right to return to standard

1 offer service after any of the conditions identified under
2 subparagraph (1) occur, except that an end-use consumer having
3 selected an electric service offering other than standard
4 offer service may return to standard offer service if all of
5 the following apply:

6 (a) No more than three hundred sixty-five days have passed
7 since the consumer left standard offer service.

8 (b) The consumer has not previously left and returned to
9 standard offer service.

10 (c) The consumer is otherwise still qualified to receive
11 standard offer service.

12 The three-hundred-sixty-five-day period in subparagraph
13 subdivision (a) shall not extend the termination date of
14 standard offer service.

15 b. At the time an incumbent provider that is an electric
16 company files its initial unbundled rates with the board
17 pursuant to section 476B.4, it shall also file its initial
18 standard offer service tariffs under this subsection, which
19 shall be subject to review and approval by the board. The
20 initial standard offer service tariffs shall reflect the
21 electric rates, charges, terms, and conditions of the tariffs
22 applicable to nonresidential end-use consumers using fewer
23 than seventy-five thousand kilowatt-hours per year and the
24 tariffs applicable to residential end-use consumers, as those
25 tariffs existed in the rate zones of the incumbent provider's
26 assigned service area on the effective date of this chapter,
27 adjusted to avoid duplicate recovery of costs to be recovered
28 under section 476B.15, subsection 3, costs to be recovered
29 under section 476B.16, and the costs projected to be offset by
30 section 476B.13. However, the board may approve modifications
31 to the terms and conditions of such tariffs existing on the
32 effective date of this chapter to the extent just, reasonable,
33 and nondiscriminatory. An electric company, to the extent it
34 has not already done so, shall eliminate automatic adjustment
35 mechanisms in effect pursuant to section 476.6, subsection 11,

1 that are applicable to standard offer service rates.
2 Elimination shall be accomplished by adjusting the initial
3 standard offer service rates to include a representative
4 amount of the costs which would have been recovered through
5 the mechanisms. If an electric company's nuclear generating
6 unit is unavailable for reasons beyond the electric company's
7 reasonable control, the electric company may file with the
8 board an adjustment reflecting changes in exogenous factors
9 beyond the control of the electric company. The board shall
10 allow the adjustment to become effective immediately. The
11 board shall review the adjustment within thirty days after the
12 date the adjustment is effective, and order refunds of the
13 revenues resulting from the adjustment if the board determines
14 after its review that the nuclear generating unit's
15 unavailability was reasonably within the control of the
16 electric company. The effective date of the automatic
17 adjustment mechanism elimination for standard offer service
18 rates shall be October 1, 2002. An electric company may
19 retain automatic adjustment mechanisms to the extent the
20 mechanisms apply to transitional service under subsection 2.
21 c. After January 1, 1999, the board shall not initiate or
22 order an increase or a reduction in any of the bundled
23 electric rates of an electric company or in the standard offer
24 service rates established pursuant to this section except as
25 provided in this subsection. However, an incumbent provider
26 that is an electric company may reduce its bundled electric
27 rates or standard offer service rates at any time, so long as
28 such reduction is effected in a nondiscriminatory manner, the
29 reduction is filed with the board thirty days prior to the
30 proposed effective date of the reduction, and the reduced
31 rates are posted on the board's website. The board may hold a
32 hearing on the reduction prior to the proposed effective date
33 and may suspend the effective date for up to an additional
34 sixty days. The board shall approve the reduction unless it
35 determines that it is unreasonably discriminatory or would

1 constitute predatory pricing as defined by applicable
2 antitrust law. A board finding of predatory pricing under
3 this paragraph shall be given no weight in any subsequent
4 legal action, except with respect to judicial review of the
5 board's ruling brought pursuant to section 476B.22.

6 d. Commencing January 1, 2003, an incumbent provider that
7 is an electric company may increase its standard offer service
8 rates to reflect increases in its unbundled distribution
9 service rates approved by the board under section 476B.9,
10 subsection 5. An incumbent provider that is an electric
11 company may also increase its standard offer service rates
12 after January 1, 2003, to reflect increases in applicable
13 transmission service rates approved by a federal or state
14 agency with rate jurisdiction. Standard offer service rates
15 incorporating an increase permitted by this paragraph shall be
16 filed with the board thirty days prior to becoming effective.
17 The increased standard offer service rates shall become
18 effective at the conclusion of the thirty-day period unless
19 the board determines that the incumbent provider has increased
20 standard offer service rates by an amount greater than the
21 increase in unbundled distribution service rates or
22 transmission service rates, in which case the board may
23 suspend the effective date for up to an additional sixty days.
24 If the board suspends a filing made pursuant to this
25 paragraph, the board shall provide the incumbent provider with
26 an opportunity for hearing.

27 e. On or before January 1, 2003, an incumbent provider
28 that is an electric company may file with the board a
29 mechanism to increase or decrease standard offer service rates
30 by adjusting the generation component of the rates to or
31 toward the market price of competitive power supply services
32 that an affected end-use consumer would reasonably be expected
33 to pay in the relevant competitive market. The mechanism
34 shall be approved by the board if it finds, after hearing,
35 that it is in the public interest and is as revenue neutral to

1 the incumbent provider as practicable. In determining the
2 public interest of the mechanism, the board, in addition to
3 other factors, shall consider whether the approval of the
4 mechanism would contribute to the development of effective
5 competition in the relevant markets. A mechanism approved
6 under this paragraph shall not become effective before October
7 1, 2003. The board shall determine the market price that the
8 affected end-use consumer would reasonably be expected to pay
9 in the relevant competitive market. An incumbent provider's
10 filing under this paragraph is subject to section 476B.9,
11 subsection 5.

12 f. On October 1, 2006, the generation component of each
13 standard offer service rate shall be adjusted to equal the
14 market price for competitive power supply services that the
15 affected end-use consumer would pay in the relevant
16 competitive market. The provider of standard offer service
17 shall be required to acquire competitive power supply services
18 in the market for this service, and may bid for the service
19 itself. The price of standard offer service shall be adjusted
20 to reflect the cost of acquiring that supply. The board shall
21 adopt rules to assure competitive pricing under this
22 paragraph.

23 g. At any time, an incumbent provider that is an electric
24 company may file with the board a request to recalculate the
25 generation component of its bundled electric rates or standard
26 offer service rates to reflect changes in revenues, expenses,
27 and investments due to exogenous factors beyond the control of
28 the electric company. Such filing is subject to section
29 476B.9, subsection 5.

30 h. Rates, charges, terms, and conditions in effect under
31 this subsection shall be posted on the board's website.

32 i. An end-use consumer receiving standard offer service
33 under this subsection shall also be billed for applicable
34 charges under section 476B.13, section 476B.15, subsection 3,
35 and section 476B.16.

1 2. TRANSITIONAL SERVICE.

2 a. Commencing on October 1, 2002, a nonresidential end-use
3 consumer of an incumbent provider that is an electric company
4 who purchased seventy-five thousand kilowatt-hours of electric
5 service or more from the electric company in 2001 and who has
6 not chosen competitive electric services from a competitive
7 electric service provider shall receive transitional service
8 from the incumbent provider for a period not to exceed one
9 year and under tariff provisions approved by the board. On or
10 before June 1, 2001, an incumbent provider shall file its
11 initial rates, charges, terms, and conditions applicable to
12 this transitional service and shall specify the duration for
13 which the service will be available. The board shall approve
14 transitional service rates, charges, terms, and conditions to
15 the extent it determines them to be just and reasonable. The
16 filing shall be subject to section 476B.9, subsection 5. The
17 rates, charges, terms, conditions, and duration of
18 transitional service approved by the board shall be posted on
19 the board's website for informational purposes by no later
20 than April 1, 2002, and shall become effective October 1,
21 2002.

22 b. Nothing in this subsection shall preclude a qualifying
23 end-use consumer from exercising its option to choose
24 competitive electric services from a licensed competitive
25 electric service provider at any time, consistent with this
26 chapter and applicable board rules.

27 c. An end-use consumer receiving transitional service
28 under this subsection shall also be billed for applicable
29 charges under section 476B.13, section 476B.15, subsection 3,
30 and section 476B.16.

31 3. UNIVERSAL SERVICE.

32 a. The board shall adopt rules establishing the conditions
33 with which a residential end-use consumer located in the
34 assigned service area of a delivery service provider that is
35 an electric company must comply to qualify to receive service

1 under this subsection. The rules, at a minimum, shall address
2 the rights and remedies to avoid disconnection including, but
3 not limited to, payment plans, deposit requirements, and other
4 provisions deemed appropriate by the board. The rules shall
5 include a requirement that electric service to a residential
6 end-use consumer who is the head of the household as defined
7 by law and who is eligible for assistance under the programs
8 established by section 476B.13, subsection 1, shall not be
9 discontinued from November 1 through April 1 except as
10 otherwise provided by the board. The board may adopt rules
11 prohibiting the use of prepaid meters and load limiters for
12 some or all universal service end-use consumers. Prepaid
13 meters and load limiters shall not be authorized for use by
14 any end-use consumer who is head of the household and who is
15 eligible for and receiving assistance pursuant to section
16 476B.13, subsection 1. The installation and use of prepaid
17 meters or load limiters shall not be used as an eligibility
18 criterion for purposes of receipt of benefits under section
19 476B.13, subsection 1. The initial rules shall be proposed by
20 October 1, 2001.

21 b. Prior to the termination of standard offer service, a
22 residential end-use consumer who qualifies to receive service
23 under the rules adopted pursuant to paragraph "a" and who can
24 demonstrate that an effort has been made to secure competitive
25 electric service from a competitive electric service provider
26 at reasonable terms and conditions, as defined by board rules,
27 but has been denied service, or offered service only with the
28 use of a prepaid meter or load limiter, or has not been
29 offered competitive electric service at reasonable prices,
30 terms, and conditions, or who has been determined to qualify
31 for assistance under section 476B.13, subsection 1, shall have
32 the option to be provided electric service under this
33 subsection by such consumer's delivery service provider. The
34 board may determine the reasonableness of the prices, terms,
35 and conditions of the competitive electric service based upon

1 the specific offer made to the end-use consumer or the
2 competitive electric service offerings available to the
3 consumer group or geographic area in which the affected end-
4 use consumer is located. For purposes of this paragraph, the
5 board, in determining whether prices, terms, and conditions of
6 competitive electric service are reasonable, may consider the
7 extent to which the board has found that effective competition
8 does not exist for the affected end-use consumer, consumer
9 group, or geographic area in the relevant market under
10 subsection 1, paragraph "a". Subsequent to the termination of
11 standard offer service, this subsection shall apply to an end-
12 use consumer taking standard offer service at the date of
13 termination.

14 c. At the time an electric company files its initial
15 unbundled rates with the board pursuant to section 476B.4, the
16 electric company shall also file its initial universal service
17 tariffs under this subsection, which shall be subject to
18 review and approval by the board. Through September 30, 2006,
19 the rates for universal service shall generally be the same as
20 the residential rates that would be available to the consumer
21 from its incumbent provider under subsection 1, including the
22 adjustments as specified in that subsection. However, an
23 electric company may propose to offer only one universal
24 service rate in each rate zone and may propose automatic
25 adjustment mechanisms applicable only to rates under this
26 subsection. The board shall provide for a portion of the
27 costs of collecting past due accounts, including uncollectible
28 costs, of universal service to be recovered through the
29 unbundled distribution service rates established pursuant to
30 section 476B.9, subsection 5. The initial universal service
31 rates approved by the board shall be posted on the board's
32 website by no later than April 1, 2002, and shall become
33 effective October 1, 2002. Beginning October 1, 2006, the
34 rates for this service shall be based upon the market prices
35 applicable to the type of service received by the consumer,

1 adjusted for any state or federal subsidy of the rate paid to
2 the delivery service provider. The board may adopt rules, to
3 be effective October 1, 2006 that require the delivery service
4 provider to acquire competitive power supply services for this
5 service.

6 d. Section 476B.9, subsection 5, applies to changes in the
7 initial universal service tariffs proposed by an electric
8 company after the board's approval of the initial tariffs.

9 e. Rates, charges, terms, and conditions in effect under
10 this subsection shall be posted on the board's website within
11 twenty-four hours after becoming effective.

12 f. An end-use consumer receiving universal service under
13 this subsection shall also be billed for applicable charges
14 under section 476B.13, section 476B.15, subsection 3, and
15 section 476B.16.

16 4. CONSUMER-OWNED UTILITIES.

17 a. BASIC ENERGY SERVICE. Delivery service providers with
18 an assigned service area that are consumer-owned utilities
19 shall offer basic energy services to all end-use consumers
20 within their assigned service areas that have not specified a
21 competitive electric service provider or are otherwise without
22 a competitive electric service provider. Rates, charges,
23 terms, and conditions of basic energy services shall be
24 established by the local governing body and shall comply with
25 section 476B.9, subsection 6.

26 b. UNIVERSAL SERVICE. Delivery service providers with an
27 assigned service area that are consumer-owned utilities shall
28 offer universal service as a type of basic energy service to
29 eligible residential end-use consumers who are participating
30 in the low-income affordability program under section 476B.13,
31 subsection 1, paragraph "d". Such service shall be subject to
32 the board's rules adopted pursuant to subsection 3, paragraph
33 "a". This service will only be offered to eligible consumers
34 for the same period of time this service is offered by
35 electric company delivery service providers. Rates associated

1 with this service are subject to section 476B.9, subsection 6.

2 Sec. 9. NEW SECTION. 476B.9 RESPONSIBILITIES AND RIGHTS
3 OF DELIVERY SERVICE PROVIDERS.

4 1. RESPONSIBILITIES FOR SAFE, RELIABLE, AND PROMPT
5 SERVICE.

6 a. A delivery service provider shall furnish safe,
7 reliable, and prompt delivery services and facilities. A
8 delivery service provider with an assigned service area shall
9 maintain within the state those administrative, technical, and
10 operating personnel necessary for the provision of safe,
11 reliable, and prompt delivery services and facilities. Such
12 personnel shall be strategically located by the delivery
13 service provider to ensure that end-use consumers receive
14 safe, reliable, and prompt service. A delivery service
15 provider shall also maintain within the state an office for
16 Iowa operations that shall maintain those books, accounts,
17 papers, and records deemed necessary by the board to be
18 maintained within the state, unless otherwise authorized by
19 the board. Nothing in this paragraph requires a consumer-
20 owned utility to relocate any delivery service personnel or to
21 change the current location of its books, accounts, papers, or
22 records.

23 b. The board shall have general oversight responsibility
24 for delivery service safety requirements and inspection and
25 maintenance activities for all delivery service providers.
26 The board shall adopt rules for delivery service providers
27 that it determines are required for reasonably safe, reliable,
28 and prompt delivery service, including rules relating to
29 credit practices, collection practices, disconnection
30 practices, billing practices, public safety, service
31 reliability, quality of service, power quality, preventive
32 maintenance standards, line clearance standards, outage
33 frequency, outage duration, service restoration, and other
34 necessary provisions. The board shall also adopt rules
35 regarding distribution service extensions, staffing levels as

1 related to outage duration, and the timeliness of service
2 installation for delivery service providers that are electric
3 companies. In adopting the rules required by this paragraph,
4 the board shall give due consideration to weather, terrain,
5 public safety, staffing levels, cost, end-use consumer density
6 per mile of distribution line, and end-use consumer
7 satisfaction. The initial rules shall be proposed by October
8 1, 2001.

9 c. The board shall adopt rules requiring that delivery
10 service providers demonstrate that personnel who will be
11 installing, operating, and maintaining the delivery system
12 have the requisite skills, knowledge, experience, and training
13 to perform those work functions necessary to provide high
14 quality, safe, and reliable services. Such demonstration may
15 include a showing that applicable personnel have completed an
16 accredited or recognized apprenticeship training program for
17 the particular skill, trade, or craft. The initial rules
18 shall be proposed by October 1, 2001.

19 2. OPEN ACCESS AND COMPARABLE DELIVERY SERVICE.

20 a. Commencing October 1, 2002, for each delivery service
21 provider, unbundled distribution services, and other electric
22 services unbundled pursuant to section 476B.4, shall be made
23 available to end-use consumers and, if in the assigned service
24 area of an electric company, to licensed competitive electric
25 service providers, as provided in this chapter and the rules
26 adopted by the board to implement this section. Unbundled
27 delivery services shall be offered on a nondiscriminatory and
28 comparable service basis.

29 b. The board may adopt uniform rules for administering
30 open access and comparable delivery service including, but not
31 limited to, procedures for access to consumer information for
32 operational purposes, data transfers, and switching of
33 competitive electric service providers by end-use consumers.
34 However, the board shall not impose rates upon a consumer-
35 owned utility. The rules shall give due consideration to the

1 technology available, the administrative and financial burden
2 on delivery service providers and competitive electric service
3 providers, the objective of reasonable distribution service
4 rates, and the objective of nondiscriminatory and comparable
5 service. The initial rules shall be proposed by October 1,
6 2001.

7 c. Delivery service providers shall adopt and implement
8 procedures for distribution service line extensions, service
9 installations, timeliness of such extensions and
10 installations, and for restoring delivery service after
11 outages on a nondiscriminatory basis without regard to the
12 competitive electric service provider serving the end-use
13 consumer. The board has jurisdiction to hear complaints with
14 respect to matters under this paragraph brought by any person.
15 However, the board shall not impose rates or charges on a
16 consumer-owned utility.

17 d. If, after notice and opportunity for hearing, the board
18 determines that any delivery service provider or control area
19 operator is imposing unreasonable or artificial barriers to
20 access to any competitive electric service on the delivery
21 system, the board shall require the delivery service provider
22 or control area operator to take corrective measures, not
23 inconsistent with federal law, to the extent necessary and
24 feasible to eliminate the barriers to access. However, the
25 board shall not impose rates upon a consumer-owned utility.
26 The measures ordered by the board may include a requirement
27 that the delivery service provider participate in a regional
28 entity approved by the federal energy regulatory commission,
29 or its successor, that has authority over the portion of the
30 delivery system subject to federal regulation independently
31 from the wholesale electric sales function of the delivery
32 service provider. For the purposes of this paragraph,
33 artificial barriers shall not include legislative or
34 regulatory actions.

35 3. ELIMINATION OF OBLIGATION TO PROVIDE CERTAIN ELECTRIC

1 SERVICES.

2 a. Except as provided in subsection 7 and sections 476B.8,
3 476B.11, and 476B.12, an incumbent provider and a delivery
4 service provider shall not have any obligation to provide
5 competitive electric services to an end-use consumer that has
6 the option to choose competitive electric services.

7 b. A delivery service provider or a control area operator
8 shall not be liable for any damages to an end-use consumer if
9 a competitive electric service provider chosen by the consumer
10 fails to fulfill the terms of its contract with the end-use
11 consumer. This paragraph shall not be construed to limit the
12 liability of a delivery service provider or a control area
13 operator for damages caused by its own actions or failure to
14 act.

15 4. ASSIGNED SERVICE AREAS.

16 a. EXCLUSIVE ASSIGNED SERVICE AREAS ESTABLISHED. The
17 state has established a system of exclusive assigned service
18 areas for electric service pursuant to section 476.25 and in
19 effect on January 1, 1999. The service areas shall continue
20 to be assigned to the persons to whom such areas were assigned
21 on January 1, 1999, or their successors, who shall provide
22 bundled electric service to end-use consumers on an exclusive
23 basis until the dates when choice is available as specified in
24 section 476B.7. On or after the dates when choice is
25 available, a person assigned a service area immediately prior
26 to the dates when choice is available shall be the delivery
27 service provider for the assigned service area unless such
28 person designates to the board a different person. A delivery
29 service provider shall provide delivery services to end-use
30 consumers within its assigned area on an exclusive basis
31 pursuant to this chapter.

32 b. CLARIFICATION OR MODIFICATION OF BOUNDARIES.

33 (1) Consistent with this subsection, the board, on its own
34 motion or at the request of a delivery service provider or
35 municipal corporation, after notice and opportunity for

1 hearing, may clarify or modify the boundaries of an assigned
2 service area if it finds that the clarification or
3 modification will promote the public interest, preserve
4 existing assigned service areas and the delivery service
5 providers' right to serve existing end-use consumers, prevent
6 unnecessary duplication of facilities, provide adequate
7 delivery service to all assigned service areas and end-use
8 consumers affected, and promote the efficient and economical
9 use and development of the electric delivery system.

10 (2) An agreement between delivery service providers to
11 designate assigned service areas and end-use consumers or to
12 clarify or modify assigned service areas to be served by the
13 delivery service providers or for the exchange of end-use
14 consumers between delivery service providers shall be
15 submitted to the board for review. The agreement, when
16 approved by the board, is valid and enforceable and shall be
17 incorporated into the appropriate assigned service areas
18 established pursuant to this subsection. The board shall
19 approve an agreement if the board finds the agreement
20 satisfies the criteria set forth in subparagraph (1).

21 (3) If a delivery service provider declines to enter into
22 an agreement to designate an assigned service area or end-use
23 consumers, or to clarify or modify an assigned service area,
24 an aggrieved person may petition the board to order such a
25 designation, clarification, or modification on the grounds
26 that the proposed designation, clarification, or modification
27 will promote the public interest, preserve existing service
28 areas and the delivery service providers' right to serve
29 existing end-use consumers, prevent unnecessary duplication of
30 facilities, provide adequate delivery service to all assigned
31 service areas and end-use consumers affected, and promote the
32 efficient and economical use and development of the electric
33 delivery system. If the board finds that the petition meets
34 the foregoing standards, the board shall order the
35 designation, clarification, or modification on such terms and

1 conditions as it finds just and reasonable.

2 c. LIMIT ON BYPASS. Except with the written approval of
3 the affected delivery service provider and the board, a person
4 shall not provide or offer to provide delivery service to an
5 end-use consumer in an assigned service area assigned to
6 another delivery service provider, or construct delivery
7 service facilities in an assigned service area assigned to
8 another delivery service provider to serve an end-use consumer
9 in such assigned service area. This paragraph does not
10 preclude an end-use consumer from constructing, or having
11 constructed, on real estate which the end-use consumer owns or
12 leases, distribution service facilities for the exclusive
13 purpose of meeting the end-use consumer's own electric service
14 requirements, as long as such facilities are constructed
15 entirely within the boundaries of such real estate and, as a
16 consequence of constructing such facilities, will not allow
17 that end-use consumer to avoid nonbypassable charges or reduce
18 the value of facilities dedicated to that end-use consumer for
19 which the delivery service provider would not be compensated.
20 With respect to matters subject to the board's jurisdiction, a
21 person may file a complaint with the board regarding a
22 violation of this paragraph. Upon finding a violation, the
23 board shall order appropriate corrective action including
24 discontinuance of the unlawful service, removal of the
25 unlawful facility, compensation for lost margin, or other
26 disposition commensurate with the injury suffered. A petition
27 for franchise filed by a municipal utility pursuant to section
28 478.2 for facilities used to connect the utility to the
29 transmission grid shall not be limited by this paragraph.

30 d. CERTIFICATES OF AUTHORITY. A municipal corporation,
31 after being authorized by a vote of the people, or any
32 delivery service provider may file a petition with the board
33 requesting a certificate of authority to furnish delivery
34 service to the existing point of delivery of any end-use
35 consumer already receiving delivery service. If, after thirty

1 days have elapsed following notice by the board to the person
2 currently serving the end-use consumer, objection to the
3 petition is not filed and investigation is not deemed
4 necessary, the board shall issue a certificate. If an
5 objection is filed, and the board, after notice and
6 opportunity for hearing, determines that delivery service to
7 the end-use consumer by the petitioner should be granted, the
8 board shall grant a certificate in whole or in part, upon such
9 terms, conditions, and restrictions as may be justified. In
10 determining whether a proposal should be granted, the board
11 shall consider the factors set forth in paragraph "b",
12 subparagraph (1). Whether or not an objection is filed, a
13 certificate issued shall require that the petitioner pay to
14 the person presently serving the end-use consumer the
15 reasonable price for the facilities serving the end-use
16 consumer as determined by the board. A price determination by
17 the board shall include due consideration of all of the
18 following:

- 19 (1) The value of the facilities being acquired.
- 20 (2) Any penalties, buyout costs, or other costs associated
21 with any commitments to generating and transmission capacity
22 on behalf of the departing consumers or to support the
23 delivery service facilities being acquired.
- 24 (3) Projected loss of revenue and its impact on remaining
25 end-use consumers of the affected provider.
- 26 (4) The cost of any facilities necessary to reintegrate
27 the system of the delivery service provider after detaching
28 the portion sold.

29 e. OBLIGATION TO EXTEND DELIVERY SERVICE FACILITIES. A
30 delivery service provider that has been assigned an exclusive
31 delivery service area pursuant to this subsection shall extend
32 delivery service facilities to all end-use consumers within
33 its assigned service area as provided in this chapter. The
34 board shall adopt rules for electric companies setting forth
35 the terms and conditions of delivery service facility

1 extensions for electric companies and shall issue proposed
2 rules by no later than October 1, 2001.

3 f. DELIVERY SERVICE AREA MAPS. Whenever requested by the
4 board, delivery service providers shall file with the board,
5 jointly or severally, detailed maps of their assigned service
6 areas drawn to a scale specified by the board showing all of
7 the following:

8 (1) The locations of franchised transmission lines,
9 distribution lines, and related facilities.

10 (2) All state and federal highways and other public roads
11 within the delivery service area.

12 (3) All section lines and numbers, and township and range
13 numbers within the delivery service area.

14 (4) The corporate boundaries of all cities within the
15 delivery service area.

16 (5) All lakes and rivers within the delivery service area.

17 (6) All railroads within the delivery service area.

18 (7) The number, classifications, training levels, and
19 locations of personnel involved in installing, operating, and
20 maintaining delivery services and facilities.

21 (8) Any additional information requested by the board.

22 If deemed by the board to be necessary, the board shall
23 prepare or cause to have prepared a composite map of this
24 state showing the delivery service areas. The form and detail
25 of all maps shall be determined by the board.

26 g. EXCEPTION. Notwithstanding contrary provisions of this
27 section, a delivery service provider may extend delivery
28 service facilities and provide delivery service outside its
29 assigned service area to its own utility property and
30 facilities.

31 h. RIGHTS OF CITIES. If not inconsistent with this
32 chapter, the rights of cities under chapters 362 through 390
33 are preserved.

34 However, prior to the institution of condemnation
35 proceedings under chapter 6B, a city shall obtain a

1 certificate of authority from the board as provided in
2 paragraph "d" and the board's determination of price shall be
3 conclusive evidence of damages in these condemnation
4 proceedings.

5 i. EFFECT OF INCORPORATION, ANNEXATION, OR CONSOLIDATION.

6 The inclusion by incorporation, annexation, or consolidation
7 of any facilities or service area of a person with an
8 exclusive assigned service area within the boundaries of any
9 city shall not by such inclusion impair or affect in any
10 respect the rights of the delivery service provider to
11 continue to provide delivery services and to extend service to
12 prospective end-use consumers in accordance with this chapter.

13 5. DELIVERY SERVICE RATE REGULATION FOR ELECTRIC

14 COMPANIES. A delivery service provider that is also an
15 electric company shall file, post, and maintain applicable
16 unbundled rates in accordance with this subsection and section
17 476B.4. The board shall regulate the rates, charges,
18 schedules, and regulations for distribution services and other
19 services unbundled pursuant to section 476B.4, subsection 1,
20 and provided by delivery service providers that are electric
21 companies. The burden of establishing the reasonableness of
22 rates, charges, schedules, and regulations is upon the
23 delivery service provider.

24 a. FILING WITH BOARD. Except as provided in paragraphs

25 "g" and "i", a delivery service provider that is an electric
26 company shall not make effective a new or changed distribution
27 service rate, charge, schedule, or regulation or other
28 unbundled rate, charge, schedule, or regulation subject to the
29 jurisdiction of the board until the rate, charge, schedule, or
30 regulation has been approved by the board. Notwithstanding
31 anything in this chapter to the contrary, if an application
32 for a new or changed rate or charge is filed with the board
33 and posted on its website, and if affected competitive
34 electric service providers and end-use consumers have the
35 option to select or not select such rate or charge, the rate

1 or charge shall become effective within ten business days
2 after filing. The board, within ten business days after the
3 filing, may docket the filing and suspend the rate or charge,
4 either upon the filing of a written objection or on its own
5 motion, but the board shall not suspend the rate or charge for
6 more than ninety days from the date the tariff was filed.

7 b. LIMITATIONS ON FILING. A delivery service provider
8 that is an electric company shall not make a subsequent filing
9 of an application for a new or changed rate, charge, schedule,
10 or regulation which relates to the same rate, charge,
11 schedule, or regulation for which a filing is pending within
12 twelve months following the date the prior application was
13 filed or, until the board has issued a final order on the prior
14 application, whichever date is earlier, unless the delivery
15 service provider applies to the board for authority to make a
16 subsequent filing at an earlier date and such application is
17 approved by the board.

18 c. WRITTEN NOTICE OF INCREASE. A delivery service
19 provider that is an electric company shall give written notice
20 of a proposed increase of a distribution service rate or
21 charge or other unbundled rate or charge subject to the
22 jurisdiction of the board to all affected competitive electric
23 service providers and end-use consumers receiving service
24 under board-approved tariffs or with whom the delivery service
25 provider has distribution service contracts, whether or not
26 written, prior to the time the application for the increase is
27 filed with the board. The notice shall state that the
28 competitive electric service provider or end-use consumer has
29 a right to file a written objection to the rate increase and
30 may request the board to hold a public hearing to determine if
31 the increase should be allowed. The board shall adopt rules
32 prescribing the timing, manner, and method of serving the
33 written notice. The board may adopt rules regarding
34 notification of other end-use consumers that may be affected
35 by a proposed increase. The initial rules shall be proposed

1 by December 1, 2001.

2 d. FACTS AND ARGUMENTS SUBMITTED. At the time an
3 application for any new or changed rate, charge, schedule, or
4 regulation is filed with the board, the delivery service
5 provider shall submit factual evidence and written argument
6 offered in support of the filing. If the application proposes
7 an increase in distribution service rates, the delivery
8 service provider shall also file testimonial evidence in
9 support of the filing.

10 e. HEARING SET. After the filing of an application by a
11 delivery service provider for a new or changed rate, charge,
12 schedule, or regulation subject to the jurisdiction of the
13 board, the board, prior to the expiration of thirty days after
14 the filing date, shall docket the case as a formal proceeding
15 and set the case for hearing unless the new or changed rate,
16 charge, schedule, or regulation is approved by the board. If
17 an application presents no material issue of fact subject to
18 dispute, and the board determines that the application
19 violates a relevant statute, or is not in substantial
20 compliance with a board rule, the application may be rejected
21 by the board without prejudice and without a hearing, provided
22 that the board issues a written order setting forth all of its
23 reasons for rejecting the application. The board shall give
24 notice of formal proceedings as it deems appropriate. Except
25 as provided in paragraphs "g" and "i", the docketing of a case
26 as a formal proceeding suspends the effective date of the new
27 or changed rate, charge, schedule, or regulation until the
28 rate, charge, schedule, or regulation is approved by the
29 board.

30 f. UTILITY HEARING EXPENSES REPORTED. If a case has been
31 docketed as a formal proceeding, the delivery service provider
32 shall file with the board a report outlining the expected
33 expenses for litigating the case through the period allowed by
34 the board in rendering a final decision. Within ten days
35 after the conclusion of the delivery service provider's

1 presentation of comments, testimony, or briefs, the delivery
2 service provider shall submit to the board a listing of the
3 delivery service provider's actual litigation expenses in the
4 proceeding, excluding costs to be billed by the board and the
5 consumer advocate. As part of the findings of the board, the
6 board shall allow recovery of all reasonable costs of the
7 litigation, including all costs billed by the board and the
8 consumer advocate, over a reasonable period of time.

9 g. DISTRIBUTION SERVICE RATES AND CHARGES. Distribution
10 service rates and charges and other unbundled rates and
11 charges shall be based upon a cost of service method,
12 performance-based incentives, or such other method of
13 ratemaking as the board deems just and reasonable. If cost of
14 service is used for establishing a component of unbundled
15 rates, the method used to determine class cost of service, to
16 the maximum extent practicable, should permit identification
17 of cost differences attributable to variations in demand,
18 energy, voltage delivery level, customer components of costs,
19 and other factors. This chapter does not prohibit a delivery
20 service provider from making provision for the automatic
21 adjustment of a distribution service rate or charge or other
22 rate or charge subject to the jurisdiction of the board,
23 provided that a tariff setting forth the mechanism for
24 automatic adjustment of a rate or charge is first filed with
25 and approved by the board. Notice of such filing to end-use
26 consumers and competitive electric service providers receiving
27 service under board-approved tariffs or with whom the delivery
28 service provider has distribution service contracts, whether
29 or not written, shall be required, but adjustments pursuant to
30 an approved mechanism shall not require further notice. The
31 board may adopt rules regarding notification of other end-use
32 consumers that may be affected by the automatic adjustment
33 mechanism.

34 The board, in determining the value of materials or
35 services to be included in valuations or costs of operations

1 for ratemaking purposes, may disallow any unreasonable profit
2 made in the sale of materials to or services supplied for any
3 delivery service provider by a firm or corporation owned or
4 controlled directly or indirectly by such delivery service
5 provider or any affiliate, subsidiary, parent company,
6 associate, or any corporation whose controlling stockholders
7 are also controlling stockholders of such delivery service
8 provider. The burden of proof is on the delivery service
9 provider to prove that no unreasonable profit is made.

10 h. FINDING BY BOARD. If, after hearing and decision on
11 all issues presented for determination in the rate proceeding,
12 the board finds the proposed rate, charge, schedule, or
13 regulation to be unlawful or not just and reasonable, the
14 board shall, by order, authorize and direct the delivery
15 service provider to file a new or changed rate, charge,
16 schedule, or regulation which, when approved by the board and
17 placed in effect, will satisfy the requirements of this
18 chapter. A rate, charge, schedule, or regulation so approved
19 is lawful and effective upon its approval.

20 i. TEMPORARY AUTHORITY. Upon the request of a delivery
21 service provider, the board, when required by this paragraph,
22 shall grant temporary authority to place in effect any or all
23 of a suspended rate, charge, schedule, or regulation. A
24 delivery service provider shall file with the board a bond or
25 other undertaking approved by the board conditioned upon the
26 refund in a manner to be prescribed by the board of any
27 amounts collected in excess of the amounts which would have
28 been collected under a rate, charge, schedule, or regulation
29 finally approved by the board. In determining that portion of
30 the new or changed rate, charge, schedule, or regulation to be
31 placed into effect prior to a final decision, the board shall
32 apply previously established regulatory principles and, at a
33 minimum, shall permit rates and charges which will allow the
34 delivery service provider the opportunity to earn a return on
35 common stock equity equal to that which the board held

1 reasonable and just in the most recent rate case involving
2 electric or distribution service. However, if the most recent
3 final decision of the board in an applicable rate case was
4 rendered more than twelve months prior to the date of filing
5 of the request for temporary rates, the board, in addition,
6 shall consider financial market data that is filed or that is
7 otherwise available to the board and shall adjust the rate of
8 return on common stock equity that was approved in that
9 decision upward or downward as necessary to reflect current
10 conditions. The board shall render a decision on a request
11 for temporary authority within ninety days after the date of
12 filing of the request. The decision shall be effective
13 immediately. If the board has not rendered a final decision
14 with respect to a suspended rate, charge, schedule, or
15 regulation upon the expiration of ten months after the filing
16 date, plus the length of any delay that necessarily results
17 either from the failure of the delivery service provider to
18 exercise due diligence in connection with the proceedings or
19 from intervening judicial proceedings, the portion of the
20 rate, charge, schedule, or regulation that was approved by the
21 board on a temporary basis shall be deemed finally approved by
22 the board and the delivery service provider may place that
23 portion of the rate, charge, schedule, or regulation into
24 effect on a permanent basis, and also may place into effect
25 subject to refund and until the final decision of the board
26 any portion of the suspended rate, charge, schedule, or
27 regulation not previously approved on a temporary basis by
28 filing with the board a bond or other undertaking approved by
29 the board.

30 The board shall determine the rate of interest to be paid
31 by a delivery service provider to persons receiving refunds.

32 j. INVESTIGATIONS. If a written request is filed with the
33 board by any person or body politic, or filed by the board
34 upon its own motion, requesting the board to determine the
35 reasonableness of a distribution service rate, charge,

1 schedule, or regulation or other unbundled rate, charge,
2 schedule, or regulation subject to the jurisdiction of the
3 board, or anything done or omitted to be done in contravention
4 of this chapter by a delivery service provider that is an
5 electric company, the written complaint shall be forwarded by
6 the board to the delivery service provider, which shall be
7 called upon to satisfy the complaint or to answer it in
8 writing within a reasonable time to be specified by the board.
9 Copies of the written complaint forwarded by the board to the
10 delivery service provider and copies of all correspondence
11 from the delivery service provider in response to the
12 complaint shall be provided by the board in an expeditious
13 manner to the consumer advocate. If the board determines the
14 delivery service provider's response is inadequate and there
15 appears to be any reasonable ground for investigating the
16 complaint, the board shall promptly initiate a formal
17 proceeding. If the consumer advocate determines the delivery
18 service provider's response to the complaint is inadequate,
19 the consumer advocate may file a petition with the board which
20 shall promptly initiate a formal proceeding if the board
21 determines that there is any reasonable ground for
22 investigating the complaint. The complainant or the delivery
23 service provider also may petition the board to initiate a
24 formal proceeding, which petition shall be granted if the
25 board determines that there is any reasonable ground for
26 investigating the complaint. A formal proceeding may be
27 initiated at any time by the board on its own motion. If a
28 formal proceeding is initiated, the board shall set the case
29 for hearing and give notice as it deems appropriate. If the
30 board, after a hearing held after reasonable notice, finds a
31 delivery service provider's rate, charge, schedule, or
32 regulation subject to the jurisdiction of the board is unjust,
33 unreasonable, discriminatory, or otherwise in violation of any
34 law, the board shall determine a just, reasonable, and
35 nondiscriminatory rate, charge, schedule, or regulation to be

1 observed and enforced.

2 k. RATE COMPLAINTS BY CONSUMER ADVOCATE. If the consumer
3 advocate files a complaint with the board alleging that a
4 delivery service provider's regulated rates are excessive, the
5 disputed amount shall be specified in the petition. The board
6 shall promptly initiate a formal proceeding if it determines
7 that there is any reasonable ground for investigating the
8 complaint. If the board determines to initiate a formal
9 proceeding, the delivery service provider, within the time
10 prescribed by the board, shall file a bond or undertaking
11 approved by the board conditioned upon the refund in a manner
12 prescribed by the board of amounts collected after the date of
13 filing of the petition in excess of a rate or charge finally
14 determined by the board to be lawful. If after hearing the
15 board finds that the delivery service provider's regulated
16 rates are unlawful or not just and reasonable, the board shall
17 order a refund, with interest, of amounts collected after the
18 date of filing of the petition that are determined to be in
19 excess of the amounts which would have been collected under
20 the rates finally approved. However, the board shall not
21 order a refund that is greater than the amount specified in
22 the petition, plus interest, and if the board fails to render
23 a decision within ten months following the date of filing of
24 the petition, the board shall not order a refund of any excess
25 amounts that are collected after the expiration of that ten-
26 month period and prior to the date the decision is rendered.

27 l. PROSPECTIVE EFFECT. A determination by the board of a
28 distribution service rate or charge or another unbundled rate,
29 charge, schedule, or regulation pursuant to paragraph "i" or
30 "j" that is based upon a variance from previously established
31 regulatory principles shall apply prospectively from the date
32 of the decision.

33 m. RULES GOVERNING HEARINGS. The board shall adopt rules
34 to provide for the completion of proceedings under this
35 subsection within ten months after the date of the filing of

1 the application or complaint. The rules shall include
2 reasonable time limitations for the submission or completion
3 of comments, testimony, exhibits, briefs, and hearings, which
4 the board may extend upon the request of a party to the
5 proceeding for good cause shown. Additional time granted to a
6 party shall not extend the amount of time for which a delivery
7 service provider is required to file a bond or other
8 undertaking. If additional time is granted, the board may
9 extend the ten-month period during which a delivery service
10 provider is prohibited from placing its entire rate increase
11 request into effect, but an extension shall not exceed the
12 aggregate amount of all additional time granted under this
13 paragraph. The initial rules shall be proposed by December 1,
14 2001.

15 n. CONSIDERATION OF CURRENT INFORMATION. The board shall
16 adopt rules that require the board in rate proceedings under
17 this subsection to consider the use of the most current test
18 period possible in determining reasonable and just rates,
19 subject only to the availability of existing and verifiable
20 data with respect to costs and revenues, and in addition to
21 consider verifiable data that exist as of the filing date of
22 the application or complaint with respect to known and
23 measurable changes in costs not associated with a different
24 level of revenue, and known and measurable revenues not
25 associated with a different level of costs, that are to occur
26 at any time within twelve months after the date of the filing.
27 This paragraph shall not limit the authority of the board to
28 consider other evidence in proceedings under this subsection.
29 The initial rules shall be proposed by December 1, 2001.

30 o. TARIFFS POSTED. A rate, charge, schedule, term,
31 condition, or regulation applicable to distribution service or
32 other unbundled service that has been approved by the board or
33 is otherwise in effect pursuant to this subsection shall be
34 posted on the board's website within twenty-four hours after
35 being placed into effect.

1 p. ACCOUNTS RENDERED TO THE BOARD.

2 (1) A delivery service provider that is an electric
3 company shall keep and render to the board, in the manner and
4 form prescribed by rules of the board, uniform accounts of all
5 business transacted.

6 (2) A delivery service provider that is an electric
7 company and that is engaged directly or indirectly in any
8 other business than that of the provision of delivery services
9 to the public, if required by rules adopted by the board,
10 shall keep and render separately to the board in like manner
11 and form the accounts of all such other business, in which
12 case this subsection shall apply to the books, accounts,
13 papers, and records of such other business and all profits and
14 losses may be taken into consideration by the board if deemed
15 relevant to the general fiscal condition of the delivery
16 service provider.

17 (3) A delivery service provider that is an electric
18 company is required to keep and render its books, accounts,
19 papers, and records accurately and faithfully in the manner
20 and form prescribed by rules of the board, and to comply with
21 all directions of the board relating to such books, accounts,
22 papers, and records.

23 (4) The board shall consult with other state and federal
24 regulatory bodies for the purpose of eliminating accounting
25 discrepancies with regard to the keeping of accounts before
26 prescribing any system of account to be kept by a delivery
27 service provider. The initial rules shall be proposed by
28 December 1, 2001.

29 q. JURISDICTION OVER DELIVERY SERVICE PROVIDERS. The
30 jurisdiction and powers of the board shall extend as provided
31 in this chapter to a delivery service business of an electric
32 company operating within this state to the full extent
33 permitted by the Constitution and laws of the United States.

34 r. AUDIT OF DELIVERY SERVICE OPERATIONS. The board shall
35 adopt rules to administer a program for the continuous review

1 of operations of a delivery service provider that is an
2 electric company with respect to all matters that affect rates
3 or charges for delivery service. The initial rules shall be
4 proposed by December 1, 2001.

5 s. LOBBYING COSTS. A delivery service provider that is an
6 electric company is prohibited from including either directly
7 or indirectly the costs of lobbying in the charges or rates
8 subject to the jurisdiction of the board.

9 t. LEGAL COSTS. Legal costs and attorney fees incurred by
10 a delivery service provider that is an electric company in a
11 judicial review proceeding in state or federal court involving
12 the validity of any action of the board shall not be included
13 either directly or indirectly in the charges or rates subject
14 to the jurisdiction of the board except to the extent that
15 recovery of legal costs and attorney fees is allowed by the
16 board. The board shall allow recovery of the reasonable legal
17 costs and attorney fees incurred in judicial review. The
18 board may consider the degree of success of the legal
19 arguments of the delivery service provider in determining the
20 reasonable legal costs and attorney fees to be allowed.

21 u. ADVERTISING. Except as provided in this paragraph, a
22 delivery service provider that is an electric company shall
23 not include either directly or indirectly in the charges or
24 rates subject to the jurisdiction of the board the costs of
25 advertising other than advertising regarding public safety or
26 advertising that is required by the board or by any other
27 state or federal regulation. However, this restriction does
28 not apply to advertising which is deemed by the board to be in
29 the public interest and which is approved by the board.

30 An advertisement which is published, broadcast, or
31 otherwise displayed or disseminated to the public by a
32 delivery service provider that is an electric company, the
33 costs of which will be included in the rates or charges
34 subject to the jurisdiction of the board and which is not
35 public safety advertising or advertising required by the board

1 or by other state or federal regulation, shall include a
2 statement in the advertisement that the costs of the
3 advertisement are being charged to the users of delivery
4 service. This paragraph does not apply to a delivery service
5 provider's product or service that is or becomes subject to
6 competition as determined by the board.

7 v. ANNUAL REPORTS OF DELIVERY SERVICE PROVIDERS. The
8 board shall adopt rules prescribing the form and content of an
9 annual report to be filed with the board by a delivery service
10 provider, other than a consumer-owned utility. The board
11 shall review annual reports submitted pursuant to the rules.
12 The board may commence rate-review proceedings under this
13 chapter for an electric company if an annual report indicates
14 that its earnings are excessive. The initial rules shall be
15 proposed by December 1, 2001.

16 6. DELIVERY SERVICE RATE REGULATION FOR CONSUMER-OWNED
17 UTILITIES.

18 a. LOCAL REGULATION. The rates for delivery service and
19 other unbundled services provided by a consumer-owned utility
20 and all other matters not specifically reserved to the board
21 by statute shall be regulated by the consumer-owned utility's
22 local governing body. An election made pursuant to section
23 476.1A by the board of directors or the membership of an
24 electric cooperative corporation or association to have the
25 cooperative's rates regulated by the board is rescinded
26 effective June 1, 2000.

27 b. POSTING. Rates, terms, and conditions of applicable
28 distribution services and other unbundled services provided by
29 a consumer-owned utility shall be posted on the board's
30 website. Any change in rates, terms, or conditions shall be
31 posted no less than twenty-four hours prior to becoming
32 effective.

33 c. NOTICE OF CHANGES. A consumer-owned utility shall give
34 written notice of any proposed increase in delivery service
35 rates or charges or other unbundled rates or charges to all

1 applicable and directly affected end-use consumers and
2 competitive electric service providers at least thirty days
3 prior to the effective date of the increase.

4 d. DISCRIMINATION PROHIBITED. A consumer-owned utility
5 shall not make or grant to any person any unreasonable
6 preference or advantage as to delivery service rates,
7 services, terms, or conditions or subject any person to
8 unreasonable prejudice or disadvantage. This paragraph shall
9 not be construed to prohibit a municipal utility from
10 providing preferential rates, terms, or conditions of services
11 to any department or function of municipal government pursuant
12 to section 384.91.

13 e. DISPUTES. The district court has original jurisdiction
14 concerning disputes with respect to the distribution service
15 rates and charges and other unbundled service rates of a
16 consumer-owned utility and all other matters concerning a
17 consumer-owned utility not specifically reserved to the board
18 by this chapter or another statute.

19 f. ANNUAL REPORTS OF CONSUMER-OWNED DELIVERY SERVICE
20 PROVIDERS. The board shall adopt rules prescribing the form
21 and content of an annual report to be filed with the board by
22 a consumer-owned delivery service provider. The initial rules
23 shall be proposed by December 1, 2001.

24 7. CONTROL AREA OPERATIONS.

25 a. REGULATORY JURISDICTION. A rate, charge, term, and
26 condition of distribution services provided within the state
27 by a control area operator that is an electric company is
28 subject to subsection 5 and to regulation by the board except
29 to the extent such rate, charge, term, or condition is subject
30 to the exclusive jurisdiction of the federal energy regulatory
31 commission or another federal agency. Distribution services
32 may include load profiling, financial settlement, distribution
33 system scheduling, and ancillary services to the extent not
34 subject to exclusive federal jurisdiction. The board shall
35 approve rates, charges, terms, conditions, and processes for

1 load profiling and financial settlement that are just,
2 reasonable, and nondiscriminatory. The board shall adopt
3 rules governing the filing and posting of control area
4 operator's services, rates, charges, terms, conditions, and
5 processes subject to its jurisdiction and changes in such
6 services, rates, charges, terms, conditions, and processes.
7 The initial rules shall be proposed by October 1, 2000.

8 b. NOTICE TO BOARD OF DEFAULT. If a control area operator
9 becomes aware that a competitive electric service provider has
10 substantially failed to schedule energy for two consecutive
11 twenty-four-hour periods, failed to deliver energy scheduled
12 with or committed to the control area operator for two
13 consecutive twenty-four-hour periods, or has otherwise
14 substantially defaulted upon its obligations to or agreements
15 with the control area operator, the control area operator
16 shall notify the board and the affected delivery service
17 provider of such occurrence as soon as practicable. A control
18 area operator shall use reasonable commercial efforts to
19 provide power supply services on an emergency basis to end-use
20 consumers if a competitive electric service provider defaults.
21 However, notwithstanding subsection 3, paragraph "b", a
22 control area operator shall not be liable to an end-use
23 consumer for failure to provide emergency power supply
24 services.

25 The board shall adopt rules addressing the failure of a
26 competitive electric service provider to comply with the
27 terms, conditions, and obligations of control area services.
28 The rules shall provide for finding a replacement competitive
29 electric service provider or competitive electric service
30 providers to serve the end-use consumers of the defaulting
31 competitive electric service provider as soon as feasible in
32 order to eliminate the burden on the control area operator to
33 provide power supply services for such consumers. The rules
34 shall include a provision for the board or an entity
35 designated by the board to notify affected end-use consumers

1 if a need exists for the end-use consumers to select a new
2 competitive electric service provider. The rules shall also
3 include a provision that permits a control area operator to
4 recover all reasonable costs incurred by the control area
5 operator in remedying the competitive electric service
6 provider's failure and providing service to the end-use
7 consumers of the competitive electric service provider to the
8 extent the competitive electric service provider fails to pay
9 such costs. The initial rules shall be proposed by October 1,
10 2000.

11 8. STANDARDS OF CONDUCT.

12 a. DELIVERY SERVICE PROVIDERS. No later than April 1,
13 2002, each delivery service provider shall post on the board's
14 website standards of conduct, to be effective October 1, 2002,
15 that require the delivery service provider to do all of the
16 following:

17 (1) Apply all tariff provisions in a nondiscriminatory and
18 comparable service manner to similarly situated persons.

19 (2) Process requests for delivery service in a
20 nondiscriminatory manner.

21 (3) Make available any distribution service discounts,
22 rebates, or waiver of fees on a nondiscriminatory basis to all
23 similarly situated persons.

24 (4) Comply with section 476B.6, subsection 5, paragraph
25 "k".

26 (5) Deny to any competitive electric service provider
27 preferential access to information related to the distribution
28 of electricity which is not otherwise made publicly available,
29 except information regarding the competitive electric service
30 provider's own end-use consumers.

31 (6) Not represent that any advantages accrue to end-use
32 consumers or others in the use of the delivery service
33 provider's services as a result of that end-use consumer or
34 others dealing with any particular competitive electric
35 service provider.

1 (7) Establish a complaint procedure applicable to the
2 standards of conduct, and process and resolve complaints in
3 accordance with such procedure.

4 (8) Develop written agreements with generating plant
5 operators as needed to maintain distribution system
6 reliability.

7 (9) Abide by the applicable federal energy regulatory
8 commission standards of conduct when providing delivery
9 service subject to the jurisdiction of the federal energy
10 regulatory commission.

11 (10) Take reasonable steps to keep its delivery system in
12 operation in emergency circumstances affecting system
13 reliability.

14 (11) Prohibit discrimination in the extension or repair of
15 the delivery system facilities.

16 (12) If the delivery service provider is an electric
17 company, maintain separate books, records, and accounts for
18 distribution service operations. If the delivery service
19 provider is a consumer-owned utility, maintain records in such
20 a manner as to enable delivery service data to reasonably be
21 separated from data that do not pertain to delivery services.

22 (13) With respect to distribution service and control area
23 operator employees engaged in receiving requests from a
24 competitive electric service provider for reservation or
25 scheduling of energy over the distribution system, prohibit
26 the sharing of such employees with a competitive electric
27 service provider and physically separate such employees from a
28 competitive electric service provider.

29 A consumer-owned utility shall not be required to comply
30 with subparagraph (13), but shall be required to comply with
31 paragraph "b", subparagraph (7), with respect to employees
32 engaged in receiving requests from a competitive electric
33 service provider for reservation or scheduling of energy over
34 the delivery system.

35 The board shall review any posting of an electric company

1 and, if it concludes there are reasonable grounds to do so,
2 may hold a hearing to determine if the standards comply with
3 this subsection.

4 b. CONTROL AREA OPERATORS. No later than April 1, 2002,
5 each control area operator that engages in retail electric
6 sales within a control area, either directly or through its
7 own corporate structure or an affiliate, shall post on the
8 board's website standards of conduct, to be effective October
9 1, 2002, that require the control area operator to do all of
10 the following:

11 (1) Disclose tariff information to users of the control
12 area and apply all tariff provisions on a nondiscriminatory
13 basis to similarly situated persons.

14 (2) If the control area operator is an electric company,
15 maintain separate books of accounts and financial records from
16 any competitive electric service provider. If the control
17 area operator is a consumer-owned utility, maintain records in
18 such a manner as to enable control area service data to
19 reasonably be separated from other data.

20 (3) Prohibit the tying of the provision of any control
21 area services to the selection of any particular competitive
22 electric service provider or the selection of a product or
23 service from any particular competitive electric service
24 provider.

25 (4) Deny a competitive electric service provider
26 preferential access to information related to control area
27 operations which is not otherwise made publicly available,
28 except with respect to information regarding the competitive
29 electric service provider's own end-use consumers.

30 (5) Solicit, from time to time, competitive bids for
31 ancillary services, to the extent not inconsistent with any
32 applicable federal requirements.

33 (6) Administer energy balancing and financial settlement
34 performed by the control area in a nondiscriminatory manner.

35 (7) Develop and administer a method for maintaining the

1 integrity of proprietary and confidential information.

2 (8) Develop and post on the board's website a system for
3 reporting declared emergencies. However, a control area
4 operator shall not declare an emergency situation for the
5 purpose of unreasonably discriminating against any other
6 person.

7 The board shall review the posting of standards of conduct
8 of an electric company and, if it concludes there are
9 reasonable grounds to do so, may hold a hearing to determine
10 if the standards comply with the provisions of this
11 subsection.

12 c. INFORMATIONAL FILING AND ADDITIONAL STANDARDS FOR
13 ELECTRIC COMPANIES. A delivery service provider or control
14 area operator that is an electric company shall submit to the
15 board such information as the board may require in order to
16 evaluate the actual effectiveness of the standards of conduct
17 in fulfilling the purposes of this chapter. The board, upon
18 its own motion or upon receipt of a complaint from any person
19 alleging a violation of the standards of conduct, may
20 investigate a delivery service provider's or control area
21 operator's compliance with the standards of conduct. In
22 addition, the board may add new standards of conduct by rule,
23 if it determines the existing standards are not sufficient to
24 ensure open access and comparable and nondiscriminatory
25 service.

26 9. ADHERENCE TO SCHEDULES. A delivery service provider
27 shall not directly or indirectly charge a greater compensation
28 for its services than that prescribed in its tariffs, and a
29 delivery service provider shall not make or grant any
30 unreasonable preferences or advantages as to rates, charges,
31 or services to any person, or subject any person to any
32 unreasonable prejudice or disadvantage.

33 10. AFFILIATES OF DELIVERY SERVICE PROVIDERS.

34 a. Except as provided in this section or as otherwise
35 approved by the board, a delivery service provider that is an

1 electric company shall not directly or indirectly include in
2 regulated rates or charges any costs or expenses of an
3 affiliate engaged in any business other than delivery service
4 unless the affiliate provides goods or services to the
5 delivery service provider in accordance with rules adopted
6 pursuant to this subsection. Any costs included in regulated
7 rates or charges shall be reasonably necessary and appropriate
8 for the delivery service business.

9 b. A delivery service provider that is an electric company
10 shall only provide regulated services in a manner that
11 minimizes the possibility of cross-subsidization of
12 unregulated services and unfair competitive advantage and
13 shall provide services as described in subsection 11 only in a
14 manner that minimizes the possibility of cross-subsidization
15 or unfair competitive advantage.

16 c. A delivery service provider that is an electric company
17 shall keep and render to the board upon request delivery
18 service records and records pertaining to services as
19 described in subsection 11 separate from affiliates or
20 operations that do not provide delivery service.

21 d. For a delivery service provider that is an electric
22 company, the board, for delivery service ratemaking purposes,
23 may inquire as to and prescribe the allocation of
24 capitalization, earnings, debts, shared corporate services,
25 and expenses related to ownership, operation, or management of
26 affiliates.

27 e. Not later than January 15, 2001, the board shall
28 propose rules identifying those services that may be shared
29 between a delivery service provider or control area operator
30 that is an electric company and an affiliated competitive
31 electric service provider. Such rules shall not prevent a
32 delivery service provider or control area operator from using
33 the following shared corporate services, even when shared with
34 an affiliated competitive electric service provider:
35 corporate oversight; governance; administrative services,

1 including travel administration, security, printing, graphics,
2 custodial services, secretarial support, mail services and
3 records management; financial management services, including
4 accounting, treasury, internal audit, tax and financial
5 reporting and planning; data processing; shareholder services;
6 strategic corporate planning; human resources; employee
7 benefits; regulatory services; legal services; lobbying; and
8 nonmarket research and development activities. Such rules
9 shall not prevent a delivery service provider or control area
10 operator from using such shared corporate services even when
11 shared with an affiliated competitive electric service
12 provider. This paragraph shall not be construed to limit the
13 authority of the board to determine the amount of shared
14 corporate service costs, if any, to be included in regulated
15 rates for distribution service and other unbundled services
16 under section 476B.4 and this section.

17 f. A contract or arrangement providing for the furnishing
18 or receiving of goods and services between a delivery service
19 provider that is an electric company and an affiliate shall be
20 filed with the board in a time frame established by rule of
21 the board. The initial rules shall be proposed by December 1,
22 2001.

23 g. A contract or arrangement for the purchase, sale,
24 lease, or exchange of any property, right, or thing between a
25 delivery service provider that is an electric company and any
26 affiliate shall be filed with the board in a time frame
27 established by rule by the board. The initial rules shall be
28 proposed by December 1, 2001.

29 h. A contract or arrangement providing for a loan of money
30 or an extension or renewal of a loan of money or any similar
31 transaction between a delivery service provider that is an
32 electric company and an affiliate, whether as guarantor,
33 endorser, surety, or otherwise, shall be filed with the board
34 in a time frame established by rule of the board. The initial
35 rules shall be proposed by December 1, 2001.

1 i. A contract or agreement filed pursuant to paragraph
2 "f", "g", or "h" and determined by the board to be a
3 confidential record pursuant to section 22.7 shall be
4 available for review by an interested party under rules
5 protecting the confidentiality of the contract or agreement as
6 adopted by the board. The initial rules shall be proposed by
7 December 1, 2001. The contract or agreement shall be returned
8 to the delivery service provider filing the confidential
9 record within sixty days after the contract or agreement is
10 filed.

11 j. The board shall adopt rules excluding from the filing
12 requirements of paragraphs "f", "g", and "h", the filing of a
13 contract or agreement for a transaction with an affiliate
14 where the amount of consideration involved does not exceed a
15 threshold level of annual distribution and transmission
16 revenues of the delivery service provider. The initial rules
17 to be adopted pursuant to this paragraph shall be proposed by
18 December 1, 2001.

19 k. In a proceeding involving the rates, charges, or
20 practices of a delivery service provider that is an electric
21 company, the board may exclude from rates or charges any
22 unreasonable payment or compensation to an affiliate made
23 pursuant to a contract or arrangement whether or not filed
24 under this subsection. For ratemaking purposes, the board may
25 exclude the payment of compensation to an affiliate or adjust
26 the revenue received from an affiliate associated with any
27 contract or arrangement required to be filed with the board if
28 the contract or arrangement is not so filed.

29 l. The board has the same jurisdiction over modification
30 of or amendment to a contract or arrangement filed under this
31 subsection as it has over the original contracts or
32 arrangements. A modification of or amendment to a contract or
33 arrangement shall also be filed in a time frame as determined
34 by the board.

35 m. The board shall consult with other state and federal

1 regulatory agencies for the purpose of eliminating duplicate
2 or conflicting filing requirements and may adopt rules which
3 provide that comparable information required to be filed with
4 other state or federal regulatory agencies may be accepted by
5 the board in lieu of information required by this subsection.

6 n. The board may adopt rules or issue orders which exempt
7 a class of contracts or arrangements from this subsection, or
8 waive the requirements of this subsection if the board finds
9 that the exemption or waiver is in the public interest.

10 o. The board may periodically retain a nationally or
11 regionally recognized independent auditing firm to conduct an
12 audit of the transactions between a delivery service provider
13 that is an electric company and its affiliates to investigate
14 compliance with this subsection. An affiliate transaction
15 audit shall not be conducted more frequently than twelve
16 months after the conclusion of the most recently completed
17 audit, unless ordered by the board for good cause after notice
18 and opportunity for hearing. The cost of the audit shall be
19 paid by the delivery service provider to the independent
20 auditing firm and shall be included in its regulated rates and
21 charges, unless otherwise ordered by the board for good cause
22 after providing the delivery service provider the opportunity
23 for a hearing.

24 p. A delivery service provider that is a consumer-owned
25 utility shall keep and render to the board upon request
26 delivery service records in a manner as to enable delivery
27 service data to reasonably be separated from affiliates' data.
28 This subsection shall not be construed to authorize the board
29 to impose rates on a consumer-owned utility. Information
30 rendered to the board pursuant to this paragraph and
31 determined by the board to be a confidential record pursuant
32 to section 22.7 shall be returned to the delivery service
33 provider rendering the confidential record within sixty days
34 after rendering the confidential record or at the end of the
35 investigation or proceeding. Except as provided in this

1 subsection, a consumer-owned delivery service provider shall
2 not directly or indirectly include in delivery service rates
3 or charges any costs or expenses of an affiliate engaged in
4 any business other than delivery service unless the affiliate
5 provides goods and services to the delivery service provider.
6 Any costs included in rates or charges shall be reasonably
7 necessary and appropriate for the delivery service business,
8 and shall be market priced and directly related to such goods
9 or services in a manner that avoids cross-subsidization or
10 unfair competitive advantage.

11 11. CROSS-SUBSIDIZATION PROHIBITED. A delivery service
12 provider that is an electric company shall not directly or
13 indirectly include in distribution service rates or charges
14 any costs or expenses attributable to the sale, lease, or
15 other conveyance of commercial and residential electric
16 appliances, interior lighting systems or fixtures, or electric
17 heating, ventilating, or air conditioning systems and
18 component parts, or the servicing, repair, or maintenance of
19 such equipment. Except for contracts existing as of July 1,
20 1996, a delivery service provider that is an electric company,
21 or its affiliate, shall not use the delivery service
22 provider's vehicles, service tools and instruments, or
23 employees, the costs, salaries, or benefits of which are
24 recoverable in regulated rates for distribution service, to do
25 either of the following:

26 a. Install, service, or repair residential or commercial
27 electric heating, ventilating, or air conditioning systems, or
28 interior lighting systems and fixtures.

29 b. Sell at retail electric heating, ventilating, air
30 conditioning, or interior lighting equipment.

31 For purposes of this subsection, "commercial" means a place
32 of business primarily used for the storage or sale, at
33 wholesale or retail, of goods, wares, services, or
34 merchandise, as well as a nonprofit institution and a business
35 office. This subsection shall not be construed to prohibit a

1 delivery service provider from using its vehicles, service
2 tools and instruments, and employees to market its systems,
3 services, and equipment or to eliminate an emergency or threat
4 to public safety.

5 12. REORGANIZATION OF DELIVERY SERVICE PROVIDERS THAT ARE
6 ELECTRIC COMPANIES.

7 a. For purposes of this subsection, "reorganization" means
8 any of the following:

9 (1) The acquisition, sale, lease, or any other
10 disposition, directly or indirectly, including by merger or
11 consolidation, of the whole or any substantial part of the
12 regulated delivery service assets of an incumbent provider
13 that is an electric company. This includes a sale, lease, or
14 other disposition, directly or indirectly, including, but not
15 limited to, a transfer of control, of delivery service
16 facilities subject to federal regulation as part of an
17 incumbent provider's participation in a regional entity
18 accepted by the federal energy regulatory commission, or its
19 successor, that operates the portion of the delivery system in
20 this state subject to federal regulation independently from
21 the wholesale electric sales function of the incumbent
22 provider.

23 (2) Until January 1, 2009, the sale of any ownership
24 interest in a generation unit, the costs of which have been
25 included in regulated retail electric rates, by an incumbent
26 provider that is an electric company to any person. After
27 January 1, 2009, this subsection 12 shall not apply to this
28 type of transaction.

29 (3) The purchase or other acquisition or sale or other
30 disposition of the controlling capital stock of any delivery
31 service provider that is an electric company, either directly
32 or indirectly.

33 (4) Notwithstanding subparagraphs (1) through (3), a
34 transaction that results in an incumbent provider that is an
35 electric company maintaining its delivery service assets and

1 operations subject to rate regulation by the board in a legal
2 entity separate from the competitive electric service assets
3 and operations, including electric generation assets and
4 operations, of the incumbent provider and its affiliates is
5 subject to the following:

6 (a) If the transaction is filed with the board as part of
7 the initial unbundled distribution service rate review
8 proceeding under section 476B.4, the incumbent provider is not
9 required to comply with this subsection, including
10 satisfaction of the criteria in paragraph "d".

11 (b) If the transaction is not filed with the board as part
12 of the initial unbundled distribution service rate review
13 proceeding under section 476B.4, the incumbent provider shall
14 file sufficient information with the board to determine
15 whether the transaction will result in regulated distribution
16 rates that are just, reasonable, and nondiscriminatory and
17 shall also file sufficient information for the board's
18 consideration under paragraph "d", subparagraph (5).

19 Under subparagraph subdivisions (a) and (b), a delivery
20 service provider must demonstrate that it will comply with
21 applicable standards of conduct. A board finding that
22 authorizes a transaction under subparagraph subdivision (a) or
23 (b) shall provide the incumbent provider a reasonable period
24 of time to consummate the transaction. The period of time may
25 be extended by the board for good cause.

26 b. A reorganization shall not take place unless the board
27 approves. Prior to reorganization, an applicant shall file
28 with the board a proposal for reorganization with supporting
29 testimony and evidence addressing the items specified in
30 paragraph "d".

31 c. A proposal for reorganization shall be approved or
32 disapproved within ninety days after its filing. However, the
33 board may extend the time for its decision by no more than an
34 additional ninety-day period for good cause. The board shall
35 provide for notice and opportunity for hearing on the

1 proposal. The notice of hearing shall be provided no later
2 than fifty days after the proposal for reorganization has been
3 filed.

4 d. In its review of a proposal for reorganization, the
5 board shall consider all of the following:

6 (1) Whether the board will have reasonable access to
7 books, records, documents, and other information relating to
8 the delivery service provider or any affiliates with which the
9 delivery service provider has contracts.

10 (2) Whether the delivery service provider's ability to
11 attract capital on reasonable terms, including the maintenance
12 of a reasonable capital structure, is impaired.

13 (3) Whether the ability of the delivery service provider
14 to provide safe, reasonable, and adequate delivery service is
15 impaired.

16 (4) Whether users of the delivery service are
17 detrimentally affected.

18 (5) Whether the public interest is detrimentally affected,
19 including, but not limited to, whether the proposed
20 reorganization is likely to have a significant adverse effect
21 on competition in this state.

22 (6) Whether the delivery service provider has shown that
23 it will maintain within the state those administrative,
24 technical, and operating personnel necessary for the provision
25 of reasonably safe, reliable, and prompt delivery services and
26 facilities, and that such personnel shall be strategically
27 located by the delivery service provider to ensure that end-
28 use consumers receive safe, reliable, and prompt service.

29 e. The board may adopt rules or issue orders which exempt
30 a class of reorganization from this subsection if the board
31 finds, with respect to the class of reorganization, that
32 review is not necessary in the public interest. The board may
33 waive any or all of the requirements of this subsection, if
34 the board finds that board review is not necessary in the
35 public interest.

1 f. In approving any proposed reorganization pursuant to
2 this subsection, the board may impose such terms, conditions,
3 or requirements as in its judgment are necessary to protect
4 the financial and operational integrity of the delivery
5 service provider.

6 13. JOINT ADVERTISING PROHIBITED.

7 a. No later than October 1, 2002, a delivery service
8 provider that is an electric company shall use a name that is
9 distinct from any affiliated competitive electric service
10 provider. An affiliated competitive electric service provider
11 may use any name and logo of its choosing, including that of
12 the incumbent provider or parent company. The board shall
13 determine whether the name of the delivery service provider is
14 distinct from any affiliated competitive electric service
15 provider. Except as provided in rules adopted by the board,
16 the delivery service provider shall not identify its
17 affiliation with a competitive electric service provider or
18 the parent of a competitive electric service provider either
19 through a tag line or other means, except that a common logo
20 may be used.

21 b. A delivery service provider or a control area operator
22 of an electric company shall neither jointly advertise nor
23 jointly market its services or products with an affiliated
24 competitive electric service provider. However, this
25 subsection does not preclude a delivery service provider from
26 having joint meetings and contacts with end-use consumers and
27 competitive electric service providers, including affiliated
28 competitive electric service providers, for legitimate
29 business purposes. The board shall adopt rules regarding such
30 meetings and purposes. The initial rules shall be proposed by
31 January 15, 2001.

32 Sec. 10. NEW SECTION. 476B.10 RESPONSIBILITIES AND
33 RIGHTS OF COMPETITIVE ELECTRIC SERVICE PROVIDERS.

34 1. GENERAL. The responsibilities and rights of a licensed
35 competitive electric service provider include those specified

1 in this section and elsewhere in this chapter.

2 2. RESPONSIBILITIES AND RIGHTS.

3 a. A competitive electric service provider may do any of
4 the following:

5 (1) To the extent permitted by its license, offer and
6 enter into contracts to provide competitive electric services
7 to end-use consumers.

8 (2) Purchase delivery services from a delivery service
9 provider that is an electric company to sell to end-use
10 consumers, subject to this chapter and any applicable delivery
11 service tariffs and board rules.

12 (3) Purchase delivery services from a delivery service
13 provider that is a consumer-owned utility at the discretion of
14 the consumer-owned utility and subject to the terms and
15 conditions of the consumer-owned utility.

16 (4) Consistent with the rules adopted pursuant to section
17 476B.6, subsection 5, require a money deposit from an end-use
18 consumer as a condition of service, with any deposit so
19 required becoming part of the contract between the end-use
20 consumer and the competitive electric service provider.

21 (5) Bill for services in accordance with section 476B.12.

22 (6) With the agreement of an end-use consumer, install,
23 own, maintain, and read a meter in accordance with section
24 476B.11.

25 b. A competitive electric service provider shall do all of
26 the following:

27 (1) Comply with all applicable environmental, safety, and
28 service standards.

29 (2) Be able to demonstrate the truth of any claim that it
30 makes to end-use consumers regarding types of fuel used to
31 produce energy.

32 (3) Pay a delivery service provider for services provided
33 and charges assessed to a competitive electric service
34 provider or to an end-use consumer for whom the competitive
35 electric service provider has agreed to assume payment

1 responsibility, without regard to whether the competitive
2 electric service provider receives payment from the end-use
3 consumer.

4 (4) Pay a delivery service provider for services provided
5 to an end-use consumer and charges assessed to an end-use
6 consumer for which the delivery service provider has
7 authorized the competitive electric service provider to bill
8 and collect, without regard to whether the competitive
9 electric service provider receives payment from the end-use
10 consumer.

11 (5) If requested, provide to each delivery service
12 provider, schedules and schedule changes submitted for
13 deliveries to the delivery service provider at the same time
14 that they are submitted to the control area operator.

15 (6) If operating generating facilities in Iowa or offering
16 metering installation, meter maintenance, or meter reading
17 services within Iowa, perform these activities in a prompt,
18 safe, and reliable manner; maintain within the state those
19 administrative, technical, and operating personnel necessary
20 for the provision of reasonably safe, reliable, and prompt
21 generation and metering services and facilities; and
22 demonstrate that personnel involved in installing, operating,
23 and maintaining generating facilities or electric meters and
24 metering equipment have the requisite skills, knowledge,
25 experience, and training to perform those work functions
26 necessary to provide high-quality, safe, reliable, and prompt
27 services. Such demonstration may include a showing that
28 applicable personnel have completed an accredited or
29 recognized apprenticeship training program for the particular
30 skill, trade, or craft. This subparagraph shall only apply to
31 a competitive electric service provider that is a consumer-
32 owner utility to the extent that it provides competitive
33 electric service outside its assigned service area.

34 c. A competitive electric service provider shall not be
35 required to provide individual end-use consumer information,

1 including metering information, to other competitive electric
2 service providers.

3 d. This chapter is not intended to affect the activities
4 of a licensed competitive electric service provider in the
5 provision of goods and services other than the sale of
6 competitive electric services at retail in this state.

7 e. The board shall not regulate the rates or charges of
8 competitive electric services of or a competitive electric
9 service provider with the exception of the rates or charges
10 for standard offer service under section 476B.8, subsection 1.

11 f. Commencing on October 1, 2002, a licensed competitive
12 electric service provider, on a semiannual basis unless the
13 frequency of publication is otherwise extended by the board,
14 shall provide to each end-use consumer to whom it sells
15 electric energy a fuel and associated emissions disclosure
16 statement for the known sources of electric energy sold to the
17 consumer. The board shall adopt rules governing the form and
18 content of the disclosure statement by October 1, 2001. The
19 board's rules shall be designed to provide adequate
20 information to consumers about their sources of electricity,
21 disclose the amount of energy purchased by consumers from
22 renewable resources, and minimize transaction costs and
23 administrative burdens on licensed competitive electric
24 service providers. The disclosure shall be made available to
25 the board and the division of energy and geological resources
26 of the department of natural resources, or its successor, for
27 inclusion on their websites.

28 3. COMMUNITY CHOICE. On or after October 1, 2007, a city
29 may serve as a buying agent or aggregator on behalf of end-use
30 consumers within its jurisdiction. Such service shall be
31 conditioned on satisfaction of all of the following:

32 a. The city must adopt an ordinance or resolution
33 specifying the conditions applicable to the aggregation
34 process.

35 b. A city may group end-use consumers to solicit bids,

1 brokers, and contracts for the acquisition of competitive
2 electric services and other related energy services for
3 consumers. Such service agreements may be entered into by a
4 single city or by a group of cities.

5 c. A majority of the voters within a city must approve
6 community choice in a referendum. Prior to the referendum,
7 the city must make available information regarding the purpose
8 of the community choice program and any known terms and
9 conditions of enrollment, including whether an end-use
10 consumer will be automatically enrolled in the program if the
11 consumer does not choose another competitive electric service
12 provider or choose to receive service pursuant to section
13 476B.8, subsection 4.

14 d. Upon approval of the referendum, a city shall complete
15 a plan of operation and governance for review by its citizens.
16 The plan must ensure that all end-use consumers participating
17 in the community choice program will be served by a licensed
18 competitive electric service provider. The plan shall be
19 posted on the board's website.

20 e. A city completing a plan shall hold at least two public
21 hearings on the plan. Before the first hearing, the city
22 shall publish notice of the hearings pursuant to chapter 362.
23 The notice shall summarize the plan and state the date, time,
24 and location of each hearing.

25 f. The city shall fully inform participating end-use
26 consumers in advance of automatic enrollment that they are to
27 be automatically enrolled and that they have the right to
28 elect not to participate in the community choice program
29 without penalty. The disclosure shall prominently state the
30 rates, charges, and other terms and conditions of enrollment.
31 End-use consumers under contract to a competitive electric
32 service provider or who have chosen to receive service
33 pursuant to section 476B.8, subsection 4, shall not be
34 automatically enrolled in the community choice program.

35 g. From the date the first disclosure is mailed stating

1 the rates, charges, and other terms and conditions of
2 enrollment, such program shall allow an end-use consumer a
3 number of calendar days specified in the disclosure to elect
4 not to participate and to choose any other competitive
5 electric service provider or choose to receive service
6 pursuant to section 476B.8, subsection 4.

7 h. Participation by an end-use consumer in the community
8 choice program is voluntary. An end-use consumer
9 participating in the program must comply with the terms and
10 conditions of the community choice program.

11 This subsection does not preclude a city from becoming a
12 licensed aggregator under section 476B.6, subsection 4, and
13 soliciting voluntary participation by end-use consumers in an
14 aggregation group.

15 Sec. 11. NEW SECTION. 476B.11 METERING AND METER
16 INFORMATION.

17 1. An existing meter owned by an incumbent provider shall
18 remain the property of the delivery service provider.

19 2. A delivery service provider shall install, own, and
20 maintain metering as deemed necessary by the delivery service
21 provider. However, this chapter shall not be construed to
22 require a delivery service provider to provide, install, own,
23 or maintain meters that are not necessary for the purpose of
24 providing delivery service.

25 3. A delivery service provider or a control area operator
26 shall not require interval metering as a condition for
27 residential end-use consumers and nonresidential end-use
28 consumers using fewer than seventy-five thousand kilowatt-
29 hours annually to exercise the option to choose competitive
30 services.

31 4. A meter owned by the delivery service provider shall be
32 installed by that delivery service provider regardless of the
33 location of the meter.

34 5. An end-use consumer may install metering not owned by
35 the delivery service provider on the consumer's side of the

1 main disconnect, subject to the reasonable connection
2 requirements of the delivery service provider and the rules of
3 the board. The end-use consumer is subject to the board's
4 rules regarding standards, installation, maintenance, and
5 testing of meters used for billing if the end-use consumer
6 chooses to own the meter. The delivery service provider may
7 disconnect electric service at such meter subject to board
8 rules.

9 6. An end-use consumer or such consumer's competitive
10 electric service provider may request that metering and
11 associated hardware be installed on the electric facilities of
12 the delivery service provider or on the delivery service
13 provider's side of the main disconnect, to enable the consumer
14 to take advantage of competitive service offerings. The meter
15 and associated hardware shall comply with applicable board
16 rules, and the costs of the meter shall be borne by the end-
17 use consumer or the competitive electric service provider.
18 The installation of the meter and associated hardware shall be
19 performed by the delivery service provider in accordance with
20 its requirements and the rules of the board. The delivery
21 service provider may charge a reasonable, cost-based fee for
22 the installation. The delivery service provider shall have
23 reasonable discretion in prescribing the location and
24 necessary connection equipment for the installation of meters
25 and associated hardware under this subsection.

26 7. If the meter will be owned by the end-use consumer or
27 the competitive electric service provider and will be
28 installed on the end-use consumer's side of the main
29 disconnect, the delivery service provider may offer to, but is
30 not required to, install the meter.

31 8. The board shall adopt rules relating to metering
32 practices, including, but not limited to, installation of
33 meters, uniform metering standards and practices, master
34 metering availability and related billing practices,
35 inspection and testing programs, accuracy requirements, data

1 transmission protocols, load profiling, and maintenance of
2 meter reading records. In addition, the board shall require a
3 competitive electric service provider and an end-use consumer
4 owning a meter to provide meter access to the delivery service
5 provider for disconnections, and may require a presence for
6 meter testing. The initial rules shall be proposed by October
7 1, 2001.

8 9. A person is entitled to read meters that the person
9 owns. A delivery service provider is entitled to reasonable
10 access to any meters connected to the delivery service
11 provider's system without regard to ownership. A competitive
12 electric service provider is responsible for obtaining the
13 meter information necessary to bill such provider's end-use
14 consumers. With the consent of the end-use consumer, a
15 competitive electric service provider serving the end-use
16 consumer is entitled to reasonable access to read any meters
17 owned by the delivery service provider on the end-use
18 consumer's premises for this purpose.

19 10. A delivery service provider is not required to read
20 meters but, to the extent such provider does so, the delivery
21 service provider shall make the meter information needed for
22 billing available to a competitive electric service provider
23 serving the metered premises. A delivery service provider may
24 assess the competitive electric service provider a reasonable
25 charge for making such information available to the
26 competitive electric service provider.

27 11. To avoid unnecessary reading of an end-use consumer's
28 meter, a competitive electric service provider responsible for
29 meter information gathering shall make end-use consumer usage
30 information needed for billing and financial settlement
31 available to the delivery service provider at a charge if the
32 competitive electric service provider so chooses. It shall
33 also make necessary information available to the control area
34 operator serving the metered premises.

35 Sec. 12. NEW SECTION. 476B.12 BILLING.

1 1. Subject to subsections 3 and 4, a delivery service
2 provider and a control area operator may bill an end-use
3 consumer and a competitive electric service provider for the
4 services each provides. A delivery service provider or a
5 control area operator shall not be required to bill for
6 services provided by a competitive electric service provider
7 except as provided in subsection 3, but either may do so at
8 its option for a cost-based charge.

9 2. A competitive electric service provider may bill an
10 end-use consumer for services it provides, subject to section
11 476B.6, subsection 3, and other applicable provisions of this
12 chapter and board rules.

13 3. An end-use consumer receiving delivery service from an
14 electric company is entitled to request a single consolidated
15 bill for competitive electric services, delivery services, and
16 control area services. Unless otherwise agreed by the
17 affected service providers, such consolidated billing is the
18 responsibility of the competitive electric service provider
19 selling competitive billing services.

20 4. An end-use consumer receiving delivery service from a
21 consumer-owned utility shall receive a bill from the consumer-
22 owned utility for services rendered and a bill from the
23 competitive electric service provider for competitive electric
24 services, unless otherwise agreed to by the affected service
25 providers. Any consolidated billing for an end-use consumer
26 receiving delivery service from a consumer-owned utility shall
27 be the responsibility of the consumer-owned utility, unless
28 otherwise agreed to by the consumer-owned utility and affected
29 competitive electric service providers. If a delivery service
30 provider that is a consumer-owned utility provides all billing
31 services for its associated licensed competitive electric
32 service provider function within its assigned service area,
33 such consumer-owned utility shall provide comparable service
34 within its assigned service area for all other competitive
35 electric service providers.

1 5. Not later than October 1, 2000, the board shall propose
2 rules related to billing services consistent with this
3 chapter. Except as provided in this chapter, the board shall
4 not restrict a delivery service provider or a control area
5 operator from contracting with a competitive electric service
6 provider to provide or receive billing services.

7 Sec. 13. NEW SECTION. 476B.13 SYSTEM BENEFIT PROGRAMS.

8 1. LOW-INCOME AFFORDABILITY AND ENERGY EFFICIENCY
9 PROGRAMS.

10 a. PURPOSE. For purposes of this subsection, "division"
11 means the division of community action agencies within the
12 department of human rights or its successor. A low-income
13 affordability program and a low-income energy efficiency
14 program are created to be administered by the division. The
15 purpose of the low-income affordability program is to
16 encourage the competitive market to serve the electric needs
17 of low-income, end-use consumers. The purpose of the low-
18 income energy efficiency program is to reduce the consumption
19 of electricity by low-income, end-use consumers through energy
20 efficiency improvements.

21 b. APPORTIONMENT. Low-income affordability and low-income
22 energy efficiency assistance shall be distributed statewide.

23 c. ELIGIBILITY. Eligibility for the low-income
24 affordability and low-income energy efficiency programs shall
25 be determined as follows:

26 (1) A residential end-use consumer with a household income
27 at or below one hundred fifty percent of the federal poverty
28 level, as determined annually by the United States department
29 of health and human services, is eligible to receive low-
30 income affordability assistance.

31 (2) A residential end-use consumer with a household income
32 at or below one hundred fifty percent of the federal poverty
33 level, as determined annually by the United States department
34 of health and human services, is eligible to receive low-
35 income energy efficiency program assistance, regardless of

1 their eligibility to receive low-income affordability
2 assistance.

3 d. LOW-INCOME AFFORDABILITY PROGRAM. The community action
4 agencies shall qualify a consumer for participation in the
5 low-income affordability program and shall notify a person
6 billing the end-use consumer of the consumer's monthly fixed
7 credit and the duration for which the monthly fixed credit is
8 authorized. The monthly fixed credit is the amount necessary
9 to reduce the consumer's total electric bill to an affordable
10 percentage of income in accordance with rules adopted by the
11 division. Additionally, the monthly fixed credit shall
12 include an amount equal to the amount of monthly systems
13 benefits charges paid by the end-use consumer pursuant to this
14 section. The affordable percentage of income shall be tiered
15 to reflect the ratio of the consumer's household income to the
16 federal poverty level, with greater assistance provided to
17 those at lower poverty levels, as determined by rules of the
18 division.

19 Program benefits shall be distributed as a monthly fixed
20 credit applied toward a consumer's delivery service bill for
21 provision of electricity. A person billing an end-use
22 consumer shall subtract the amount of the credit from the
23 amount of the consumer's bill each month, or an equivalent
24 amount if a different billing cycle is utilized. If the
25 monthly fixed credit exceeds the portion of the bill related
26 to delivery service, the excess shall be applied toward the
27 cost of the consumer's competitive power supply services. A
28 person billing the end-use consumer shall bill the appropriate
29 community action agency for the sum of the total amount of
30 fixed credits provided to the consumer and the division shall
31 timely reimburse the person for all credited amounts. Only
32 those credits that are authorized in accordance with this
33 subsection shall be reimbursed.

34 e. LOW-INCOME ENERGY EFFICIENCY PROGRAM. Energy
35 efficiency assistance shall be prioritized based on the end-

1 use consumers with the largest kilowatt-hours of annual use.
2 Moneys allocated to the low-income energy efficiency program
3 may be used for space heating as allowed pursuant to the
4 federal weatherization assistance program or nonspace heating
5 as determined by the division as necessary and appropriate to
6 provide maximum comprehensive cost-effective energy efficiency
7 treatment to low-income households.

8 f. FUNDING. (1) For the first three years the low-income
9 affordability program and the low-income energy efficiency
10 program are in effect, funds for the programs shall be
11 provided by all end-use consumers through a nonbypassable
12 monthly surcharge on all distribution services within a
13 delivery service provider's assigned service area, including
14 service provided under rates or charges pursuant to section
15 476B.8. The monthly surcharge shall be collected by the
16 person billing the end-use consumer for the service. The
17 monthly surcharge shall commence with bills issued on October
18 1, 2002.

19 (2) The monthly surcharge for an end-use consumer located
20 in the assigned service area of a delivery service provider
21 that is an electric company shall be as follows:

22 (a) Sixty-nine cents for a residential electric account.

23 (b) Thirty-eight cents for a nonresidential electric
24 account with an annual usage of less than twenty-five thousand
25 kilowatt-hours in the prior calendar year.

26 (c) Two dollars and eighty cents for a nonresidential
27 electric account with an annual usage of twenty-five thousand
28 kilowatt-hours to one hundred thousand kilowatt-hours in the
29 prior calendar year.

30 (d) Eleven dollars and seventy cents for a nonresidential
31 electric account with an annual usage of more than one hundred
32 thousand kilowatt-hours to four hundred thousand kilowatt-
33 hours in the prior calendar year.

34 (e) Fifty dollars and eighty-four cents for a
35 nonresidential electric account with an annual usage of more

1 than four hundred thousand kilowatt-hours to one million five
2 hundred thousand kilowatt-hours in the prior calendar year.

3 (f) Two hundred dollars and twenty-two cents for a
4 nonresidential electric account with an annual usage of more
5 than one million five hundred thousand kilowatt-hours to six
6 million kilowatt-hours in the prior calendar year.

7 (g) One thousand eight hundred forty-seven dollars and
8 fifty cents for a nonresidential electric account with an
9 annual usage of more than six million kilowatt-hours in the
10 prior calendar year.

11 (3) The monthly surcharge for an end-use consumer located
12 in the assigned service area of a delivery service provider
13 that is a consumer-owned utility shall be as follows:

14 (a) Eighteen cents for a residential electric account.

15 (b) Fourteen cents for a nonresidential electric account
16 with an annual usage of less than twenty-five thousand
17 kilowatt-hours in the prior calendar year.

18 (c) One dollar and one cent for a nonresidential electric
19 account with an annual usage of twenty-five thousand kilowatt-
20 hours to one hundred thousand kilowatt-hours in the prior
21 calendar year.

22 (4) Four dollars and twenty-two cents for a nonresidential
23 electric account with an annual usage of more than one hundred
24 thousand kilowatt-hours to four hundred thousand kilowatt-
25 hours in the prior calendar year.

26 (5) Eighteen dollars and thirty-five cents for a
27 nonresidential electric account with an annual usage of more
28 than four hundred thousand kilowatt-hours to one million five
29 hundred thousand kilowatt-hours in the prior calendar year.

30 (6) Seventy-two dollars and twenty-six cents for a
31 nonresidential electric account with an annual usage of more
32 than one million five hundred thousand kilowatt-hours to six
33 million kilowatt-hours in the prior calendar year.

34 (7) Six hundred sixty-six dollars and eighty-one cents for
35 a nonresidential electric account with an annual usage of more

1 than six million kilowatt-hours in the prior calendar year.

2 For the purpose of determining the monthly charge, the term
3 "accounts" may be interpreted by the board in appropriate
4 circumstances to mean end-use consumers. During the second
5 and third twelve-month periods that the program is in effect,
6 the monthly charges shall be adjusted as necessary to yield no
7 less than twenty-three million, five hundred thousand dollars
8 annually. For nonresidential consumers with no prior
9 calendar-year usage the delivery service provider may use a
10 reasonable estimate of the consumer's usage.

11 All moneys collected pursuant to this subsection shall be
12 remitted to the treasurer of state. The treasurer shall make
13 disbursements from this fund as appropriate. The unencumbered
14 or unobligated moneys remaining at the end of any fiscal year
15 from the appropriations made in this subsection shall not
16 revert but shall be available for expenditure during
17 subsequent fiscal years until expended for the purposes for
18 which originally appropriated. Interest or earnings on
19 investments or time deposits of the moneys remitted under this
20 section shall be retained for the purposes designated in this
21 section.

22 After the third year of the program, the board shall
23 annually establish levels of charges on electric accounts
24 based on the total program budget developed by the division.
25 When determining the per account charge, the board shall not
26 substantially deviate from the cost allocation among consumer
27 groups reflected in the initial funding charges. Any increase
28 in monthly charges as provided in this paragraph shall not go
29 into effect without prior approval by joint resolution as
30 adopted by the general assembly.

31 g. PROGRAM ALLOCATIONS, ADMINISTRATION, AND BUDGETS.

32 (1) Amounts allocated to the low-income affordability
33 program shall be based on participation rates from prior years
34 and the level of credits necessary to maintain affordable
35 energy burdens. Low-income energy efficiency program

1 allocations shall be based on the level of funding necessary
2 to deliver adequate energy efficiency to participating
3 households, as determined by the weatherization assistance
4 program. The level of funding allocated for the low-income
5 energy efficiency program shall not exceed twenty percent of
6 total low-income affordability program funding. The level of
7 funding allocated for administration shall not exceed ten
8 percent of the amounts allocated for the sum of the low-income
9 affordability program and the low-income energy efficiency
10 program.

11 (2) The division shall administer the program.
12 Administration of the program shall include contracting with
13 community action agencies, enrolling low-income, end-use
14 consumers in the program, providing outreach and consumer
15 education, notifying consumers and answering consumer
16 inquiries, and keeping records relating to the numbers of
17 program participants and program expenditures.

18 (3) The division shall develop a budget for the low-income
19 affordability program and the low-income energy efficiency
20 program on an annual basis.

21 (4) The division shall provide a report to the legislative
22 fiscal committee on a monthly basis regarding any expenditures
23 for the low-income affordability program and low-income energy
24 efficiency program. A monthly report shall cover a calendar
25 month and is due the tenth day of the following month, and
26 shall provide a summary of all expenditures made under such
27 programs. The division shall also provide a copy of the
28 annual budget developed under subparagraph (3) to the
29 legislative fiscal committee.

30 (5) Amounts in the fund shall not be subject to
31 appropriation for any other purpose by the general assembly,
32 but shall be used only for the purpose set forth in this
33 subsection.

34 h. IMPLEMENTATION PLAN. Within ninety days after the
35 effective date of this chapter, the division shall convene an

1 initial meeting of persons interested in participating in the
2 development of an implementation plan. Additional meetings
3 shall be scheduled by the division as necessary. The plan, at
4 a minimum, shall include the requirements identified in this
5 subsection.

6 i. DELIVERY SERVICE PROVIDER REPORT. A delivery service
7 provider shall report to the board annually the number of end-
8 use consumer accounts in its assigned service area eligible
9 for each program under paragraph "c".

10 j. BOARD RULES. The board shall propose rules by December
11 1, 2001, applicable to a delivery service provider and
12 competitive electric service provider concerning the
13 collection of funds pursuant to paragraph "f".

14 k. EVALUATION AND PLAN. Every other year, the division,
15 in consultation with the board, shall evaluate the performance
16 and effectiveness of the low-income affordability program
17 through use of an independent third party and develop a low-
18 income needs and resources plan for the state which shall
19 include a statewide assessment of the need for low-income
20 affordability assistance and low-income energy efficiency
21 assistance; an identification of the public and private
22 resources available to meet the identified needs; and
23 recommendations on how to coordinate the available resources
24 to most effectively address the identified needs, taking into
25 account the difference between short-term and long-term
26 effectiveness.

27 Upon completion, the evaluation and the plan shall be
28 submitted to the general assembly.

29 2. CONTRIBUTION FUND.

30 a. A delivery service provider and a licensed competitive
31 electric service provider may establish a fund whose purposes
32 shall include receiving contributions to assist consumers with
33 weatherization measures to improve energy efficiency related
34 to winter heating and summer cooling and to supplement other
35 energy assistance sources for the payment of electric bills.

1 b. The delivery service provider or competitive electric
2 service provider establishing the fund may be reimbursed by
3 the fund for the reasonable administrative costs of the
4 billings, disbursements, notices to potential contributors,
5 and financial recordkeeping. However, such reimbursement
6 shall not exceed five percent of the total contributions
7 collected.

8 3. ENVIRONMENTAL ASSESSMENT.

9 a. (1) An environmental assessment shall be funded by all
10 end-use consumers through a nonbypassable monthly surcharge on
11 all distribution services within a delivery service provider's
12 assigned service area, including service provided under rates
13 or charges pursuant to section 476B.8. The monthly surcharge
14 shall be collected by the person billing the end-use consumer
15 for the service and shall be remitted to the treasurer of the
16 state. The monthly surcharge shall commence with bills issued
17 on October 1, 2002.

18 (2) The monthly surcharge for an end-use consumer located
19 in the assigned service area of a delivery service provider
20 that is an electric company shall be as follows:

21 (a) Six cents for a residential electric account.

22 (b) Three cents for a nonresidential electric account with
23 an annual usage of less than twenty-five thousand kilowatt-
24 hours in the prior calendar year.

25 (c) Twenty-four cents for a nonresidential electric
26 account with an annual usage of twenty-five thousand kilowatt-
27 hours to one hundred thousand kilowatt-hours in the prior
28 calendar year.

29 (d) One dollar for a nonresidential electric account with
30 an annual usage of more than one hundred thousand kilowatt-
31 hours to four hundred thousand kilowatt-hours in the prior
32 calendar year.

33 (e) Four dollars and thirty-three cents for a
34 nonresidential electric account with an annual usage of more
35 than four hundred thousand kilowatt-hours to one million five

1 hundred thousand kilowatt-hours in the prior calendar year.

2 (f) Seventeen dollars and four cents for a nonresidential
3 electric account with an annual usage of more than one million
4 five hundred thousand kilowatt-hours to six million kilowatt-
5 hours in the prior calendar year.

6 (g) One hundred fifty-seven dollars and twenty-three cents
7 for a nonresidential electric account with an annual usage of
8 more than six million kilowatt-hours in the prior calendar
9 year.

10 (3) The monthly surcharge for an end-use consumer located
11 in the assigned service area of a delivery service provider
12 that is a consumer-owned utility shall be as follows:

13 (a) Two cents for a residential electric account.

14 (b) One cent for a nonresidential electric account with an
15 annual usage of less than twenty-five thousand kilowatt-hours
16 in the prior calendar year.

17 (c) Nine cents for a nonresidential electric account with
18 an annual usage of twenty-five thousand kilowatt-hours to one
19 hundred thousand kilowatt-hours in the prior calendar year.

20 (d) Thirty-six cents for a nonresidential electric account
21 with an annual usage of more than one hundred thousand
22 kilowatt-hours to four hundred thousand kilowatt-hours in the
23 prior calendar year.

24 (e) One dollar and fifty-six cents for a nonresidential
25 electric account with an annual usage of more than four
26 hundred thousand kilowatt-hours to one million five hundred
27 thousand kilowatt-hours in the prior calendar year.

28 (f) Six dollars and fifteen cents for a nonresidential
29 electric account with an annual usage of more than one million
30 five hundred thousand kilowatt-hours to six million kilowatt-
31 hours in the prior calendar year.

32 (g) Fifty-six dollars and seventy-five cents for a
33 nonresidential electric account with an annual usage of more
34 than six million kilowatt-hours in the prior calendar year.

35 For the purpose of determining the monthly charge, the term

1 "accounts" may be interpreted by the board in appropriate
2 circumstances to mean end-use consumers. After the first
3 twelve-month period that moneys are collected pursuant to this
4 section, the monthly charges shall be adjusted as necessary to
5 yield no less than two million dollars annually. For a
6 nonresidential consumer with no prior calendar-year usage, the
7 delivery service provider may use a reasonable estimate of the
8 consumer's usage. The board shall, by rule, provide a
9 schedule for remittances. The initial rules shall be proposed
10 by December 1, 2001. The board shall allow inclusion of the
11 remittance amounts on all distribution services within the
12 electric company's assigned service area, including service
13 provided under rates or charges pursuant to section 476B.8.
14 Eighty-five percent of the remittances collected pursuant to
15 this subsection is appropriated to the Iowa energy center
16 created in section 266.39C. Fifteen percent of the
17 remittances collected pursuant to this subsection is
18 appropriated to the center for global and regional
19 environmental research established by the state board of
20 regents.

21 Notwithstanding section 8.33, any unexpended moneys
22 remitted to the treasurer of state under this subsection shall
23 not revert and shall be retained by the centers for the
24 purposes designated. Notwithstanding section 12C.7,
25 subsection 2, interest or earnings on investments or time
26 deposits of the moneys remitted under this subsection shall be
27 retained and used for the purposes designated.

28 The Iowa energy center and the center for global and
29 regional environmental research shall each provide a written
30 annual report to the board which describes each center's
31 activities and the results that each center has accomplished.
32 Each report shall include an explanation of initiatives and
33 projects of importance to the state.

34 (4) The Iowa energy center and the center for global and
35 regional environmental research shall each provide a report to

1 the legislative fiscal committee on a monthly basis regarding
2 any expenditures of funds associated with each center's
3 activities under this subsection. A monthly report shall
4 cover a calendar month and is due the tenth day of the
5 following month.

6 (5) Amounts in the fund shall not be subject to
7 appropriation for any other purpose by the general assembly,
8 but shall be used only for the purpose set forth in this
9 subsection.

10 4. RENEWABLE ENERGY AND EMISSIONS REDUCTION FUND.

11 a. PURPOSE. A renewable energy and emissions reduction
12 fund is created in the office of the treasurer of state under
13 the control of the Iowa department of economic development.
14 The purposes of the fund include the following:

15 (1) Encourage investment in and development of renewable
16 energy facilities in this state, including technologies
17 furthering agricultural opportunities.

18 (2) Enable Iowa-based renewable energy facilities to
19 compete in the national energy markets.

20 (3) Encourage investment in and development of fossil-
21 fueled generation and associated equipment in this state that
22 produce a quantifiable net reduction in air emissions for the
23 state, region, or nation.

24 (4) Encourage investment in and development of equipment
25 and processes to more efficiently utilize fossil fuels for
26 generation of electricity.

27 b. GOALS. To the maximum extent possible within the
28 funding available, the goals of the fund are to support the
29 establishment of competitively priced, Iowa-based renewable
30 energy facilities capable of annually generating one billion
31 four hundred ninety-two million seven hundred thirty-two
32 thousand kilowatt-hours by December 31, 2006, two billion six
33 hundred twelve million two hundred eighty thousand kilowatt-
34 hours by December 31, 2010, and three billion seven hundred
35 thirty-one million eight hundred twenty-nine thousand

1 kilowatt-hours by December 31, 2015; and to achieve
2 quantifiable reductions in air emissions reported to the
3 United States environmental protection agency and other
4 government agencies for fossil-fueled generation in this
5 state. For purposes of calculating achievement of the goals
6 established, all renewable energy facilities within this state
7 shall be included.

8 The Iowa department of economic development and the Iowa
9 energy center shall cooperate in the administration of this
10 subsection, and each shall adopt rules as necessary for the
11 implementation of the respective duties of the department and
12 the center.

13 c. AVAILABILITY. (1) Moneys deposited in the fund shall
14 be made available by the Iowa department of economic
15 development in the form of grants, loans, or other incentives,
16 including research development and demonstration, for any of
17 the following purposes:

18 (a) Investment in and development of renewable energy
19 facilities in this state that take advantage of agricultural
20 opportunities in the state, such as biomass, and new renewable
21 energy technologies.

22 (b) Investment in and development of renewable energy
23 facilities totaling no more than one megawatt in nameplate
24 capacity at an individual residence or farm in this state, and
25 serving only the end-use consumers at that residence or farm.

26 (c) Investment in and development of wind energy
27 facilities and other renewable energy technologies located in
28 this state.

29 (d) Investment in and development of technologies for
30 existing or proposed fossil-fueled electric generating
31 facilities and associated equipment in this state, including
32 research and investments in clean coal technologies, that
33 quantifiably reduce net air emissions below 1998 levels.

34 (e) Investment in and development of equipment and
35 processes to more efficiently utilize fossil fuels for

1 generation of electricity in this state.

2 (2) The Iowa department of economic development, by
3 October 1, 2001, shall adopt rules pursuant to chapter 17A
4 establishing the criteria and process for applying for grants,
5 loans, and other incentives from the fund and the criteria
6 that will be used to select the successful applicants. The
7 Iowa energy center, by October 1, 2001, shall adopt rules
8 specifying the criteria to be used to prioritize the
9 distribution of the moneys in the fund to achieve the purposes
10 and goals of this subsection. At least seven percent of the
11 fund, prior to administrative expenses, collected during the
12 life of the fund shall be used for fostering investments to
13 reduce air emissions and for clean coal technologies. In
14 order to encourage investment in and development of renewable
15 energy facilities that take advantage of new technologies and
16 agricultural opportunities, at least ten percent of the fund,
17 prior to deduction for administrative expenses, collected
18 during the life of the fund shall be used for the development
19 of renewable energy facilities other than wind power
20 facilities.

21 The Iowa energy center, for the purposes of implementing
22 the center's duties under this subsection, shall comply with
23 the rulemaking provisions of chapter 17A.

24 d. ADMINISTRATIVE EXPENSE. The reasonable costs,
25 including labor expenses, incurred by the Iowa department of
26 economic development and the Iowa energy center in
27 administering this subsection shall be reimbursed from moneys
28 in the fund but shall not in any twelve-month period exceed
29 five percent of the annual collections under paragraph "j".
30 For the purpose of the Iowa energy center's administration of
31 this subsection, the salary cap established in section 266.39C
32 does not apply.

33 e. OVERSIGHT. The advisory council established under
34 section 266.39C, subsection 2, shall have oversight
35 responsibility for the actions of the Iowa energy center under

1 this subsection and shall be responsible for reviewing and
2 approving any rules to be adopted by the Iowa energy center.

3 f. INTERAGENCY COOPERATION. The Iowa department of
4 economic development and the Iowa energy center shall solicit
5 assistance and advice from the utilities board and the
6 department of natural resources as appropriate.

7 g. MONTHLY REPORT. The Iowa energy center shall provide a
8 report to the legislative fiscal committee on a monthly basis
9 regarding any expenditures of funds associated with the
10 center's activities under this subsection. A monthly report
11 shall cover a calendar month and is due the tenth day of the
12 following month.

13 Amounts in the fund shall not be subject to appropriation
14 for any other purpose by the general assembly, but shall be
15 used only for the purpose set forth in this subsection.

16 h. ANNUAL REPORT. The Iowa department of economic
17 development and the Iowa energy center shall prepare an annual
18 report concerning the status of the fund, the amount of
19 administrative expenses incurred in the governance of the
20 fund, the progress toward the purposes and goals in the prior
21 year and since the inception of the fund, and any
22 recommendations for legislation to encourage the development
23 of additional renewable energy resources and investments in
24 fossil-fueled generation and associated equipment to reduce
25 air emissions. The report shall be submitted to the governor
26 and to the general assembly by March 1 of each year,
27 commencing in 2003 and concluding in 2017.

28 i. INDEPENDENT AUDIT. The Iowa department of economic
29 development, every three years commencing in 2004, shall cause
30 an audit of the fund collections and disbursements, including
31 administrative expenses, to be conducted by an independent
32 accounting firm. A copy of the audit shall be included with
33 the annual report required in paragraph "h".

34 j. FUNDING. (1) The renewable energy and emissions
35 reduction fund shall be funded by all end-use consumers

1 through a nonbypassable monthly surcharge on all distribution
2 services within a delivery service provider's assigned service
3 area, including service provided under rates or charges
4 pursuant to section 476B.8. The monthly surcharge shall be
5 collected by the person billing the end-use consumer for the
6 service. The monthly surcharge is designed to provide an
7 average collection over the life of the fund of twenty-nine
8 million five hundred thousand dollars per year. The monthly
9 surcharge shall commence with bills issued on October 1, 2002,
10 and shall cease to be collected on bills issued after December
11 31, 2016.

12 (2) The monthly surcharge for an end-use consumer located
13 in the assigned service area of a delivery service provider
14 that is an electric company shall be as follows:

15 (a) Eighty-seven cents for a residential electric account.

16 (b) Forty-eight cents for a nonresidential electric
17 account with an annual usage of less than twenty-five thousand
18 kilowatt-hours in the prior calendar year.

19 (c) Three dollars and fifty-one cents for a nonresidential
20 electric account with an annual usage of twenty-five thousand
21 kilowatt-hours to one hundred thousand kilowatt-hours in the
22 prior calendar year.

23 (d) Fourteen dollars and sixty-nine cents for a
24 nonresidential electric account with an annual usage of more
25 than one hundred thousand kilowatt-hours to four hundred
26 thousand kilowatt-hours in the prior calendar year.

27 (e) Sixty-three dollars and eighty-two cents for a
28 nonresidential electric account with an annual usage of more
29 than four hundred thousand kilowatt-hours to one million five
30 hundred thousand kilowatt-hours in the prior calendar year.

31 (f) Two hundred fifty-one dollars and thirty-three cents
32 for a nonresidential electric account with an annual usage of
33 more than one million five hundred thousand kilowatt-hours to
34 six million kilowatt-hours in the prior calendar year.

35 (g) Two thousand three hundred nineteen dollars and

1 twenty-one cents for a nonresidential account with an annual
2 usage of more than six million kilowatt-hours in the prior
3 calendar year.

4 (3) The monthly surcharge for an end-use consumer located
5 in the assigned service area of a delivery service provider
6 that is a consumer-owned utility shall be as follows:

7 (a) Twenty-three cents for a residential electric account.

8 (b) Seventeen cents for a nonresidential electric account
9 with an annual usage of less than twenty-five thousand
10 kilowatt-hours in the prior calendar year.

11 (c) One dollar and twenty-seven cents for a nonresidential
12 electric account with an annual usage of twenty-five thousand
13 kilowatt-hours to one hundred thousand kilowatt-hours in the
14 prior calendar year.

15 (d) Five dollars and thirty cents for a nonresidential
16 electric account with an annual usage of more than one hundred
17 thousand kilowatt-hours to four hundred thousand kilowatt-
18 hours in the prior calendar year.

19 (e) Twenty-three dollars and three cents for a
20 nonresidential electric account with an annual usage of more
21 than four hundred thousand kilowatt-hours to one million five
22 hundred thousand kilowatt-hours in the prior calendar year.

23 (f) Ninety dollars and seventy-one cents for a
24 nonresidential electric account with an annual usage of more
25 than one million five hundred thousand kilowatt-hours to six
26 million kilowatt-hours in the prior calendar year.

27 (g) Eight hundred thirty-seven dollars and six cents for a
28 nonresidential electric account with an annual usage of more
29 than six million kilowatt-hours in the prior calendar year.

30 (4) For purposes of determining the monthly surcharge,
31 "accounts" may be interpreted by the Iowa energy center in
32 appropriate circumstances to mean end-use consumers. For a
33 nonresidential end-use consumer with no prior calendar-year
34 usage, the delivery service provider may use a reasonable
35 estimate of the end-use consumer's usage.

1 (5) All moneys collected pursuant to this subsection shall
2 be remitted to the treasurer of state and deposited in the
3 renewable energy and emissions reduction fund. The moneys are
4 appropriated for the purposes of that fund. The treasurer of
5 state shall make disbursements from this fund as requested by
6 the Iowa energy center. The unencumbered or unobligated
7 moneys remaining in the fund at the end of any fiscal year
8 shall not revert but shall be available for expenditure during
9 subsequent fiscal years. Notwithstanding section 12C.7,
10 subsection 2, interest or earnings on investments or time
11 deposits of the moneys deposited in the electric energy
12 efficiency fund shall be credited to the fund.

13 k. ASSESSMENT AND EVALUATION. An assessment and
14 evaluation shall be conducted by an independent third party
15 selected by the Iowa energy center, in collaboration with the
16 utilities board and advisory council, to do all of the
17 following:

18 (1) Evaluate the performance and effectiveness of the
19 fund's administration.

20 (2) Determine whether moneys collected are sufficient or
21 in excess of the amount needed to achieve the goals
22 established in this subsection.

23 (3) Identify any nonmonetary impediments to achieving the
24 goals.

25 The assessment and evaluation shall begin after January 1,
26 2007, and be delivered to the governor and general assembly on
27 or before January 1, 2008.

28 5. ELECTRIC ENERGY EFFICIENCY FUND AND PROGRAMS.

29 a. FUND CREATION AND PURPOSE. An electric energy
30 efficiency fund is created in the state treasury to be
31 administered by the division. For purposes of this
32 subsection, "division" means the division of energy and
33 geological resources of the department of natural resources.

34 The purpose of the fund is to achieve cost-effective
35 reductions in the consumption of electricity or need for

1 electric capacity by end-use consumers in residential and
2 nonresidential consumer classes, serve the electric energy
3 efficiency needs of the citizens of this state that are not
4 met by the competitive market, and assist the development of a
5 competitive market to serve the electric energy efficiency
6 needs of the citizens of this state.

7 b. ADVISORY COMMITTEE. An electric energy efficiency fund
8 advisory committee is established. The committee, in
9 collaboration with the division, shall work to determine the
10 parameters for the needs assessment and develop and implement
11 electric energy efficiency programs under this subsection.
12 The membership of the committee shall consist of the
13 following:

14 (1) One person representing Iowa state university of
15 science and technology, appointed by its president.

16 (2) One person representing the university of Iowa,
17 appointed by its president.

18 (3) One person representing the university of northern
19 Iowa, appointed by its president.

20 (4) One person representing the office of consumer
21 advocate, appointed by the consumer advocate.

22 (5) One person representing the utilities board, appointed
23 by the board.

24 (6) Two persons representing consumer-owned utilities, one
25 each appointed by the governing body of the Iowa association
26 of electric cooperatives and the governing body of the Iowa
27 association of municipal utilities.

28 (7) One person representing delivery service providers
29 that are electric companies, appointed by the Iowa utility
30 association.

31 (8) Three persons representing consumers, including one
32 person representing residential consumers, one person
33 representing commercial consumers, and one person representing
34 industrial consumers, appointed by the governor.

35 (9) One person representing competitive electric service

1 providers licensed in this state that are not affiliated with
2 an incumbent provider, appointed by the board.

3 (10) One person representing competitive electric service
4 providers acting as aggregators, appointed by the board.

5 (11) One person representing energy services companies
6 that are not affiliated with a licensed competitive electric
7 service provider, appointed by the governor.

8 (12) One person representing trade unions, appointed by
9 the governor.

10 (13) Three persons representing groups focused on electric
11 energy efficiency, appointed by the governor. Of the persons
12 appointed pursuant to this subparagraph, one person shall have
13 expertise in heating and air conditioning, and one person
14 shall have expertise in building and insulation materials and
15 techniques.

16 (14) One person representing environmental groups,
17 appointed by the governor.

18 (15) Four legislators, serving as ex officio members, one
19 each appointed by the majority and minority leaders of the
20 senate, one appointed by the speaker of the house and one
21 appointed by the minority leader of the house.

22 The term of the members shall begin and end as provided in
23 section 69.19 and any vacancy shall be filled by the original
24 appointing authority. The terms shall be for four years and
25 shall be staggered.

26 c. INTERIM FUNDING AND PROGRAMS. (1) An incumbent
27 provider that is an electric company shall begin collecting
28 funds for remittance to the electric energy efficiency fund as
29 of the date it has fully recovered accumulated deferred costs
30 associated with electric energy efficiency plans pursuant to
31 section 476.6, subsection 19. From the date such accumulated
32 deferred costs have been fully recovered until October 1,
33 2002, the amount collected shall equal the amount of
34 accumulated deferred costs included in each electric company's
35 rates and charges prior to the date of full recovery and shall

1 be apportioned to customers on a monthly basis in the same
2 manner as those deferred electric energy efficiency costs.
3 All moneys collected pursuant to this subsection shall be
4 remitted monthly to the treasurer of state and deposited in
5 the electric energy efficiency fund. The moneys are
6 appropriated for the purposes of the electric energy
7 efficiency fund. The treasurer of state shall make
8 disbursements from the fund as requested by the department of
9 natural resources or the board, and in accordance with this
10 section. Any unencumbered or unobligated moneys remaining in
11 the fund on October 1, 2002, shall not revert but shall be
12 available for expenditure during subsequent fiscal years to
13 offset the amount of moneys collected through nonbypassable
14 surcharges on consumer bills. If the amount remaining in the
15 fund on October 1, 2002, is greater than the amount of annual
16 funding indicated by the needs assessment, the difference
17 between the amount of annual funding indicated by the needs
18 assessment and the amount in the fund prior to October 1,
19 2002, shall be refunded to consumers in a manner determined by
20 the board. Notwithstanding section 12C.7, subsection 2,
21 interest or earnings on investments or time deposits of the
22 moneys deposited in the electric energy efficiency fund shall
23 be credited to the fund.

24 (2) The board may direct all incumbent providers that are
25 electric companies to advance to the treasurer of state, on an
26 as needed basis, a maximum of two million five hundred
27 thousand dollars to fund the needs assessment. The board may
28 direct all or a portion of these amounts to be advanced at any
29 time after the effective date of this Act. Notwithstanding
30 section 12C.7, subsection 2, interest or earnings on
31 investments or time deposits of the moneys advanced and
32 remitted under this subparagraph shall be retained and used
33 for the needs assessment. An electric company advancing funds
34 for the needs assessment shall be reimbursed from funds
35 collected pursuant to this paragraph "c", and interest shall

1 be paid on any funds advanced at the rate of twelve percent
2 per annum.

3 (3) Until the programs established pursuant to paragraph
4 "d" are implemented, the fund may be used for the following
5 purposes:

6 (a) A maximum of three million dollars for a needs
7 assessment and for reimbursement with interest of funds
8 advanced by electric companies.

9 (b) A maximum of ten percent of the fund for
10 administrative expenses related to the development of the
11 electric energy efficiency program to the division.

12 (c) A maximum of thirty percent of the fund for pilot
13 programs and other cost-effective programs for residential and
14 nonresidential consumers, customized programs for
15 nonresidential consumers, community-based electric energy
16 efficiency programs, and public sector electric energy
17 efficiency programs developed by the division and approved by
18 the advisory committee. These programs shall be limited to
19 the assigned service areas of electric companies.

20 (d) A maximum of seven million dollars to the board for
21 reimbursement with interest of funds advanced by incumbent
22 providers that are electric companies for the consumer
23 education program.

24 (e) A maximum of one million two hundred forty thousand
25 dollars to the division of community action agencies in the
26 department of human rights, for administrative expenses
27 related to the development of the low-income energy efficiency
28 program.

29 (f) A maximum of two million one hundred thousand dollars
30 for the intervenor fund created in section 476B.26.

31 d. ELECTRIC ENERGY EFFICIENCY FUND PROGRAMS AND
32 ELIGIBILITY. Electric energy efficiency programs shall be
33 developed and prioritized by the division based on the needs
34 assessment conducted pursuant to paragraph "e" and the
35 evaluations performed pursuant to paragraph "m". Moneys

1 allocated to the electric energy efficiency fund may be used
2 for improvements or programs that are cost-effective and
3 result in energy, capacity, or dollar savings for the end-use
4 consumer and for tree planting programs.

5 The division, in collaboration with the advisory committee,
6 shall adopt rules establishing electric energy efficiency
7 programs, criteria for use of the moneys in the electric
8 energy efficiency fund, and providing for the equitable
9 distribution of such moneys on a statewide basis. Except as
10 provided in this paragraph "d", any end-use consumer is
11 eligible for participation in the applicable electric energy
12 efficiency program, and any person shall be eligible to
13 provide programs and receive funds as provided by the rules of
14 the division.

15 A consumer-owned delivery service provider that annually
16 notifies the division of its intent to deliver local programs
17 by submitting an informational implementation plan may retain
18 up to ninety percent of the amount it collects pursuant to
19 paragraph "f" for such service provider's electric energy
20 efficiency programs. If a consumer-owned delivery service
21 provider is unable to spend the funds it retains for electric
22 energy efficiency programs it determines to be cost-effective,
23 the balance shall be remitted to the treasurer of state's
24 office for deposit in the electric energy efficiency fund. No
25 more than ten percent of the funds retained by a consumer-
26 owned delivery service provider shall be expended for
27 administrative costs. Such programs shall be developed and
28 prioritized by the consumer-owned delivery service provider
29 based upon the findings of the needs assessment, experience of
30 the consumer-owned delivery service provider, and the needs of
31 its end-use consumers. A consumer-owned delivery service
32 provider choosing to retain funds as provided in this
33 paragraph is ineligible to receive any additional funds from
34 the electric energy efficiency fund for use in its assigned
35 service area. An end-use consumer located in the assigned

1 service area of a consumer-owned delivery service provider
2 choosing to retain funds as provided in this paragraph is also
3 ineligible to receive any additional funds, directly or
4 indirectly, from the electric energy efficiency fund. A
5 report shall be filed with the division biennially by each
6 consumer-owned delivery service provider choosing to retain
7 funds. The informational report shall contain a summary of
8 the total amount spent on each program, the number of
9 participants, the estimated benefits of each program, the
10 total amount collected by the consumer-owned delivery service
11 provider, and the total amount expended or committed by the
12 consumer-owned delivery service provider in connection with
13 its electric energy efficiency programs.

14 This paragraph "d" does not preclude a person from offering
15 other energy efficiency and tree planting programs and
16 services.

17 e. NEEDS ASSESSMENT. The division, in collaboration with
18 the advisory committee, shall oversee a needs assessment for
19 this state. The assessment shall be conducted through the use
20 of an independent third party selected by the division in
21 collaboration with the advisory committee. At a minimum, the
22 assessment shall identify the need for cost-effective electric
23 energy efficiency programs for residential and nonresidential
24 end-use consumers, the public and private resources available
25 to meet the identified needs, those needs that can be
26 reasonably expected to be met by the competitive market, and
27 those needs that are met through existing building codes and
28 appliance manufacturing standards. The assessment shall
29 include recommendations for cost-effective efforts that could
30 be undertaken to meet electric energy efficiency needs not
31 expected to be met by the competitive market. The assessment
32 shall be used to develop the implementation plan provided for
33 under paragraph "i". The assessment shall be completed by
34 January 2, 2002. The division, in consultation with the
35 advisory committee, shall report the findings of the

1 assessment to the general assembly by January 30, 2002.

2 f. FUNDING. (1) The electric energy efficiency fund
3 shall be funded by all end-use consumers through a
4 nonbypassable monthly surcharge on all distribution services
5 within a delivery service provider's assigned service area,
6 including service provided under rates or charges pursuant to
7 section 476B.8. The monthly surcharge shall be collected by
8 the person billing the end-use consumer for the service. The
9 monthly surcharge is designed to provide an average collection
10 of not more than twenty-six million five hundred thousand
11 dollars per year. The monthly surcharge shall commence with
12 bills issued on October 1, 2002.

13 (2) The monthly surcharge for an end-use consumer located
14 in the assigned service area of a delivery service provider
15 that is an electric company shall be as follows:

16 (a) Seventy-eight cents for a residential electric
17 account.

18 (b) Forty-three cents for a nonresidential electric
19 account with an annual usage of less than twenty-five thousand
20 kilowatt-hours in the prior calendar year.

21 (c) Three dollars and sixteen cents for a nonresidential
22 electric account with an annual usage of twenty-five thousand
23 kilowatt-hours to one hundred thousand kilowatt-hours in the
24 prior calendar year.

25 (d) Thirteen dollars and nineteen cents for a
26 nonresidential electric account with an annual usage of more
27 than one hundred thousand kilowatt-hours to four hundred
28 thousand kilowatt-hours in the prior calendar year.

29 (e) Fifty-seven dollars and thirty-three cents for a
30 nonresidential electric account with an annual usage of more
31 than four hundred thousand kilowatt-hours to one million five
32 hundred thousand kilowatt-hours in the prior calendar year.

33 (f) Two hundred twenty-five dollars and seventy-eight
34 cents for a nonresidential electric account with an annual
35 usage of more than one million five hundred thousand kilowatt-

1 hours to six million kilowatt-hours in the prior calendar
2 year.

3 (g) Two thousand eighty-three dollars and thirty-six cents
4 for a nonresidential electric account with an annual usage of
5 more than six million kilowatt-hours in the prior calendar
6 year.

7 (3) The monthly surcharge for an end-use consumer located
8 in the assigned service areas of a delivery service provider
9 that is a consumer-owned utility shall be as follows:

10 (a) Twenty-one cents for a residential electric account.

11 (b) Fifteen cents for a nonresidential electric account
12 with an annual usage of less than twenty-five thousand
13 kilowatt-hours in the prior calendar year.

14 (c) One dollar and fourteen cents for a nonresidential
15 electric account with an annual usage of twenty-five thousand
16 kilowatt-hours to one hundred thousand kilowatt-hours in the
17 prior calendar year.

18 (d) Four dollars and seventy-six cents for a
19 nonresidential electric account with an annual usage of more
20 than one hundred thousand kilowatt-hours to four hundred
21 thousand kilowatt-hours in the prior calendar year.

22 (e) Twenty dollars and sixty-nine cents for a
23 nonresidential electric account with an annual usage of more
24 than four hundred thousand kilowatt-hours to one million five
25 hundred thousand kilowatt-hours in the prior calendar year.

26 (f) Eighty-one dollars and forty-nine cents for a
27 nonresidential electric account with an annual usage of more
28 than one million five hundred thousand kilowatt-hours to six
29 million kilowatt-hours in the prior calendar year.

30 (g) Seven hundred fifty-one dollars and ninety-four cents
31 for a nonresidential electric account with an annual usage of
32 more than six million kilowatt-hours in the prior calendar
33 year.

34 (4) Upon recommendation of the advisory committee and
35 approval of the division, the annual amount of the fund shall

1 be adjusted based on the needs assessment and subsequent
2 evaluations to reflect changes to the estimated costs of
3 delivering electric energy efficiency programs to produce an
4 amount of collections below twenty-six million five hundred
5 thousand dollars. The board shall annually establish levels
6 of surcharges on electric accounts based on the total program
7 budget developed by the division and based on the evaluations.
8 The board, when determining the per account surcharge, shall
9 not deviate from the cost allocation methodology among end-use
10 consumer groups reflected in the surcharge amounts; provided,
11 however, that the board shall eliminate the per account
12 surcharge for an end-use consumer grouping specified in
13 subparagraph (2) or (3) if the needs assessment pursuant to
14 paragraph "e" or an evaluation pursuant to paragraph "m"
15 determines, and the advisory committee and the division agree,
16 that there is no need for electric energy efficiency programs
17 for that end-use consumer grouping other than the programs
18 available in the competitive market. All monthly surcharges
19 under this paragraph "f" shall cease to be collected with
20 bills issued after December 31, 2016.

21 (5) For purposes of determining the monthly surcharge,
22 "accounts" may be interpreted by the board in appropriate
23 circumstances to mean end-use consumers. For a nonresidential
24 end-use consumer with no prior calendar year usage, the
25 delivery service provider may use a reasonable estimate of the
26 consumer's usage.

27 All moneys collected pursuant to this subsection shall be
28 remitted to the treasurer of state and deposited in the
29 electric energy efficiency fund. The moneys are appropriated
30 for the purposes of the electric energy efficiency fund. The
31 treasurer shall make disbursements from the fund as requested
32 by the division. The unencumbered or unobligated moneys
33 remaining in the fund at the end of any fiscal year shall not
34 revert but shall be available for expenditure during
35 subsequent fiscal years. Notwithstanding section 12C.7,

1 subsection 2, interest or earnings on investments or time
2 deposits of the moneys deposited in the electric energy
3 efficiency fund shall be credited to the fund.

4 g. ADMINISTRATIVE EXPENSE. The reasonable costs,
5 including labor expenses, incurred by the division in
6 administering the programs established pursuant to this
7 subsection shall be reimbursed from the fund, but shall not
8 exceed ten percent of annual collections under paragraph "f".

9 h. PROGRAM ADMINISTRATION AND BUDGETS. The division shall
10 administer the fund and adopt rules as necessary and shall
11 develop a budget for the programs on an annual basis. The
12 division may develop and implement pilot programs.

13 i. IMPLEMENTATION PLAN. The division, within ninety days
14 after the effective date of this chapter, shall convene an
15 initial meeting of the advisory committee to assist in the
16 development of an implementation plan. The plan, at a
17 minimum, shall provide for the purposes established pursuant
18 to paragraph "a". The division shall propose rules as
19 necessary.

20 j. INFORMATION REQUESTS. The division may request
21 information from competitive electric service providers and
22 delivery service providers as necessary to complete the
23 program evaluation. The division may adopt rules as
24 necessary.

25 k. BOARD RULES. The board shall propose rules by October
26 1, 2001, concerning the collection of funds pursuant to
27 paragraph "f".

28 l. MONTHLY REPORT. The division shall provide a report to
29 the legislative fiscal committee on a monthly basis regarding
30 any expenditures of funds associated with the Iowa energy
31 center's activities under this subsection. A monthly report
32 shall cover a calendar month and is due the tenth day of the
33 following month.

34 Amounts in the fund shall not be subject to appropriation
35 for any other purpose by the general assembly, but shall be

1 used only for the purpose set forth in this subsection.

2 m. BIENNIAL REPORT. The division, beginning on March 1,
3 2003, shall prepare a biennial report detailing the status of
4 the fund, the amount of administrative expenses incurred in
5 the governance of the fund, and the implementation of programs
6 established pursuant to this subsection. The report shall be
7 submitted to the general assembly and to the governor.

8 n. EVALUATION. Every third year, beginning on January 1,
9 2005, the division, in consultation with the board and the
10 advisory committee, shall evaluate the performance and
11 effectiveness of the electric energy efficiency programs
12 through use of an independent third party and develop an
13 electric energy efficiency plan for the state which shall
14 include a statewide assessment of the needs for electric
15 energy efficiency and programming; an identification of the
16 public and private resources available to meet the identified
17 needs; and recommendations on how to coordinate the available
18 resources to most effectively address the identified needs,
19 taking into account the difference between short-term and
20 long-term effectiveness.

21 Upon completion, the evaluation and the implementation plan
22 shall be submitted to the general assembly with any
23 recommendations for continued funding.

24 6. EMISSION CREDITS. Carbon emission reduction credits or
25 allowances generated as a result of the implementation of
26 electric energy efficiency measures or the construction or
27 operation of renewable energy facilities funded by this
28 section shall be owned by the individual or entity
29 implementing the measures or constructing or operating the
30 facility unless otherwise sold or voluntarily transferred to
31 the division or another person. If emission reduction credits
32 or allowances are voluntarily transferred to the division, the
33 monetary value of such credits or allowances shall be used to
34 reduce the charges to end-use consumers under subsections 4
35 and 5. The division shall develop a carbon-trading program

1 and develop rules as necessary. For purposes of this
2 subsection, "division" means the division of energy and
3 geological resources of the department of natural resources.

4 Sec. 14. NEW SECTION. 476B.14 COMPLAINTS.

5 1. A competitive electric service provider, a delivery
6 service provider, and a control area operator shall develop
7 and post on the board's website the procedures for filing and
8 resolving complaints regarding their services and operations.

9 2. The board is authorized to hear all complaints subject
10 to its jurisdiction by and against an end-use consumer, a
11 competitive electric service provider, a delivery service
12 provider, and a control area operator. This subsection does
13 not confer exclusive jurisdiction in collection matters upon
14 the board.

15 3. The district court has original jurisdiction concerning
16 disputes with respect to all rates and charges of a consumer-
17 owned utility and all other matters concerning a consumer-
18 owned utility not specifically reserved to the board by this
19 chapter or another statute. A complaint shall be filed in the
20 district court for the county in which the complainant resides
21 or, if the complainant is a nonresident, in the district court
22 for Polk county.

23 4. The board shall render a decision upon a complaint as
24 soon as practicable. A person aggrieved by the board's
25 decision may seek judicial review pursuant to chapter 17A.

26 5. A delivery service provider or a competitive electric
27 service provider shall not take any detrimental action against
28 an employee of such provider for the filing of a good faith
29 complaint with the board.

30 Sec. 15. NEW SECTION. 476B.15 TRANSITION CHARGES.

31 1. COSTS OF GENERATION AND CONTRACTS FOR POWER AND ENERGY.

32 An electric company is entitled, but not required, to
33 implement transition charges under this subsection. If an
34 electric company elects to implement transition charges, such
35 charges shall be nonbypassable charges collected from each

1 end-use consumer within the incumbent provider's assigned
2 service area. However, transition charges shall not increase
3 the rates for electric service provided under section 476B.8.
4 Transition charges under this subsection shall be billed by an
5 electric company to end-use consumers, directly or through a
6 competitive electric service provider, commencing with service
7 rendered on October 1, 2002, and concluding with service
8 rendered on and including September 30, 2006.

9 Transition charges shall be calculated for each bundled
10 retail rate group or code existing on the date the electric
11 company files its unbundled rates pursuant to section 476B.4.
12 Transition charges shall be calculated each year in which the
13 electric company is entitled to implement such charges.
14 Transition charges in cents per kilowatt-hour shall be
15 calculated by rate group or code by first subtracting the
16 market price from the cost of generation, and then multiplying
17 that result times a mitigation factor, the percentage of which
18 varies by calendar year as follows:

- 19 a. Eighty percent from October 1, 2002, to September 30,
20 2003.
- 21 b. Seventy percent from October 1, 2003, to September 30,
22 2004.
- 23 c. Sixty percent from October 1, 2004, to September 30,
24 2005.
- 25 d. Fifty percent from October 1, 2005, to September 30,
26 2006.

27 Under no circumstance shall a charge under this subsection
28 be less than zero.

29 For purposes of this subsection, the cost of generation
30 shall be stated in cents per kilowatt-hour included in a
31 bundled rate group or code on the effective date of this
32 chapter. The cost of generation shall include the return on
33 plant investment allowed in the most recent rate proceeding,
34 but shall exclude that portion of regulatory assets to be
35 recovered under subsection 3 that are attributable to

1 generation costs, and the amount of nuclear decommissioning
2 expenses included in the rate group or code.

3 For purposes of this subsection, the market price shall be
4 stated in cents per kilowatt-hour an electric company should
5 reasonably be expected to receive for demand and energy from a
6 rate group or code when sold in a competitive power market.
7 At a minimum, separate values shall be determined by the board
8 for firm and interruptible sales. The market price shall be
9 determined by the board by no later than March 1, 2002, and
10 shall be updated annually. In determining the market price,
11 the board shall consider relevant wholesale and retail
12 contracts for demand and energy sales and purchases,
13 recognizing such factors as the time differentiation of price
14 levels in the contracts and whether the prices in the
15 contracts are for firm or interruptible service. The board
16 shall also consider other relevant information from power
17 exchanges, trading hubs, and similar sources.

18 An electric company that elects to implement transition
19 charges under this subsection shall file tariffs with the
20 board that identify the cost of generation to be included in
21 the calculation of transition charges to be paid by end-use
22 consumers in each bundled rate group or code at the time it
23 files its initial unbundled rates under section 476B.4. Rate
24 groups or codes, for purposes of calculating transition
25 charges, shall be defined in tariffs included in the electric
26 company's filing under section 476B.4, subsection 1. The
27 board shall issue its decision regarding the transition charge
28 tariffs at the same time it issues its order regarding the
29 initial unbundled rates filed under section 476B.4. Charges
30 approved by the board shall be posted on its website starting
31 no later than April 1, 2002.

32 2. DIVESTITURE OPTION. The board may permit, but shall
33 not require, an incumbent provider that is an electric company
34 to divest itself of its generation assets and contracts for
35 power and energy. This subsection does not apply to a

1 transaction that results in an incumbent provider maintaining
2 its delivery service assets and operations subject to rate
3 regulation by the board in a legal entity separate from the
4 competitive electric service assets and operations, including
5 electric generation assets and operations, of that incumbent
6 provider and its affiliates.

7 No later than January 1, 2001, an incumbent provider,
8 including, for the purposes of this subsection, any affiliated
9 incumbent provider, may submit an election to divest to the
10 board. The election shall be accompanied by the submittal of
11 a divestiture plan to the board, which shall review the plan.
12 By July 1, 2001, the board shall issue an order approving or
13 modifying the plan. The incumbent provider may revoke its
14 election within ninety days of the board's order approving or
15 modifying the plan. If the incumbent provider does not revoke
16 its election, the incumbent provider shall divest its
17 generation assets and contracts for power and energy in
18 accordance with the board's order. Such divestiture must be
19 completed by October 1, 2002, unless such time is extended for
20 good cause as determined by the board. An incumbent provider
21 that divests its generation assets and contracts for power and
22 energy pursuant to this subsection is not entitled to recover
23 generation transition charges under subsection 1.

24 If an incumbent provider makes an election to divest, the
25 incumbent provider shall divest of all generation assets and
26 contracts for power and energy that are included in the
27 incumbent provider's most recent board-determined Iowa revenue
28 requirement except to the extent such divestiture is found by
29 a court of proper jurisdiction to be impermissible. All
30 generation assets and contracts for power and energy not
31 included in the incumbent provider's most recent board-
32 determined Iowa revenue requirement shall be subject to a
33 determination by the board as to whether divestiture is in the
34 public interest, except to the extent such divestiture is
35 found by a court of proper jurisdiction to be impermissible.

1 The board shall not allow any supply contracts, for which
2 bids are sought as part of the divestiture plan to satisfy an
3 incumbent provider's standard offer service obligation
4 pursuant to section 476B.8, to extend beyond October 1, 2006.

5 Unless waived by the board upon a showing of substantial
6 harm to the public interest, the divestiture plan shall
7 include transfer of the decommissioning responsibility for any
8 nuclear generation asset to the purchaser of such asset.

9 For each incumbent provider electing divestiture under this
10 subsection, the board shall determine the sum of the following
11 amounts:

12 a. The net of an incumbent provider's generation-related
13 regulatory assets and liabilities.

14 b. The difference between net plant investment associated
15 with an incumbent provider's generation assets and the market
16 value of the generation assets.

17 c. The difference between future contract payments and the
18 market value of an incumbent provider's purchased power
19 contracts.

20 When determining the market value of generation assets and
21 existing purchase power contracts, the board shall rely solely
22 on the market information resulting from the sale of the
23 generation assets and the rights to energy and demand under
24 contracts held by the incumbent provider including the supply
25 contracts to meet the incumbent provider's standard offer
26 service obligation.

27 To the extent that the divestiture realizes an amount less
28 than the sum of the amounts determined in paragraphs "a", "b",
29 and "c," beginning no later than October 1, 2002, the board
30 shall provide an incumbent provider a reasonable opportunity
31 to recover all costs not recovered through the sale of
32 generation assets and the contracts for energy and demand
33 through nonbypassable charges. This cost recovery opportunity
34 must be equal to the incumbent provider's opportunity to
35 recover costs before the effective date of this chapter.

1 To the extent that the divestiture realizes an amount
2 greater than the sum of the amounts determined in paragraphs
3 "a", "b", and "c", such difference shall be applied to reduce
4 end-use consumers' responsibility for nuclear decommissioning
5 costs held by the incumbent provider after divestiture. To
6 the extent that the divestiture realizes an amount greater
7 than the sum of the amounts determined in paragraphs "a", "b",
8 and "c", and no responsibility for nuclear decommissioning
9 costs remains with the incumbent provider, the incumbent
10 provider shall be entitled to retain fifty percent of the
11 remaining amounts. The other fifty percent shall be credited
12 to the incumbent provider's end-use consumers in the form of a
13 credit on bills for delivery service. The board shall
14 determine the allocation of the credit among delivery service
15 consumers.

16 Nothing in this chapter shall be construed to give an
17 incumbent provider a greater or lesser opportunity to recover
18 all costs than existed prior to the effective date of this
19 chapter.

20 This subsection, including the treatment of proceeds from
21 divestiture, shall not be construed to apply to any other
22 provision of this chapter or to any regulatory or legal
23 proceeding not pertaining to this specific subsection.

24 All costs that are afforded recovery as a result of
25 generation asset divestiture pursuant to this subsection shall
26 qualify for securitization as set forth in section 476B.17.
27 All savings from this securitization shall flow back to end-
28 use consumers through a reduction in the nonbypassable charge
29 required under this subsection.

30 3. REGULATORY ASSETS AND LIABILITIES.

31 a. Regulatory assets and regulatory liabilities exist
32 because regulators have allowed recovery of certain costs in
33 different time periods than normally recognized under
34 generally accepted accounting principles, with assurances to
35 an incumbent provider that is an electric company of ultimate

1 recovery. An incumbent provider that is an electric company
2 shall be permitted, but not required, to recover all of its
3 net regulatory assets attributable to electric operations in
4 this state. For purposes of this subsection, net regulatory
5 assets equals regulatory assets less regulatory liabilities.
6 For the purpose of this paragraph, regulatory assets shall
7 include but not be limited to the costs of programs offered
8 under section 476.6, subsections 17 and 19, the costs of
9 contracts or arrangements entered into under section 476.43,
10 and the costs of contracts or arrangements entered into under
11 199 IAC 15.11(5).

12 b. Recovery of net regulatory assets shall be accomplished
13 through charges on all delivery services within the electric
14 company's assigned service area, including electricity
15 delivered under rates or charges charged pursuant to section
16 476B.8. The net regulatory asset charges may be either
17 positive or negative, and may vary by type of delivery service
18 to the extent such variation is just, reasonable, and based
19 upon relevant cost factors. The board may require that such
20 charges be nonbypassable. Collection of the net regulatory
21 asset charges shall commence on October 1, 2002.

22 c. An electric company electing to recover net regulatory
23 assets shall annually file with the board its estimates of the
24 unamortized amount of regulatory assets and liabilities. The
25 initial estimates shall be filed with the initial unbundled
26 rate filing pursuant to section 476B.4, followed by annual
27 filings until the amortization of these net assets is
28 completed. Such filing shall include a proposed amortization
29 period or periods over which the net assets are to be
30 recovered, estimated sales in kilowatt-hours in its assigned
31 service area during the first year of the proposed
32 amortization period, and any proposed variation in charges by
33 type of delivery service. The electric company shall also
34 file supporting documentation for its proposals. If it does
35 not approve the electric company's filing, the board after

1 notice and opportunity for hearing shall determine the
2 regulatory assets and regulatory liabilities of the electric
3 company eligible for recovery; the appropriate periods over
4 which net regulatory assets shall be recovered, which shall
5 not exceed fifteen years; and the charges applicable to each
6 type of delivery service. In determining net regulatory
7 assets, the board shall not combine or net assets or
8 liabilities that would be recorded on the electric company's
9 books absent regulation or that would cause violation of the
10 normalization provisions of the Internal Revenue Code. The
11 board shall issue its decision regarding the regulatory asset
12 filing at the time it issues its order regarding the initial
13 unbundled rates filed under section 476B.4. Charges approved
14 by the board shall be posted on its website starting on April
15 1, 2002.

16 4. START-UP COSTS OF DELIVERY SERVICE PROVIDERS. The
17 board shall permit a delivery service provider that is an
18 electric company to recover one hundred percent of its
19 reasonable start-up costs caused by the transition to
20 competition, including the reasonable costs associated with
21 implementing the requirements of this chapter and the board
22 orders issued and rules adopted pursuant to this chapter.
23 Start-up costs to be considered by the board shall include,
24 but are not limited to, costs associated with new computer
25 information systems, changes in computer information systems,
26 new and existing metering, and costs incurred pursuant to
27 section 476B.24. The board may require that recoverable
28 start-up costs be amortized over a period not to exceed ten
29 years. Start-up cost charges under this subsection shall not
30 be applicable to the rates for electric service provided under
31 section 476B.8.

32 An electric company electing to recover start-up costs
33 shall file estimates of the start-up costs and a tariff for
34 recovery of the costs with the board at the time it files its
35 initial unbundled rates pursuant to section 476B.4. The board

1 shall issue its decision regarding the start-up cost filing at
2 the time it issues its order regarding the initial unbundled
3 rate filing. Charges approved by the board shall be posted on
4 its website starting on April 1, 2002. Collection of start-up
5 cost charges shall commence on October 1, 2002. Electric
6 companies shall file annually with the board a reconciliation
7 of start-up costs actually collected versus estimated start-up
8 costs. The first reconciliation filing shall be made no later
9 than March 31, 2003, reflecting costs and revenues for the
10 period ending December 31, 2002. The board shall allow the
11 electric company to adjust its cost recovery factors to
12 reflect any differences, with the intent of allowing one
13 hundred percent recovery of reasonable costs incurred. The
14 board shall have ninety days to issue its decision on the
15 reconciliation factors.

16 5. CONSUMER-OWNED UTILITY TRANSITION COSTS.

17 a. ELECTRIC COOPERATIVES. The local governing body of an
18 electric cooperative shall determine the nature and amount of
19 transition costs which shall be paid by its respective
20 members. The local governing body shall have the sole
21 authority to determine the manner, rates, charges, terms, and
22 conditions of recovery. A member electric cooperative is
23 authorized, but not required, to collect the transition costs
24 through nonbypassable charges on all end-use consumers in its
25 assigned service area. The calculation of transition costs by
26 an electric cooperative shall consider the market value of
27 capacity and energy. The transition cost recovery shall be
28 reconciled periodically.

29 b. MUNICIPAL UTILITIES. The local governing body of a
30 municipal utility shall determine the nature and amount of
31 transition costs which shall be paid through nonbypassable
32 charges by the end-use consumers in its assigned service area.
33 The local governing body shall have the sole authority to
34 determine the manner, rates, charges, terms, and conditions of
35 recovery. Each municipal utility is authorized, but not

1 required, to collect the transition costs on all end-use
2 consumers in its assigned service area. The calculation of
3 transition costs by a municipal utility shall consider the
4 market value of capacity and energy. The transition cost
5 recovery shall be reconciled periodically.

6 Sec. 16. NEW SECTION. 476B.16 NUCLEAR DECOMMISSIONING.

7 1. RECOVERY OF NUCLEAR DECOMMISSIONING CHARGES. An
8 incumbent provider or electric cooperative, and its successors
9 or assigns, owning an interest in or having responsibility as
10 a matter of contract, statute, or energy purchase agreement
11 for the nuclear decommissioning costs of the Duane Arnold
12 energy center, Quad Cities nuclear power station, Cooper
13 nuclear station, or La Crosse boiling water reactor shall be
14 allowed to recover nuclear decommissioning costs. An electric
15 company shall be allowed to recover nuclear decommissioning
16 costs allocated to Iowa through nonbypassable charges,
17 including charges on service provided pursuant to section
18 476B.8. The tariffs of an electric company for the nuclear
19 decommissioning charges shall conform to subsection 2. An
20 electric company shall file its nuclear decommissioning
21 tariffs with the board as part of the filing of initial
22 unbundled rates under section 476B.4. The local governing
23 body of each consumer-owned utility shall determine the amount
24 of and method and timing for recovery of nuclear
25 decommissioning costs and shall post that information as
26 provided in section 476B.4. All nuclear decommissioning
27 tariffs of electric companies under this section and the
28 initial charges under such tariffs shall become effective
29 October 1, 2002.

30 2. DESIGN OF NUCLEAR DECOMMISSIONING TARIFF FOR ELECTRIC
31 COMPANIES. The nuclear decommissioning tariffs of an
32 incumbent provider that is an electric company shall provide
33 for the nonbypassable charges to be collected from each end-
34 use consumer within the incumbent provider's assigned service
35 area and in each assigned service area in Iowa of any

1 affiliated incumbent provider. The decommissioning charges
2 shall be a surcharge upon unbundled distribution service rates
3 and rates charged pursuant to section 476B.8. Decommissioning
4 charges shall be billed to each end-use consumer, directly or
5 through a competitive electric service provider, commencing
6 with bills issued on and after October 1, 2002. The
7 allocation of decommissioning charges among end-use consumers
8 shall be subject to approval by the board. The
9 decommissioning charges in such tariffs shall be set at a
10 level that will ensure the incumbent provider recovery of its
11 nuclear decommissioning costs, with the objective of achieving
12 full recovery as of the date on which decommissioning is
13 commenced for a unit or units. The decommissioning charges
14 shall be adjusted periodically to reflect increases or
15 decreases in the estimated costs of decommissioning the
16 nuclear unit or units, irrespective of any increases or
17 decreases in other costs or revenues of the incumbent provider
18 or delivery service provider. The decommissioning charges
19 shall cease when the nuclear plant is fully decommissioned or
20 the incumbent provider no longer has a responsibility for
21 nuclear decommissioning costs. All revenues collected under
22 the tariff shall be contributed to appropriate decommissioning
23 trust funds to be used to decommission the nuclear unit or
24 units or to reduce the amounts to be charged under such
25 tariffs in the future. All material changes to the trust fund
26 agreements, including a change in the trustee, shall be filed
27 with the board for approval. Decommissioning charges in such
28 tariffs shall be considered the equivalent of "cost of
29 service" amounts for purposes of determining contributions
30 deductible by the incumbent provider pursuant to section 468A
31 of the Internal Revenue Code.

32 3. ADJUSTMENT OF CHARGES FOR ELECTRIC COMPANIES. Nuclear
33 decommissioning tariffs filed with the board under this
34 section by an electric company shall provide that no increase
35 in charges under the decommissioning tariffs may take effect

1 until approved by the board. Notice to end-use consumers and
2 competitive electric service providers served under delivery
3 service tariffs or with whom the delivery service provider has
4 delivery service contracts, whether or not written, shall not
5 be required. The board may suspend the filing and hold
6 hearings as provided in section 476B.9, subsection 5.

7 Sec. 17. NEW SECTION. 476B.17 SECURITIZATION.

8 1. FINDINGS. The general assembly finds and declares all
9 of the following:

10 a. Securitization is a common financing technique which
11 has been used by other states as an effective tool to mitigate
12 transition costs.

13 b. It is in the state's interest to allow securitization
14 because it will help incumbent providers manage their costs
15 without increasing rates paid by end-use consumers.

16 c. Securitization will not create obligations of the state
17 or any of its political subdivisions.

18 2. DEFINITION. For purposes of this section, "incumbent
19 provider" includes a delivery service provider who was an
20 incumbent provider prior to October 1, 2002.

21 3. ISSUANCE OF TRANSITIONAL FUNDING ORDERS.

22 a. Upon application of an incumbent provider, the board is
23 authorized to issue transitional funding orders to create,
24 establish, and grant rights in, to, and under intangible
25 transition property in and to any grantee, incumbent provider,
26 issuer, or assignee in accordance with the terms of such
27 application.

28 b. After the effective date of this chapter, an incumbent
29 provider may file any number of applications for transitional
30 funding orders. An application for a transitional funding
31 order shall contain the incumbent provider's detailed proposal
32 for all of the following:

33 (1) The assignment, sale, pledge, or other transfer of, or
34 the establishment, creation, and granting of rights in, to, or
35 under intangible transition property.

1 (2) The issuance of transitional funding instruments.

2 (3) The amount of transitional funding instruments to be
3 issued which amount shall not exceed four hundred million
4 dollars in the aggregate for any incumbent provider.

5 (4) The method for calculating the amount of instrument
6 funding charges to be collected.

7 (5) The method for allocating such instrument funding
8 charges among classes of responsible consumers.

9 (6) The time to maturity for the transitional funding
10 instruments.

11 (7) The incumbent provider's planned use of the proceeds
12 from the issuance.

13 c. After notice, the board shall hold a hearing to
14 determine whether the application and requested transitional
15 funding order are in compliance with this section. The board
16 shall complete its review of the application and issue its
17 final transitional funding order no later than ninety days
18 after the filing of such application. The order shall create
19 and establish the proposed intangible transition property and
20 approve the proposed sale, pledge, assignment, or other
21 transfer of, or the establishment, creation, and granting of
22 rights in, to, or under intangible transition property; the
23 proposed issuance of transitional funding instruments; and the
24 proposed imposition and collection of the corresponding
25 instrument funding charges. Such transitional funding order
26 shall be issued if the board finds that each of the following
27 conditions are met:

28 (1) The application provides that the incumbent provider
29 will apply all net savings from the issuance of the
30 transitional funding instruments during the term of the
31 instruments in the following order:

32 (a) An amount, not to exceed two million dollars annually,
33 to reduce the charges under section 476B.13, subsection 1.

34 (b) Any remainder to compensate the incumbent provider for
35 transition costs associated with generation assets and

1 contracts for power and energy not recovered under section
2 476B.15, subsection 1.

3 (c) Any remainder to reduce charges under section 476B.15,
4 subsection 4.

5 (d) Any remainder to reduce charges under section 476B.15,
6 subsection 3.

7 (e) Eighty percent of any remainder to further reduce the
8 charges under section 476B.13, subsection 1.

9 Any remaining savings may be retained by the incumbent
10 provider. After October 1, 2006, annual transition costs
11 associated with generation assets and contracts for power and
12 energy not recovered under section 476B.15, subsection 1,
13 shall equal those costs determined by the board for the year
14 ending October 1, 2006. If the incumbent provider issues
15 transitional funding instruments prior to October 1, 2002, any
16 savings associated with the period prior to October 1, 2002,
17 shall be amortized in equal annual amounts in accordance with
18 the above purposes over the period from October 1, 2002,
19 through the remaining term of the transitional funding
20 instruments. Incumbent providers choosing to divest their
21 generation assets under section 476B.15, subsection 2, shall
22 first use the savings from securitization to compensate
23 themselves for any losses which may result from divestiture,
24 with any remaining savings to be allocated to the purposes,
25 and in the order provided, as set forth in this subparagraph.

26 (2) The expected maturity date for the transitional
27 funding instruments, and the final date on which the incumbent
28 provider, grantee, or assignee is entitled to charge and
29 collect instrument funding charges, shall each be set to occur
30 no later than December 31, 2012, subject to subsection 4,
31 paragraph "m".

32 (3) The instrument funding charges authorized in such
33 order will be deducted and stated separately from eligible
34 rates, all as provided in subsection 4, paragraph "d", and in
35 a manner conforming to the allocation of the instrument

1 funding charges implemented pursuant to subparagraph (4).

2 (4) The proposed method for allocating such instrument
3 funding charges among all classes of responsible consumers is
4 just and reasonable.

5 (5) The issuance of the transitional funding instruments
6 will not cause eligible rates to increase over the rates which
7 would otherwise be chargeable from time to time in the absence
8 of such issuance.

9 (6) Use of transitional funding proceeds shall not result
10 in the common equity component of the incumbent provider's
11 capital structure, exclusive of the portion of its capital
12 structure that consists of obligations representing
13 transitional funding instruments, as measured by the most
14 recently available thirteen-month average when adjusted for
15 the use of proceeds, being reduced below the lesser of forty-
16 two and one-half percent or the common equity percentage as of
17 December 31, 1998. The incumbent provider shall not use the
18 proceeds from transitional funding instruments to repay or
19 retire obligations incurred by any affiliate of the incumbent
20 provider without the consent of the board. However, consent
21 is not required to repay or retire debt or equity securities
22 of the incumbent provider which are held by the parent company
23 of the incumbent provider. A disbursement out of retained
24 earnings from the incumbent provider to its parent will not be
25 treated as repayment or retirement of an obligation of an
26 affiliate for purposes of this section.

27 (7) The incumbent provider will use the net proceeds of
28 the sale and issuance of the transitional funding instruments
29 to repay or refinance debt and equity, or to replenish cash
30 used for such purposes.

31 d. A transitional funding order issued by the board shall
32 become effective in accordance with its terms only after the
33 incumbent provider files with the board its written consent to
34 all terms and conditions of such order. After the issuance of
35 a transitional funding order, the incumbent provider, grantee,

1 or assignee shall retain sole discretion regarding whether to
2 cause transitional funding instruments to be issued, including
3 the right to defer or postpone such issuance or to change the
4 terms of such instruments as allowed by such order.

5 4. TERMS AND PROVISIONS OF TRANSITIONAL FUNDING ORDERS.

6 a. CREATION OF INTANGIBLE TRANSITION PROPERTY. A
7 transitional funding order shall create intangible transition
8 property in favor of an incumbent provider or grantee
9 representing the right to impose and collect instrument
10 funding charges necessary to pay principal and interest on the
11 transitional funding instruments authorized in the order
12 together with premium, servicing fees and other fees, costs,
13 and charges related to such funding instruments, and to fund
14 or maintain any required reserves, after giving effect to
15 delays in bill collections and uncollectibles. The party in
16 whose favor such rights are granted and any assignee of such
17 rights shall be granted the power to levy general tariffs on
18 responsible consumers of an incumbent provider or any other
19 person required to pay an instrument funding charge in order
20 to collect the instrument funding charges authorized in such
21 order and in order to facilitate the issuance of transitional
22 funding instruments authorized in such order. The board may
23 create, establish, and grant such rights under this paragraph
24 in and to such party with or without receiving consideration
25 from such party.

26 b. BASIC TERMS. The transitional funding order shall
27 authorize the establishment, creation, and granting of rights
28 in and to intangible transition property; any requested sale,
29 pledge, assignment, or other transfer of such rights; the
30 issuance of a specific dollar amount of transitional funding
31 instruments by or on behalf of an incumbent provider,
32 assignee, issuer, or grantee, as the case may be in an amount
33 not exceeding the limits set forth in subsection 3, paragraph
34 "b"; and the imposition and collection of instrument funding
35 charges projected to be sufficient to pay when due the

1 principal of and interest on the corresponding transitional
2 funding instruments, in each case, together with premium,
3 servicing fees and other fees, costs, and charges related to
4 such funding instruments, and to fund or maintain any required
5 reserves. The transitional funding order shall require that
6 the proceeds from the issuance of transitional funding
7 instruments be used for the purposes set forth in subsection
8 3, paragraph "c". Except where this section specifically
9 requires otherwise, the collection of instrument funding
10 charges and the allocation of any such collections as among
11 holders, assignees, issuers, grantees, and any other parties
12 entitled to receive portions of such collections, may be
13 accomplished according to the applicable transitional funding
14 order, or, if the order is silent on any such matters,
15 according to the documents relating to the pertinent
16 transitional funding instruments.

17 c. FLEXIBILITY -- CREDIT AND COLLECTION POLICIES. The
18 board, in a transitional funding order, shall afford
19 flexibility in establishing the terms and conditions of the
20 transitional funding instruments including repayment
21 schedules, collateral, required debt service and other
22 reserves, interest rates and other financing costs, and the
23 ability of the incumbent provider, at its option, to effect a
24 series of issuances of transitional funding instruments and
25 correlated assignments, sales, pledges, or other transfers of
26 intangible transition property. At the request of an
27 incumbent provider, the board in its transitional funding
28 order may establish such terms with respect to credit and
29 collection policies to be followed by persons collecting
30 instrument funding charges as the incumbent provider may
31 reasonably demonstrate are likely to be required for at least
32 two nationally recognized statistical rating agencies to rate
33 the transitional funding instruments in the highest rating
34 category assigned by such agencies to securities of comparable
35 maturities.

1 d. TARIFFS. Concurrently with the issuance of
2 transitional funding instruments, an incumbent provider,
3 grantee, issuer, or an assignee shall begin to impose and
4 collect the specified instrument funding charges from
5 responsible consumers, classes of responsible consumers, and
6 any other persons or groups of persons as set forth in the
7 relevant transitional funding order and shall file tariffs in
8 accordance with this paragraph. As a precondition to the
9 imposition of any instrument funding charges, an incumbent
10 provider shall file tariffs directing that the amount of such
11 instrument funding charges be deducted, stated, and collected
12 separately from the amounts otherwise billed by such incumbent
13 provider for eligible rates as set forth in the transitional
14 funding order. Upon the effectiveness of such tariffs, the
15 amounts of instrument funding charges thereby deducted and to
16 be deducted become intangible transition property as specified
17 in the transitional funding order and the rights to such
18 intangible transition property shall constitute a current
19 property right. The board shall not review such tariffs
20 except to confirm that the instrument funding charges
21 authorized in the transitional funding order have been
22 deducted and stated separately from eligible rates in effect
23 at such time, and the filing of any such tariff shall not be
24 suspended for any other reason. Deductions referred to in
25 this paragraph shall not be construed as a change in or
26 otherwise require a recalculation of the authorized amounts of
27 eligible rates. Instrument funding charges shall be
28 recoverable with respect to services for which the deductions
29 provided in this paragraph have become effective and such
30 deductions shall not be effective with respect to any services
31 or power in respect of which instrument funding charges have
32 not been so authorized and imposed.

33 e. PERIODIC ADJUSTMENTS. The board shall provide in any
34 transitional funding order for a procedure for periodic
35 adjustments to the instrument funding charges to ensure

1 adequate revenues from such instrument funding charges for
2 repaying principal of the transitional funding instruments in
3 accordance with their expected amortization schedule, for
4 paying interest and related fees and expenses, and for funding
5 and maintaining required reserves on a timely basis. If so
6 requested by an incumbent provider in an application for a
7 transitional funding order, the transitional funding order may
8 specify a dollar or percentage amount of variation from the
9 projected revenues within which no such adjustment will be
10 required, set forth a maximum adjustment amount for the
11 instrument funding charges, or both. If an adjustment
12 described in this paragraph is required, such adjustment shall
13 be implemented by the incumbent provider, grantee, assignee,
14 or issuer, as applicable, with prior written notice to the
15 board. Any such adjustment shall be calculated to include
16 amounts necessary for recovery of any additional costs
17 incurred by the incumbent provider, grantee, assignee, or
18 issuer as a result of the relevant delay in collections of
19 instrument funding charges. If any such adjustment would
20 cause the amount of any instrument funding charge to exceed
21 the eligible rates from which such instrument funding charge
22 is to be deducted, the relevant incumbent provider may ratably
23 allocate the deficiency to other responsible consumers as part
24 of the adjustment mechanism set forth in this paragraph and in
25 the relevant transitional funding order. If, as a result of
26 any adjustment, the amount of any instrument funding charge,
27 as adjusted, will exceed an amount greater than the amount of
28 the instrument funding charge initially authorized by the
29 board in its transitional funding order, the relevant
30 incumbent provider shall be obligated to file amendatory
31 tariffs in compliance with paragraph "f".

32 f. AMENDATORY TARIFFS. If an adjustment under paragraph
33 "e" results in the amount of any instrument funding charge as
34 so adjusted exceeding the amount of the instrument funding
35 charge initially authorized by the board in its transitional

1 funding order, the relevant incumbent provider shall file
2 amendatory tariffs reducing the amounts otherwise billed by
3 such incumbent provider for eligible rates by the amount of
4 such excess. Such amendatory tariff shall be subject to the
5 provisions of paragraph "d", except that the failure of such
6 amendatory tariff to become effective for any reason shall not
7 delay or impair the effectiveness of the adjustments required
8 under paragraph "e" and the obligation of responsible
9 consumers and other persons or groups of persons to pay
10 instrument funding charges as so adjusted shall not be subject
11 to any defense, counterclaim, or right of setoff arising as a
12 result of failure by the incumbent provider to comply with
13 this paragraph. This paragraph does not restrict any
14 responsible end-use consumer or other person from bringing any
15 suit in any court or from exercising any other legal or
16 equitable remedy against an incumbent provider for any failure
17 by such incumbent provider to comply with this paragraph.

18 g. NONRECOURSE STATUS -- NO DEFENSE, COUNTERCLAIM, OR
19 SETOFF. Except as otherwise specifically set forth in the
20 transitional funding order, the transitional funding
21 instruments issued pursuant to such order shall be nonrecourse
22 to the credit or to any assets of the incumbent provider other
23 than any assets comprising intangible transition property.
24 The obligation of responsible consumers and other persons to
25 pay instrument funding charges shall be contingent upon the
26 receipt by such responsible consumers and other persons of
27 delivery service or other services related to the provision of
28 electric power for which eligible rates may be assessed, but
29 the transitional funding order shall specifically provide that
30 such instrument funding charges will not be subject to any
31 defense, counterclaim, or right of set-off arising as a result
32 of failure by the incumbent provider, upon whose application
33 the intangible transition property was created, to perform or
34 provide past, present, or future services.

35 h. TRANSFER AND SERVICING. On such conditions as the

1 board may approve in the relevant transitional funding order,
2 the interest of any party in intangible transition property
3 may be assigned, sold or otherwise transferred, in whole or in
4 part, and may, in whole or in part, be pledged or assigned as
5 security to or for the benefit of a holder or holders. To the
6 extent that any such interest or portion of such interest is
7 assigned, sold, pledged, or otherwise transferred or is
8 established, created, and granted to a party other than the
9 incumbent provider, the board, in the relevant transitional
10 funding order, shall authorize the incumbent provider or any
11 affiliate of the incumbent provider to contract with any owner
12 or pledgee of such intangible transition property and any
13 holders of the relevant transitional funding instruments to
14 collect the applicable instrument funding charges for the
15 benefit and account of such persons, and such incumbent
16 provider or affiliate shall, except as otherwise specified in
17 the transitional funding order, account for and remit the
18 applicable instrument funding charges, without the obligation
19 to remit any investment earnings on such charges, to or for
20 the account of the relevant persons. The obligation of such
21 incumbent provider or affiliate to collect and remit the
22 applicable instrument funding charges shall continue
23 irrespective of whether such incumbent provider is providing
24 the services to which such instrument funding charges relate.
25 If the documents creating the transitional funding instruments
26 so provide, such obligations, in the event of a default by the
27 incumbent provider or affiliate in performing such
28 obligations, shall be undertaken and performed by any other
29 entity selected by the grantee, assignee or any holder, group
30 of holders or trustee or agent on behalf of such holder or
31 holders, as the case may be. However, a failure by the
32 designated party to perform such obligations shall not affect
33 the existence of the intangible transition property or the
34 instrument funding charges or the validity or enforceability
35 of the instrument funding charges in accordance with their

1 terms.

2 i. REPORTING. An incumbent provider shall file a
3 statement of the final terms of the issuance of any series of
4 transitional funding instruments with the board within ninety
5 days of the receipt of proceeds from such issuance. In
6 addition, the board may require an incumbent provider to file
7 periodic reports on its use of the proceeds at intervals of
8 not less than one year. Commencing January 1, 2001, and
9 annually thereafter, concluding on January 1, 2009, if an
10 incumbent provider has not issued the maximum amount of
11 transitional funding instruments permitted by this section,
12 the incumbent provider shall advise the board of the reasons
13 for not doing so.

14 j. REFINANCING. Any adjustment to instrument funding
15 charges that is necessary due to subsequent refinancing of
16 transitional funding instruments shall be authorized by the
17 board in a supplemental order. Unless specifically requested
18 by the incumbent provider in the application for such
19 supplemental order, no refinancing of previously issued
20 transitional funding instruments shall be deemed a new
21 issuance to be counted towards the dollar limitations set
22 forth in subsection 3, paragraph "b".

23 k. NO REDUCTION, POSTPONEMENT, IMPAIRMENT, OR TERMINATION.
24 A transitional funding order, the intangible transition
25 property created and established by such order, or the
26 instrument funding charges authorized to be imposed and
27 collected under such order, shall not be subject to reduction,
28 postponement, impairment, or termination by any subsequent
29 action of the board. However, a party to the board's
30 proceeding relating to the transitional funding order may seek
31 judicial review of such transitional funding order in
32 accordance with the provisions of other applicable law.

33 l. ONGOING VALIDITY. A transitional funding order shall
34 remain valid notwithstanding the invalidation of any portion
35 of this chapter. A transitional funding instrument,

1 instrument funding charge, intangible transition property,
2 lien, or other right established pursuant to a transitional
3 funding order is valid and binding in accordance with terms of
4 such order, notwithstanding that such order or any portion of
5 this chapter is later vacated, modified, or otherwise held to
6 be wholly or partly invalid.

7 m. CONTINUATION OF INTANGIBLE TRANSITION PROPERTY. The
8 intangible transition property created under a transitional
9 funding order and the authority of the grantee, assignee,
10 issuer, incumbent provider, or other person authorized under
11 such order to impose and collect instrument funding charges
12 and to exercise its rights under a transitional funding order,
13 including the right to make periodic adjustments pursuant to
14 paragraph "e", shall continue beyond the final date set forth
15 in the applicable transitional funding order until such time
16 as all transitional funding instruments authorized in such
17 order have been paid in full. Upon the later of the final
18 date set forth in the applicable transitional funding order
19 for the imposition and collection of instrument funding
20 charges or the repayment in full of any transitional funding
21 instruments, as applicable, authorized in such order, the
22 authority to impose and collect the related instrument funding
23 charges shall cease and any instrument funding charges
24 collected in excess of the amount required for the repayment
25 of the transitional funding instruments shall be paid to the
26 owner of such intangible transition property, and the relevant
27 incumbent provider shall be entitled to file tariffs revoking
28 any deductions from eligible rates which were granted in
29 connection with such instrument funding charges pursuant to
30 paragraph "d" or "f". The board shall not review such tariffs
31 except to determine that the rates and charges resulting from
32 such revocation do not exceed the applicable eligible rates
33 which would otherwise have been in effect at the time of such
34 revocation had no instrument funding charges ever been
35 deducted from such rates.

1 5. RELATIONSHIP TO STATE AND OTHER LAW.

2 a. The state pledges to, and agrees with, the holders of
3 any transitional funding instruments who may enter into
4 contracts with an incumbent provider, grantee, assignee, or
5 issuer pursuant to this section that the state will not in any
6 way limit, alter, impair, or reduce the value of intangible
7 transition property created by, or instrument funding charges
8 approved by, a transitional funding order so as to impair the
9 terms of any contract made by such incumbent provider,
10 grantee, assignee, or issuer with such holders or in any way
11 impair the rights and remedies of such holders until the
12 pertinent transitional funding instruments and interest,
13 premium and other fees, costs, and charges related to such
14 funding instruments, are fully paid and discharged. An
15 incumbent provider, grantee, or issuer is authorized to
16 include these pledges and agreements of the state in any
17 contract with the holders of transitional funding instruments
18 or with any assignees pursuant to this section, and any
19 assignees are similarly authorized to include these pledges
20 and agreements of the state in any contract with any issuer,
21 holder, or any other assignee. This section shall not
22 preclude the state from requiring adjustments as may otherwise
23 be allowed by law to eligible rates, so long as any such
24 adjustment does not directly affect or impair any instrument
25 funding charges previously authorized by a transitional
26 funding order issued by the board.

27 b. A transitional funding instrument issued under this
28 section does not constitute debt or liability of the state or
29 of any political subdivision, and transitional funding orders
30 authorizing such issuance do not constitute a pledge of the
31 full faith and credit of the state or of any political
32 subdivision. The issuance of transitional funding instruments
33 shall not directly, indirectly, or contingently obligate the
34 state or any political subdivision to levy or to pledge any
35 form of taxation or to make any appropriation for the payment

1 of such funding instruments. A transitional funding
2 instrument shall be payable solely from the intangible
3 transition property or from such other proceeds or property as
4 may be pledged for such funding instrument. This section
5 shall not be construed to prevent the state or any political
6 subdivision from owning any interest in a grantee, assignee,
7 or issuer or to prevent any incumbent provider, grantee,
8 issuer, or assignee from selling, pledging, or assigning
9 intangible transition property or from providing recourse or
10 guarantees or any other third-party credit enhancement in
11 connection with such sale, pledge, or assignment.

12 c. The procedures set forth in this section shall
13 constitute the sole procedures by which rights in, to, or
14 under intangible transition property may be created,
15 established, and granted, and no other approvals shall be
16 required under other law for such creation, establishment,
17 grant, or for the issuance of transitional funding
18 instruments. The rights of incumbent providers, grantees,
19 assignees, and holders in and to any such intangible
20 transition property shall be interpreted in accordance with
21 this section, which shall supersede any other law, rule, or
22 regulation to the contrary.

23 6. SECURITY INTERESTS IN INTANGIBLE TRANSITION PROPERTY.

24 a. Intangible transition property or any right, title, or
25 interest in such intangible transition property shall not
26 constitute property in which a security interest may be
27 created under the uniform commercial code. Additionally, such
28 property, or any such right, title, or interest in such
29 property shall not be deemed proceeds of any property which is
30 not intangible transition property. For purposes of this
31 paragraph, the terms "account" and "general intangible", as
32 defined under section 554.9106 of the uniform commercial code,
33 and the term "instrument", as used in the uniform commercial
34 code, shall be deemed to exclude any such intangible
35 transition property or any right, title, or interest in such

1 intangible transition property.

2 b. The granting, perfection, and enforcement of security
3 interests in intangible transition property shall be governed
4 by this section and not by the uniform commercial code.

5 c. A valid and enforceable security interest in intangible
6 transition property shall attach and be perfected only as
7 follows:

8 (1) To the extent a transitional funding instrument is
9 purported to be secured by intangible transition property as
10 specified in the applicable transitional funding order, the
11 lien of the transitional funding instrument shall attach
12 automatically to such intangible transition property from the
13 time of issuance of the transitional funding instrument. Such
14 lien shall be a valid and enforceable security interest in the
15 intangible transition property securing the transitional
16 funding instruments and shall be continuously perfected if,
17 before the date of issuance of the applicable transitional
18 funding instrument or within no more than ten days after such
19 issuance, a filing has been made by or on behalf of the holder
20 with the executive secretary of the board stating that such
21 transitional funding instrument has been or is to be issued.
22 Any such filing made with the board in respect to such
23 transitional funding instrument shall take precedence over any
24 subsequent filing except as may otherwise be provided in the
25 applicable transitional funding order.

26 (2) A lien under this paragraph is enforceable against the
27 incumbent provider, any grantee, issuer, or assignee, and any
28 third party, including a judicial lien creditor, subject only
29 to the rights of a third party holding a security interest in
30 the intangible transition property previously perfected in the
31 manner described in this subsection if value has been given by
32 the purchaser of a transitional funding instrument. A
33 perfected lien in intangible transition property is a
34 continuously perfected security interest in all then existing
35 or future revenues and proceeds arising with respect to the

1 associated intangible transition property whether or not the
2 electric power and related services included in the
3 calculation of such revenues and proceeds have been provided.
4 A lien created under this paragraph is perfected, and ranks
5 prior to any other lien, including a judicial lien, which
6 subsequently attaches to the intangible transition property
7 and to any other rights created by the transitional funding
8 order or any revenues or proceeds of the foregoing. The
9 relative priority of a lien created under this subsection is
10 not defeated or adversely affected by changes to the
11 transitional funding order or to the instrument funding
12 charges payable by a responsible consumer, class of
13 responsible consumers, or other person or group of persons
14 obligated to pay such charges.

15 (3) The relative priority of a lien created under this
16 subsection is not defeated or adversely affected by the
17 commingling of revenues arising with respect to intangible
18 transition property with funds of the incumbent provider or
19 other funds of the assignee, issuer, or grantee.

20 (4) If a default occurs under a transitional funding
21 instrument, the holders of such instrument or their authorized
22 representative, as secured parties, may foreclose or otherwise
23 enforce the lien in the intangible transition property
24 securing the transitional funding instrument, subject to the
25 rights of any third parties holding prior security interests
26 in the intangible transition property previously perfected as
27 provided in this subsection. Upon application by a holder or
28 such holder's authorized representative, without limiting any
29 other remedies, the board shall order the sequestration and
30 payment to such holder or authorized representative of
31 revenues arising with respect to the intangible transition
32 property pledged to the holder. An order under this
33 subsection shall remain in full force and effect
34 notwithstanding any bankruptcy, reorganization, or other
35 insolvency proceeding with respect to the incumbent provider,

1 grantee, assignee, or issuer.

2 (5) The board shall maintain segregated records which
3 reflect the date and time of receipt of all filings made under
4 this subsection. The board may provide that transfers of
5 intangible transition property be filed in accordance with the
6 same system.

7 7. TRUE SALE CHARACTERIZATION OF TRANSFER.

8 A sale, assignment, grant, or other transfer of intangible
9 transition property in a transaction approved in a
10 transitional funding order, unless otherwise provided in the
11 documents governing such transaction, shall be irrevocable as
12 against the incumbent provider requesting such transitional
13 funding order and shall be treated as an absolute transfer of
14 all of the transferor's right, title, and interest in, to, and
15 under such intangible transition property, or, in the case of
16 a grant to a grantee, as an absolute vesting of such property
17 in the name of the grantee. Any such sale, assignment, grant,
18 or other transfer is perfected as against third persons,
19 including judicial lien creditors, when the sale, assignment,
20 grant, or other transfer has become effective as between the
21 parties, and shall place such intangible transition property
22 beyond the reach of the transferor or incumbent provider and
23 their respective creditors, as in a true sale, and not as a
24 pledge or other financing, of such intangible transition
25 property. The characterization of a sale, assignment, grant,
26 or other transfer as an absolute transfer or vesting and the
27 corresponding characterization of the grantee's or
28 transferee's property interest shall not be defeated or
29 adversely affected by, among other things, any of the
30 following: the commingling of revenues arising with respect
31 to intangible transition property with funds of the incumbent
32 provider or other funds of the assignee, issuer, or grantee;
33 the granting to holders of transitional funding instruments a
34 preferred right to the intangible transition property, whether
35 direct or indirect; the provision by the incumbent provider,

1 grantee, assignee, or issuer of any recourse, collateral, or
2 credit enhancement with respect to transitional funding
3 instruments; the retention by the assigning party of a partial
4 interest in any intangible transition property, whether direct
5 or indirect, or whether subordinate or otherwise; or the
6 incumbent provider's responsibilities for collecting
7 instrument funding charges and any retention of bare legal
8 title for the purpose of such collection activities. The
9 treatment of any such sale, assignment, grant, or other
10 transfer for federal tax purposes shall be governed by
11 applicable law without regard to this section.

12 8. TREATMENT OF TRANSITIONAL FUNDING INSTRUMENTS IN
13 REGULATED RATES. The debt associated with a transitional
14 funding instrument shall not be included in the regulated
15 capital structure for the purpose of determining regulated
16 rates for any service.

17 9. ACTIONS WITH RESPECT TO INTANGIBLE TRANSITION PROPERTY
18 AND RELATED INSTRUMENT FUNDING CHARGES.

19 a. The board shall have exclusive jurisdiction over any
20 dispute arising out of the obligations to impose and collect
21 instrument funding charges. This section does not prevent a
22 holder from bringing an action in any court or from exercising
23 any other legal or equitable remedy against an incumbent
24 provider for failure to distribute collections of instrument
25 funding charges or for any other failure by the incumbent
26 provider to perform the contractual obligations agreed to by
27 the incumbent provider under any documents pertaining to, or
28 executed in connection with, a transitional funding instrument
29 issued by or on behalf of the incumbent provider.

30 b. An incumbent provider, issuer, assignee, grantee, or
31 holder is expressly permitted to bring an action against a
32 responsible consumer or other person for nonpayment of any
33 instrument funding charges constituting a part of the
34 intangible transition property then held by the incumbent
35 provider, issuer, assignee, grantee, or holder. Any such

1 action shall be subject to any and all applicable consumer
2 credit protection laws and other laws relating to origination,
3 collection, and reporting of consumer credit obligations.

4 10. TAXATION OF TRANSFERS OF INTANGIBLE TRANSITION
5 PROPERTY. A sale, grant, pledge, assignment, or other
6 transfer of intangible transition property is exempt from any
7 state or local sales, income, transfers, gains, receipts, or
8 similar taxes. A transfer of intangible transition property
9 shall be treated as a pledge or other financing for state tax
10 purposes, including state and local income and franchise
11 taxes, unless the documents governing such transfer
12 specifically state that the transfer is intended to be treated
13 otherwise.

14 Sec. 18. NEW SECTION. 476B.18 RECIPROCITY.

15 A person with an assigned service area in this state,
16 including an affiliate of such person, shall not offer
17 competitive power supply services within another person's
18 assigned service area in this state until the former person
19 allows the latter person a reasonable opportunity to offer
20 competitive power supply services in the former person's
21 assigned service area in this state. If the board suspends
22 the dates for commencement of the option to choose competitive
23 electric service pursuant to section 476B.7, the board shall
24 determine the manner and extent to which this section applies.

25 Sec. 19. NEW SECTION. 476B.19 APPLICABILITY OF AUTHORITY
26 -- CONSUMER-OWNED UTILITIES.

27 An electric cooperative and a municipal utility are not
28 subject to regulation by the board except as specifically
29 provided in this chapter.

30 Sec. 20. NEW SECTION. 476B.20 REMEDIES AND PENALTIES.

31 1. The board, after notice and opportunity for hearing,
32 may impose the following penalties and remedies for the
33 following violations:

34 a. The board may impose a civil penalty of up to two
35 thousand dollars for each nonmaterial violation of a licensing

1 requirement, including all board rules and orders, governing a
2 competitive electric service provider. The maximum aggregate
3 penalty per person pursuant to this paragraph shall not exceed
4 twenty thousand dollars per calendar year.

5 b. The board may impose a civil penalty of up to ten
6 thousand dollars for each material violation of a licensing
7 requirement, including all board rules and orders, governing a
8 competitive electric service provider. The maximum aggregate
9 penalty per person pursuant to this paragraph shall not exceed
10 two hundred thousand dollars per calendar year.

11 c. The board may impose a civil penalty of up to twenty-
12 five thousand dollars for each repeat violation of a licensing
13 requirement, including all board rules and orders, governing a
14 competitive electric service provider if the board finds the
15 violation to be substantial. The maximum aggregate penalty
16 per person under this paragraph shall not exceed one million
17 dollars per calendar year.

18 d. For repeat violations of licensing requirements,
19 including board rules and orders, governing a competitive
20 electric service provider, the board may by order prohibit the
21 competitive electric service provider or any other person
22 acting on behalf of the competitive electric service provider
23 from billing charges directly associated with the violation.

24 e. For repeat substantial violations under paragraph "c"
25 occurring within a twenty-four-month period, the board may
26 revoke the competitive electric service provider's license if
27 the board determines that no less severe remedy is likely to
28 correct the competitive electric service provider's conduct.
29 A repeat violation for the purpose of this paragraph means
30 that the occurrence of the second applicable violation takes
31 place subsequent to the date the board has issued a notice of
32 violation in a contested case on the initial violation, and
33 the board finds that the same provision of this chapter, or
34 the same requirement of a board rule or order, has been
35 violated in both contested cases. The written notice of

1 violation given by the board under this paragraph shall
2 specify an appropriate and reasonable time for compliance.
3 f. The board may issue a cease and desist order if the
4 board finds a competitive electric service provider has
5 engaged in conduct to monopolize in the relevant competitive
6 market, including, but not limited to predatory pricing as
7 defined by applicable law. The board's determination of
8 predatory pricing shall be given no weight in any legal action
9 brought in court, except with respect to judicial review of a
10 ruling brought pursuant to section 476B.23. For a repeat
11 violation of a cease and desist order issued pursuant to this
12 paragraph, the board may revoke a competitive electric service
13 provider's license if the board determines that no less severe
14 remedy is likely to result in a change in the competitive
15 electric service provider's conduct. This paragraph shall not
16 be construed as creating an exemption from federal or state
17 antitrust laws.

18 g. If a competitive electric service provider
19 substantially defaults on its obligations such that a control
20 area operator or other person provides emergency supply to
21 serve a customer of the defaulting competitive electric
22 service provider, the board may impose a monetary penalty on
23 the competitive electric service provider which does not
24 exceed three times the cost of the emergency supply and may
25 also revoke a competitive electric service provider's license
26 if the board determines that no less severe remedy is likely
27 to result in a change in the competitive electric service
28 provider's conduct.

29 h. The board may issue a cease and desist order if any
30 competitive electric service provider has engaged or is
31 engaging in any act or practice in violation of this chapter
32 or rule or order of the board, or any act or practice that
33 could create a danger to public safety or reliability of the
34 delivery system or possibly lead to injury to the public.
35 Such order is effective when issued unless otherwise specified

1 in the order. For a violation of a cease and desist order
2 issued pursuant to this paragraph, the board may revoke a
3 competitive electric service provider's license if the board
4 determines that no less severe remedy is likely to result in a
5 change of the competitive electric service provider's conduct.

6 i. The board may impose a civil penalty of up to five
7 thousand dollars for each nonmaterial violation of this
8 chapter, or a board rule or order, governing delivery service
9 providers. The maximum aggregate penalty to which a delivery
10 service provider may be subject pursuant to this paragraph
11 shall not exceed twenty thousand dollars per calendar year.

12 j. The board may impose a civil penalty of up to ten
13 thousand dollars for a material violation of this chapter, or
14 a board rule or order, by a delivery service provider. The
15 maximum aggregate penalty to which a delivery service provider
16 may be subject pursuant to this paragraph shall not exceed two
17 hundred thousand dollars per calendar year.

18 k. The board may impose a civil penalty of up to twenty-
19 five thousand dollars for each repeat violation of this
20 chapter, or a board rule or order, by a delivery service
21 provider if the board finds the violation to be substantial.
22 The maximum aggregate penalty to which a delivery service
23 provider may be subject pursuant to this paragraph shall not
24 exceed one million dollars per calendar year.

25 1. For a violation of this chapter, or a board rule or
26 order, by a delivery service provider, in addition to the
27 penalties and remedies in this subsection, the board may issue
28 a cease and desist order and disallow cost recovery of any
29 associated costs in electric company rate proceedings. Such
30 cease and desist order is effective when issued unless
31 otherwise specified in the order.

32 2. The board may issue a cease and desist order in an
33 emergency, without hearing or notice, if the board receives a
34 written verified complaint or affidavit showing that a person
35 is selling competitive electric services without being duly

1 licensed or is engaging in conduct that creates an immediate
2 danger to the public safety or reliability of the delivery
3 system or is reasonably expected to cause significant,
4 imminent, and irreparable public injury. An emergency cease
5 and desist order is effective immediately and continues in
6 force and effect until further order of the board or until
7 stayed by a court of competent jurisdiction. A hearing shall
8 be held by the board within ten business days of the issuance
9 of the emergency cease and desist order in which the board
10 shall in a final order affirm, modify, or set aside the
11 emergency cease and desist order.

12 3. The board, after notice and opportunity for hearing,
13 may order restitution for a person injured by a violation of
14 any board rule including, but not limited to, rules concerning
15 deceptive, abusive, and unfair sales practices, and the
16 provision of safe, reliable, and prompt delivery services and
17 competitive electric services. The board shall not have
18 authority to order special, incidental, consequential, or
19 punitive damages.

20 4. The board, after written notice and opportunity for
21 hearing, may impose a civil penalty of up to twenty-five
22 thousand dollars per occurrence upon a delivery service
23 provider for an excessive number of delivery-related outages,
24 excessive outage durations, or failure to undertake reasonable
25 and prudent maintenance measures to avoid outages. For
26 purposes of this subsection, an occurrence does not mean per
27 day or per consumer affected by an occurrence. The board
28 shall adopt rules specifying the circumstances under which
29 penalties would apply and shall give due consideration to
30 conditions within and beyond the control of the delivery
31 service provider. Delivery service providers that are
32 electric companies shall not include such civil penalties in
33 regulated rates. The initial rules shall be proposed by
34 October 1, 2001.

35 5. A person, after previously having been found by the

1 board to have violated a provision of this chapter or a rule
2 or order of the board, who willfully violates the same
3 provision of this chapter, the same rule or provision of an
4 order, shall after notice and opportunity for hearing be
5 subject to a civil penalty of up to twenty-five thousand
6 dollars per violation. For the purposes of this subsection,
7 "willful" means knowing and deliberate, with a specific intent
8 to violate.

9 6. Except as provided in subsection 4, each violation is a
10 separate offense, and in the case of a continuing violation,
11 each day a violation continues, after a reasonable time
12 specified for compliance in the written notice by the board,
13 is a separate and distinct offense. A civil penalty assessed
14 under this section may be compromised below the maximum by the
15 board. In determining the amount of the penalty, or the
16 amount agreed upon in the compromise, the board may consider
17 the appropriateness of the penalty in relation to the
18 financial resources of the person being penalized, the gravity
19 of the violation, the good faith of the person in attempting
20 to achieve compliance following notification of a violation,
21 and any other relevant factors. The board shall not impose a
22 civil penalty for any single violation in excess of fifty
23 thousand dollars and for any continuing violation in excess of
24 five hundred thousand dollars.

25 7. Civil penalties collected by the board under this
26 section shall be forwarded to the treasurer of state.

27 8. The board may apply to the district court of any county
28 of the state to enforce any order made or action taken by the
29 board pursuant to this section or to have a violation stopped
30 or prevented by injunction, mandamus, or other appropriate
31 remedy.

32 9. The board may award costs of litigation, including
33 reasonable attorney and expert witness fees, actually incurred
34 by a person found by the board to have materially contributed
35 to the enforcement of the remedies or penalties provided for

1 in this section. Litigation costs, in an amount approved by
2 the board and not to exceed twenty-five thousand dollars,
3 shall be paid by the person or persons found by the board to
4 be in violation of this chapter. In determining the award,
5 the board may consider the financial resources of such person.

6 10. A person who suffers harm as a result of a violation
7 of this chapter or of any rule or order lawfully issued by the
8 board pursuant to this chapter shall have a right to bring an
9 action in the courts of this state to recover any damages
10 caused by such violation.

11 Sec. 21. NEW SECTION. 476B.21 REHEARINGS BEFORE THE
12 BOARD.

13 Notwithstanding chapter 17A, a party, as defined in the
14 rules adopted by the board, to a contested case before the
15 board may within twenty days after the issuance of the final
16 decision apply for a rehearing. The board shall either grant
17 or refuse an application for rehearing within thirty days
18 after the filing of the application or, after giving the
19 interested parties notice and opportunity to be heard and
20 after consideration of all the facts, including those arising
21 since the making of the order, may abrogate or modify its
22 order. A failure by the board to act upon the application for
23 rehearing within the thirty-day period shall be deemed a
24 denial of the application. Neither the filing of an
25 application for rehearing nor the granting of the application
26 shall stay the effectiveness of an order unless the board so
27 directs.

28 Sec. 22. NEW SECTION. 476B.22 JUDICIAL REVIEW.

29 1. Notwithstanding chapter 17A, the district court for
30 Polk county has exclusive venue for the judicial review under
31 chapter 17A of actions of the board pursuant to section
32 476B.4, subsection 1, section 476B.8, subsections 1, 2, and 3,
33 and section 476B.9, subsections 5 and 7.

34 2. Upon the filing of a petition for judicial review
35 pursuant to subsection 1, the clerk of the district court

1 shall notify the chief justice of the supreme court for
2 purposes of assignment of a district judge under section
3 602.1212. The judicial review proceeding shall be heard by
4 the district judge appointed by the supreme court under
5 section 602.1212, but in the court of venue under subsection
6 1.

7 3. Notwithstanding chapter 17A, if a delivery service
8 provider that is an electric company seeks judicial review of
9 an order approving rates for the delivery service provider,
10 the level of rates that may be collected, under bond and
11 subject to refund, while the judicial review proceeding is
12 pending is limited to the level of the temporary rates set by
13 the board, or the level of the final rates set by the board,
14 whichever is greater. During the period the judicial review
15 proceeding is pending, the board shall retain jurisdiction to
16 determine the rate of interest to be paid on any refunds
17 eventually required on rates collected during judicial review.

18 Sec. 23. NEW SECTION. 476B.23 CONTRACT RIGHTS.

19 Except as provided in this section, this chapter shall not
20 affect the rights and duties of parties under a contract for
21 electric service in effect on the effective date of this
22 chapter. Notwithstanding a provision in a contract to the
23 contrary, contracts entered into pursuant to a board-approved
24 pilot project for bundled electric service executed before the
25 effective date of this chapter between an incumbent provider
26 and an end-use consumer may be terminated without penalty by
27 the end-use consumer on or after May 1, 2002, upon ninety
28 days' prior written notice to the incumbent provider.

29 Sec. 24. NEW SECTION. 476B.24 UTILITY EMPLOYEE
30 TRANSITION SERVICES AND BENEFITS.

31 1. The general assembly finds, based on experience in
32 other industries that have undergone similar transitions, that
33 the introduction of competition into the state's electric
34 utility industry may result in workforce reductions by
35 electric companies which may adversely affect persons who have

1 been employed by this state's electric utilities in functions
2 important to the public convenience and welfare. The general
3 assembly further finds that the impacts on employees and their
4 communities of any necessary reductions in the utility
5 workforce caused by this restructuring of the electric
6 industry shall be mitigated to the extent practicable through
7 such means as offers of voluntary severance, retraining, early
8 retirement, outplacement, and related benefits. Therefore,
9 before any such reduction in the workforce during the period
10 between the effective date of this chapter and January 1,
11 2007, an electric utility shall present to its employees or
12 their representatives a workforce reduction plan outlining the
13 means by which the electric utility intends to mitigate the
14 impact of such workforce reduction on its employees. If the
15 employees are represented by a labor organization, the
16 electric utility shall negotiate in good faith with the
17 representatives of the affected workforce not less than sixty
18 days in advance of any planned reduction in force caused by
19 restructuring during the period. Failure to reach agreement
20 on a workforce reduction plan may result in either party
21 requesting mediation or binding arbitration to determine the
22 reasonableness of the plan. If the employees are not
23 represented by a labor organization and will involuntarily
24 lose employment, the electric utility shall develop a
25 workforce reduction plan satisfactory to its board of
26 directors, if the electric utility is an electric company, or
27 its governing body, if the electric utility is a consumer-
28 owned utility. For the purpose of this section, the term
29 "electric utility" means the electric delivery service
30 operations in Iowa and the electric generating operations and
31 units located in Iowa of all incumbent providers that are
32 electric companies and those incumbent providers that are
33 consumer-owned utilities choosing to become licensed
34 competitive electric service providers.

35 2. In the event of a sale, purchase, or any other transfer

1 of ownership by an electric utility, during the period from
2 the effective date of this chapter to January 1, 2006, of one
3 or more Iowa divisions, business units, generating stations,
4 or generating units located in Iowa, the electric utility's
5 contract or agreement with the acquiring person shall require
6 that the acquiring person hire a sufficient number of
7 nonsupervisory employees to operate and maintain the station,
8 division, or unit by initially making offers of employment to
9 the nonsupervisory workforce of the electric utility's
10 division, business unit, generating stations, or generating
11 unit at no less than the wage rates and substantially
12 equivalent fringe benefits and terms and conditions of
13 employment that are in effect at the time of transfer of
14 ownership of the division, business unit, generating station,
15 or generating units. The wage rates and substantially
16 equivalent fringe benefits and terms and conditions of
17 employment shall continue for at least thirty months from the
18 time of the transfer of ownership unless the parties mutually
19 agree to different terms and conditions of employment within
20 that thirty-month period. The electric utility shall offer a
21 transition plan to those nonsupervisory employees who are not
22 offered jobs by the acquiring person because that person has a
23 need for fewer workers. If there is litigation concerning the
24 sale or other transfer of ownership of the electric utility's
25 divisions, business units, generating stations, or generating
26 units, the thirty-month period will begin on the date the
27 acquiring person takes control or management of the divisions,
28 business units, generating stations, or generating units of
29 the electric utility.

30 3. If an electric utility transfers ownership of one or
31 more of its divisions, business units, generating stations, or
32 generating units located in Iowa to an affiliate, during the
33 period from the effective date of this chapter to January 1,
34 2006, that affiliate shall comply with the transition
35 provisions in subsection 2. If ownership of the affiliate is

1 subsequently sold or transferred to another person during the
2 transition period, the transition provisions in subsection 2
3 shall continue to apply.

4 Sec. 25. NEW SECTION. 476B.25 REPORTS TO GENERAL
5 ASSEMBLY.

6 1. After providing an opportunity for public input, the
7 board shall submit to the secretary of the senate and the
8 chief clerk of the house of representatives for transmittal to
9 the Iowa senate and house of representatives a report on or
10 before January 10, 2006, which includes both of the following:

11 a. An evaluation of the effectiveness of competition in
12 the market for each competitive electric service.

13 b. Recommendations, if any, that the general assembly
14 should consider to increase the effectiveness of competition
15 in the markets for all competitive electric services.

16 2. On or before January 10, 2006, the consumer advocate
17 shall provide a written report to the general assembly that
18 sets forth the consumer advocate's conclusions regarding the
19 effectiveness of competition in the market for competitive
20 electric services. The report may include any recommendations
21 which the consumer advocate believes the general assembly
22 should consider in light of the conclusions.

23 Sec. 26. NEW SECTION. 476B.26 INTERVENOR FUNDING.

24 1. PURPOSE. An intervenor fund in the amount of two
25 million one hundred thousand dollars is created, to be
26 administered by the office of citizens' aide under chapter 2C.
27 The fund shall be used to reimburse nonprofit entities that
28 satisfy the requirements of subsection 2 and that intervene in
29 rulemaking proceedings before the utilities board as provided
30 in this section.

31 2. QUALIFICATIONS. An entity, to qualify for
32 reimbursement from the fund, must be nonprofit and have at
33 least one hundred members who are residents of this state.
34 Additionally, the entity, must be granted intervention by the
35 utilities board in a rulemaking proceeding required to be

1 conducted under this chapter, and must have filed an
2 application with the citizens' aide for reimbursement. The
3 citizens' aide shall develop the form and content of the
4 application.

5 3. DISTRIBUTION OF FUNDS. a. A qualified applicant shall
6 be reimbursed up to ten thousand dollars of such applicant's
7 actual, reasonable costs of participating in a rulemaking
8 proceeding required by this chapter. The citizens' aide may
9 require the applicant to submit proof of such costs.

10 b. The citizens' aide shall not award amounts for
11 reimbursement in excess of one hundred thousand dollars per
12 rulemaking proceeding. If ten or fewer applicants request
13 reimbursement in a rulemaking, the citizens' aide shall award
14 each qualifying applicant up to ten thousand dollars. If more
15 than ten qualifying applicants request reimbursement from the
16 fund, the citizens' aide shall determine the method for
17 distribution of the available funding.

18 c. A qualified applicant may join with another qualified
19 applicant to participate in a utilities board rulemaking
20 without diminishing the eligibility of either for funding
21 under this section.

22 4. SOURCE OF FUNDS. The citizens' aide shall request up
23 to two million one hundred thousand dollars from the utilities
24 board, as funds are needed, for distribution or administrative
25 expenses. Administrative expenses shall not exceed one
26 hundred thousand dollars in total. The funds shall be
27 provided by the utilities board from the interim funding
28 mechanism established under section 476B.13, subsection 5,
29 paragraph "c".

30 5. REPEALER. This section is repealed effective October
31 1, 2002.

32 Sec. 27. NEW SECTION. 28F.15 POWERS -- CONFLICTING
33 PROVISIONS.

34 In addition to the powers conferred elsewhere in this
35 chapter, an electric power agency may exercise all other

1 powers reasonably necessary or appropriate for or incidental
2 to the effectuation of its authorized purposes including
3 without limitation, the powers enumerated in chapters 6A and
4 6B for purposes of constructing or acquiring electric power
5 facilities within this state. The failure of a city to comply
6 with requirements of section 28F.1, relating to joining an
7 electric power agency for the purpose of financing electric
8 power facilities, shall not limit the ability of that electric
9 power agency to jointly finance open access transmission
10 facilities pursuant to this subchapter. An electric power
11 agency may exercise in connection with its property and
12 affairs, and in connection with property within its control,
13 any and all powers which might be exercised by a natural
14 person or a private corporation in connection with similar
15 property and affairs. The enumeration of specific powers and
16 functions in this subchapter is not a limitation of the powers
17 of a public agency or an electric power agency as otherwise
18 provided by law. For purposes of this subchapter, open access
19 transmission facilities are those available for use by others
20 in a manner comparable to the use of transmission facilities
21 of a public utility subject to the federal Power Act.

22 Sec. 28. NEW SECTION. 28F.16 ISSUANCE OF BONDS AND NOTES
23 -- PURPOSES.

24 An electric power agency may from time to time issue its
25 bonds or notes in such principal amounts as the electric power
26 agency deems necessary to provide sufficient funds to carry
27 out the following corporate purposes and powers:

28 a. The construction of open access transmission facilities
29 to be owned or leased by the electric power agency, or the
30 acquisition of any interest or any right to capacity in such
31 facilities constructed on or after July 1, 1999.

32 b. The funding or refunding of the principal of, or
33 interest or redemption premiums on, any bonds or notes issued
34 by the electric power agency whether or not the bonds or notes
35 or interest to be funded or refunded has become due.

1 c. The establishment or increase of reserves to secure or
2 to pay the bonds or notes, or interest on such bonds or notes.

3 d. The payment of all other costs or expenses of the
4 electric power agency incident to and necessary to carry out
5 the foregoing corporate purposes and powers.

6 Sec. 29. NEW SECTION. 28F.17 BONDS AND NOTES AUTHORIZED
7 BY RESOLUTION OF BOARD -- TERMS.

8 1. Bonds or notes of an electric power agency shall be
9 authorized by resolution of its board of directors and may be
10 issued under the resolution or under a trust indenture or
11 other security agreement, in one or more series, which shall
12 include all of the following:

- 13 a. Date of issue.
- 14 b. Date of maturity.
- 15 c. Rate of interest.
- 16 d. Amount of denomination.

17 2. The terms and conditions in the resolution, trust
18 indenture, or other security agreement shall provide for all
19 of the following:

- 20 a. The form of the bond or note, either coupon or
21 registered.
- 22 b. Conversion, registration, and exchange privileges.
- 23 c. Rank or priority.
- 24 d. Execution requirements.
- 25 e. Medium and place of payment.
- 26 f. Terms of redemption with or without premium.
- 27 g. Such other terms and conditions as the resolution,
28 trust indenture, or other security agreement may provide.

29 3. Bonds and notes issued pursuant to this subchapter
30 shall not be restricted by any other law limiting the amounts,
31 maturities, interest rates, or other terms of obligation of
32 public agencies or private persons. Chapter 75 shall not
33 apply to such bonds or notes.

34 Sec. 30. NEW SECTION. 28F.18 BONDS AND NOTES PAYABLE
35 SOLELY FROM AGENCY REVENUES OR FUNDS.

1 The principal of and interest upon any bonds or notes
2 issued by an electric power agency shall be payable solely
3 from the revenues or funds pledged or available for their
4 payment as authorized in this subchapter. Each bond and note
5 shall contain a statement that the principal or interest
6 associated with such bond or note is payable solely from
7 revenues or funds of the electric power agency, and that the
8 state, any political subdivision of the state other than the
9 electric power agency, or any public agency which is a member
10 of the electric power agency is not obligated to pay the
11 principal or interest and that the full faith and credit or
12 the taxing power of the state, any political subdivision of
13 the state, or any such public agency is not pledged to the
14 payment of the principal of or the interest on the bonds or
15 notes.

16 Sec. 31. NEW SECTION. 28F.19 BONDS AND NOTES -- TYPES --
17 SOURCES FOR PAYMENT -- SECURITY.

18 Except as may be otherwise expressly provided by this
19 subchapter or by the electric power agency, every issue of
20 bonds or notes of the electric power agency shall be payable
21 out of any revenues or funds of the electric power agency,
22 subject only to any agreements with the holders of particular
23 bonds or notes pledging any particular revenues or funds. An
24 electric power agency may issue types of bonds or notes as it
25 may determine, including bonds or notes as to which the
26 principal and interest are payable exclusively from the
27 revenues from one or more projects, or from an interest in
28 such projects or a right to capacity of such projects, or from
29 one or more revenue-producing contracts made by the electric
30 power agency with any person, or from its revenues generally.
31 Any bonds or notes may be additionally secured by a pledge of
32 any grant, subsidy, or contribution from any public agency or
33 other person, or a pledge of any income or revenues, funds, or
34 moneys of the electric power agency from any source
35 whatsoever.

1 Sec. 32. NEW SECTION. 28F.20 BONDS, NOTES, AND RATES FOR
2 DEBT SERVICE NOT SUBJECT TO STATE APPROVAL.

3 Bonds or notes of an electric power agency may be issued
4 under this subchapter, and rents, rates, and charges may be
5 established pursuant to section 28F.5 and pledged for the
6 security of bonds or notes, and interest and redemption
7 premiums on such bonds or notes, without obtaining the consent
8 of any department, division, commission, board, bureau, or
9 agency of the state and without any other proceeding or the
10 happening of any other condition or occurrence except as
11 specifically required by this subchapter.

12 Sec. 33. NEW SECTION. 28F.21 BONDS AND NOTES TO BE
13 NEGOTIABLE.

14 All bonds and notes of an electric power agency shall be
15 negotiable within the meaning and for all the purposes of the
16 uniform commercial code, subject only to any registration
17 requirement.

18 Sec. 34. NEW SECTION. 28F.22 VALIDITY OF BONDS AND NOTES
19 AT DELIVERY -- TEMPORARY BONDS.

20 Any bonds or notes may be issued and delivered,
21 notwithstanding that one or more of the officers executing
22 them shall have ceased to hold office at the time when the
23 bonds or notes are actually delivered. Pending preparation of
24 definitive bonds, an electric power agency may issue temporary
25 bonds which shall be exchanged for the definitive bonds.

26 Sec. 35. NEW SECTION. 28F.23 PUBLIC OR PRIVATE SALE OF
27 BONDS AND NOTES.

28 Bonds or notes of an electric power agency may be sold at
29 public or private sale for a price and in a manner as
30 determined by the agency.

31 Sec. 36. NEW SECTION. 28F.24 BONDS AND NOTES SUITABLE
32 INVESTMENTS FOR GOVERNMENTAL UNITS, FINANCIAL INSTITUTIONS,
33 AND FIDUCIARIES.

34 A bank, trust company, savings bank, building and loan
35 association, savings and loan association, credit union,

1 investment company, insurance company, insurance association,
2 executor, guardian, trustee, and other fiduciaries responsible
3 for the investment of funds, may legally invest any debt
4 service funds, money, or other funds belonging to them or
5 within their control in any bonds or notes issued pursuant to
6 this subchapter, and the bonds or notes shall be authorized
7 security for any and all public deposits.

8 Sec. 37. NEW SECTION. 28F.25 RESOLUTION, TRUST
9 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT --
10 PROVISIONS.

11 1. The resolution, trust indenture, or other security
12 agreement under which any bonds or notes are issued shall
13 constitute a contract with the holders of the bonds or notes,
14 and may contain provisions, among others, prescribing any of
15 the following:

16 a. The terms and provisions of the bonds or notes.

17 b. The mortgage or pledge of and the grant of a security
18 interest in any real or personal property and all or any part
19 of the revenue from any project or any revenue-producing
20 contract made by the electric power agency with any person to
21 secure the payment of bonds or notes, subject to any
22 agreements with the holders of bonds or notes which might then
23 exist.

24 c. The custody, collection, securing, investment, and
25 payment of any revenues, assets, money, funds, or property
26 with respect to which the electric power agency may have any
27 rights or interest.

28 d. The rates or charges for electric energy sold by, or
29 services rendered by, the electric power agency, the amount to
30 be raised by the rates or charges, and the use and disposition
31 of any or all revenue.

32 e. The creation of reserves or debt service funds and the
33 regulation and disposition of such reserves or funds.

34 f. The purposes to which the proceeds from the sale of any
35 bonds or notes to be issued may be applied, and the pledge of

1 the proceeds to secure the payment of the bonds or notes.

2 g. Limitations on the issuance of any additional bonds or
3 notes, the terms upon which additional bonds or notes may be
4 issued and secured, and the refunding of outstanding bonds or
5 notes.

6 h. The rank or priority of any bonds or notes with respect
7 to any lien or security.

8 i. The creation of special funds or moneys to be held in
9 trust or otherwise for operating expenses, payment, or
10 redemption of bonds or notes, reserves or other purposes, and
11 the use and disposition of moneys held in these funds.

12 j. The procedure by which the terms of any contract with
13 or for the benefit of the holders of bonds or notes may be
14 amended or abrogated, the amount of bonds or notes the holders
15 of which must consent to such amendment or abrogation, and the
16 manner in which consent may be given.

17 k. The definition of the acts or omissions to act which
18 shall constitute a default in the duties of the electric power
19 agency to holders of its bonds or notes, and the rights and
20 remedies of the holders in the event of default including, if
21 the electric power agency so determines, the right to
22 accelerate the due date of the bonds or notes, or the right to
23 appoint a receiver of the property or revenues subject to the
24 lien of the resolution, trust indenture, or other security
25 agreement.

26 l. Any other or additional agreements with or for the
27 benefit of the holders of bonds or notes or any covenants or
28 restrictions necessary or desirable to safeguard the interests
29 of the holders.

30 m. The custody of any of its properties or investments,
31 the safekeeping of such properties or investments, the
32 insurance to be carried on such properties or investments, and
33 the use and disposition of insurance proceeds.

34 n. The vesting in a trustee, within or outside the state,
35 of such properties, rights, powers, and duties in trust as the

1 electric power agency may determine; or the limiting or
2 abrogating of the rights of the holders of any bonds or notes
3 to appoint a trustee, or the limiting of the rights, powers,
4 and duties of such trustee.

5 o. The appointment of, and the establishment of the duties
6 and obligations of, any paying agent or other fiduciary within
7 or outside the state.

8 Sec. 38. NEW SECTION. 28F.26 MORTGAGE OR TRUST DEED TO
9 SECURE BONDS.

10 For the security of bonds or notes issued, or to be issued,
11 by an electric power agency, the electric power agency may
12 mortgage or execute deeds of trust of the whole or any part of
13 its property.

14 Sec. 39. NEW SECTION. 28F.27 NO PERSONAL LIABILITY ON
15 BONDS OR NOTES.

16 An official, director, or member of an electric power
17 agency, or any person executing bonds or notes pursuant to
18 this subchapter shall not be liable personally on the bonds or
19 notes or be subject to any personal liability or
20 accountability by reason of the issuance of such bonds or
21 notes.

22 Sec. 40. NEW SECTION. 28F.28 REPURCHASE OF SECURITIES.

23 An electric power agency may purchase, out of any funds
24 available for such purchase, bonds or notes, and may hold,
25 pledge, cancel, or resell the bonds or notes, subject to and
26 in accordance with any agreements with the holders.

27 Sec. 41. NEW SECTION. 28F.29 PLEDGE OF REVENUE AS
28 SECURITY.

29 An electric power agency may pledge its rates, rents, and
30 other revenues, or any part of such rates, rents, or other
31 revenues, as security for the repayment, with interest and
32 redemption premiums, if any, of the moneys borrowed by it or
33 advanced to it for any of its authorized purposes and as
34 security for the payment of amounts due and owed by it under
35 any contract.

1 Sec. 42. Section 266.39C, subsection 2, paragraph 1, Code
2 1999, is amended to read as follows:

3 1. Two representatives from investor-owned utilities, one
4 representing gas utilities, appointed by the Iowa utility
5 association, and one representing electric utilities delivery
6 service providers, appointed by the Iowa utility association.

7 Sec. 43. Section 266.39C, subsection 2, Code 1999, is
8 amended by adding the following new paragraphs:

9 NEW PARAGRAPH. m. One representative appointed by the
10 governor from each of the following groups:

- 11 (1) Residential electric end-use consumers.
- 12 (2) Commercial electric end-use consumers.
- 13 (3) Industrial electric end-use consumers.

14 NEW PARAGRAPH. n. Beginning May 1, 2002, one
15 representative of competitive electric service providers
16 licensed in this state that are not affiliated with an
17 incumbent provider as defined in section 476B.3, appointed by
18 the board.

19 Sec. 44. Section 384.24, subsection 4, Code 1999, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. j. The acquisition of competitive electric
22 services, as defined in chapter 476B, to meet the demands of
23 city residents.

24 Sec. 45. Section 384.84, subsection 1, Code 1999, is
25 amended to read as follows:

26 1. The governing body of a city utility, combined utility
27 system, city enterprise, or combined city enterprise may
28 establish, impose, adjust, and provide for the collection of
29 rates and charges to produce gross revenues at least
30 sufficient to pay the expenses of operation and maintenance of
31 the city utility, combined utility system, city enterprise, or
32 combined city enterprise. When revenue bonds or pledge orders
33 are issued and outstanding pursuant to this division, the
34 governing body shall establish, impose, adjust, and provide
35 for the collection of rates to produce gross revenues at least

1 sufficient to pay the expenses of operation and maintenance of
2 the city utility, combined utility system, city enterprise, or
3 combined city enterprise, and to leave a balance of net
4 revenues sufficient to pay the principal of and interest on
5 the revenue bonds and pledge orders as they become due and to
6 maintain a reasonable reserve for the payment of principal and
7 interest, and a sufficient portion of net revenues must be
8 pledged for that purpose. Rates must be established by
9 ordinance of the council or by resolution of the trustees,
10 published in the same manner as an ordinance. However, prices
11 for electric services subject to direct competition under
12 chapter 476B may be changed in accordance with a policy that
13 has been adopted in the same manner as rates.

14 Sec. 46. Section 388.6, Code 1999, is amended to read as
15 follows:

16 388.6 DISCRIMINATION IN RATES.

17 A city utility or a combined utility system may not provide
18 use or service at a discriminatory rate, except to the city or
19 its agencies, as provided in section 384.91. However, the
20 pricing of competitive electric services, as defined in
21 section 476B.3, at market rates is not prohibited.

22 Sec. 47. Section 422.53, subsection 5, Code Supplement
23 1999, is amended by adding the following new unnumbered
24 paragraph:

25 NEW UNNUMBERED PARAGRAPH. The director, within thirty days
26 after the date of revocation of a permit issued to a person
27 licensed pursuant to section 476B.6, shall provide written
28 notice to the executive secretary of the utilities board
29 identifying the person whose permit was revoked and the date
30 of revocation.

31 Sec. 48. Section 423.22, Code 1999, is amended by adding
32 the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. The director, within thirty days
34 after the date of revocation of a permit issued to a person
35 licensed pursuant to section 476B.6, shall provide written

1 notice to the executive secretary of the utilities board
2 identifying the person whose permit was revoked and the date
3 of revocation.

4 Sec. 49. Section 474.9, Code 1999, is amended by striking
5 the section and inserting in lieu thereof the following:

6 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

7 1. The board shall have broad general powers to effect the
8 purposes of this chapter and chapters 476, 476A, 476B, 478,
9 479, 479A, and 479B. The board may issue subpoenas and pay
10 the same fees and mileage as are payable to witnesses in the
11 courts of record of general jurisdiction. The board shall
12 adopt rules pursuant to chapter 17A to govern the exercise of
13 its powers and duties, the practice and procedure before it,
14 and to govern the form, contents, and filing of reports,
15 documents, and other papers as required.

16 2. The board shall employ at rates of compensation
17 consistent with current standards in industry, such
18 professionally trained economists, engineers, accountants,
19 attorneys, and skilled examiners and inspectors, secretaries,
20 clerks, and other employees as it may find necessary for the
21 full and efficient discharge of its duties and
22 responsibilities as required by this chapter and chapters 476,
23 476A, 476B, 478, 479, 479A, and 479B.

24 3. The board may intervene in any proceedings before the
25 federal energy regulatory commission or any other federal or
26 state regulatory body when it finds that any decision of the
27 commission would adversely affect the costs of regulated or
28 competitive utility services within this state.

29 4. The board shall have authority to inquire into the
30 management of the business of all public utilities and
31 delivery service providers that are electric companies, and
32 shall keep itself informed as to the manner and method in
33 which the same is conducted, and may obtain from any public
34 utility or delivery service provider all necessary information
35 to enable the board to perform its duties.

1 5. To the maximum extent fair and equitable, the board
2 shall directly charge its expenses and those of the consumer
3 advocate to the person causing the board or consumer advocate
4 to incur those expenses in accomplishing the purposes of the
5 board. No part of such expenses shall be charged to persons,
6 who without expanding the scope of the proceeding, intervene
7 in good faith in a board proceeding initiated by an entity
8 subject to the board's rate and licensing jurisdiction, the
9 consumer advocate, or the board on its own motion. For
10 allocations in complaint proceedings, the board may consider
11 the financial resources of the parties and the contribution to
12 the public interest.

13 6. a. In order to carry out the duties imposed upon it by
14 law, the board may allocate the expenses attributable to such
15 duties to the parties to proceedings before the board or to
16 persons participating in other matters before the board. The
17 board shall ascertain the certified expenses incurred by the
18 consumer advocate division of the department of justice in the
19 performance of its duties under the law and may allocate those
20 expenses that are directly chargeable.

21 b. The board shall ascertain the total of the division's
22 expenditures during each year that is reasonably attributable
23 to the performance of its duties under the law. The board
24 shall add to this total the certified expenses of the consumer
25 advocate as provided under section 475A.6 and shall deduct all
26 amounts chargeable directly to any person under any law. The
27 remainder may be assessed by the board to all entities
28 providing service over which the board has jurisdiction. The
29 assessment shall be in proportion to the respective gross
30 operating revenues of such entities during the last calendar
31 year from intrastate operations over which the board has
32 jurisdiction. The board shall not assess the same transaction
33 twice. If any portion of the remainder can be identified with
34 a specific type of utility service, the board may allocate
35 those expenses to the corresponding entities over which the

1 board has jurisdiction. Assessments may be made quarterly
2 based upon estimates of the expenditures for the fiscal year
3 of the utilities division and the consumer advocate. Not more
4 than ninety days following the close of the fiscal year, the
5 utilities division shall conform the amount of the prior
6 fiscal year's assessments to the requirements of this section.
7 The total amount that may be assessed to an entity under
8 authority of this paragraph shall not exceed six-tenths of one
9 percent of the total gross operating revenues during the
10 calendar year derived from intrastate operations over which
11 the board has jurisdiction. For public utilities exempted
12 from board rate regulation pursuant to chapter 476 and
13 delivery service providers that are incumbent provider
14 consumer-owned utilities pursuant to chapter 476B, the
15 assessments under this paragraph shall be computed at one-half
16 the rate used in computing the assessment for other utilities
17 and delivery service providers that are electric companies.

18 c. A person subject to assessment shall pay the division
19 the amount assessed against it within thirty days from the
20 time the division mails notice to it of the amount due unless
21 it shall file with the board objections in writing setting out
22 the grounds upon which it claims that such assessment is
23 excessive, erroneous, unlawful, or invalid. Upon the filing
24 of such objections the board shall set the matter down for
25 hearing and issue its order in accordance with its findings in
26 such proceeding, which order shall be subject to review as
27 provided in this chapter. All amounts collected by the
28 division pursuant to this section shall be deposited with the
29 treasurer of state and credited to the general fund of the
30 state.

31 d. Whenever the board deems it necessary in order to carry
32 out the duties imposed by law, the board may expend additional
33 sums beyond those sums appropriated. However, the authority
34 to add additional personnel or contract for additional
35 assistance must first be approved by the director of the

1 department of management. The costs of any additional
2 employees and contract services shall be assessed and paid in
3 the same manner as other expenses are paid under this section.
4 There is appropriated out of any funds in the state treasury
5 not otherwise appropriated, such sums as may be necessary to
6 enable the board to hire additional staff and contract for
7 services under this section. The authority to hire additional
8 temporary or permanent staff that is granted to the board by
9 this section shall not be subject to limitation by an
10 administrative or executive order or decision that restricts
11 the number of state employees or the filling of employee
12 vacancies, and shall not be subject to limitation by any law
13 of this state that restricts the number of state employees or
14 the filling of employee vacancies unless that law is made
15 applicable by express reference to this section. Fees paid to
16 the utilities division shall be deposited in the general fund
17 of the state. These funds, upon appropriation by the general
18 assembly, shall be used for payment of the expenses of the
19 utilities division and the consumer advocate division.

20 Subject to this section, the utilities division or the
21 consumer advocate division may keep on hand with the treasurer
22 of state funds in excess of the current needs of the utilities
23 division or the consumer advocate division.

24 e. The administrator and consumer advocate shall account
25 for receipts and disbursements according to the separate
26 duties imposed upon the utilities division and the consumer
27 advocate division by the laws of this state and each separate
28 duty shall be fiscally self-sustaining.

29 f. All fees and other moneys collected under this section
30 shall be deposited into the general fund of the state and
31 expenses required to be paid under this section shall be paid
32 from funds appropriated for those purposes. Moneys deposited
33 into the general fund of the state pursuant to this section
34 shall be used in accordance with section 8.60.

35 Sec. 50. Section 476.1, subsection 1, Code 1999, is

1 amended to read as follows:

2 1. Furnishing gas by piped distribution system or
3 electricity to the public for compensation.

4 Sec. 51. Section 476.1, Code 1999, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 4. Furnishing electricity to the public
7 for compensation, except to the extent inconsistent with
8 chapter 476B, as follows:

9 a. (1) Until October 1, 2002, for an electric company, as
10 defined in section 476B.3,

11 (2) Until the date selected by the governing body of each
12 consumer-owned utility, as defined in section 476B.3.

13 b. Except as provided in paragraph "c", after the dates
14 specified in paragraph "a", an electric company and a
15 consumer-owned utility, as so defined, shall not be subject to
16 this chapter.

17 c. The dates specified in paragraph "a" shall be adjusted,
18 if necessary, consistent with an action of the board
19 suspending the dates for commencement of the option to choose
20 competitive electric services pursuant to section 476B.7,
21 subsection 4.

22 Sec. 52. Section 476A.6, Code 1999, is amended to read as
23 follows:

24 476A.6 DECISION -- CRITERIA.

25 The board shall render a decision on the application in an
26 expeditious manner. A certificate shall be issued to the
27 applicant if the board finds at least both of the following:

28 ~~1- The services and operations resulting from the~~
29 ~~construction of the facility are required by the present or~~
30 ~~future public convenience, use and necessity.~~

31 ~~2- 1.~~ The applicant is willing to perform such services
32 and construct, maintain, and operate the facility pursuant to
33 the provisions of the certificate and this chapter.

34 ~~3- 2.~~ The construction, maintenance, and operation of the
35 facility will cause minimum adverse land use, environmental,

1 and aesthetic impact and are consonant with reasonable
2 utilization of air, land, and water resources for beneficial
3 purposes considering available technology and the economics of
4 available alternatives.

5 4.--The applicant, if a public utility as defined in
6 section 476.1, has in effect a comprehensive energy management
7 program designed to reduce peak loads and to increase
8 efficiency of use of energy by all classes of customers of the
9 utility, and the facility in the application is necessary
10 notwithstanding the existence of the comprehensive energy
11 management program.--As used in this subsection, a
12 "comprehensive energy management program" includes at a
13 minimum the following:

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

16 b.--Development of wheeling agreements and other energy
17 sharing agreements, where cost effective with utilities that
18 have available capacity.

19 c.--Establishment of cost effective energy efficiency and
20 renewable energy services and programs.

21 d.--Compliance with board rules on energy management
22 procedures.

23 5.--The applicant, if a public utility as defined in
24 section 476.1, shall demonstrate to the board that the utility
25 has considered sources for long term electric supply from
26 either purchase of electricity or investment in facilities
27 owned by other persons.

28 6.--The applicant, if a public utility as defined in
29 section 476.1, has considered all feasible alternatives to the
30 proposed facility including nongeneration alternatives, has
31 ranked those alternatives by cost, has implemented the least
32 cost alternatives first, and the facility in the application
33 is necessary notwithstanding the implementation of these
34 alternatives.

35 Sec. 53. Section 476A.7, subsection 1, paragraph b, Code

1 1999, is amended to read as follows:

2 b. Gives To the extent the applicant proves the location
3 of generation at the site is required to maintain or enhance
4 the reliability of the delivery system serving the public,
5 gives the applicant the power of eminent domain ~~to-the-extent~~
6 ~~and~~ under such conditions as the board may approve, prescribe,
7 and find necessary ~~for-the-public-convenience, use-and~~
8 ~~necessity,~~ proceeding in the manner of works of internal
9 improvement under chapter 6B. The burden of proving the
10 necessity for the exercise of the power of eminent domain
11 shall be on the person ~~issued~~ seeking the certificate.

12 Sec. 54. Section 476A.15, Code 1999, is amended to read as
13 follows:

14 476A.15 WAIVER.

15 The board, if it determines that the public interest would
16 not be adversely affected, may waive any of the requirements
17 of this chapter ~~for-facilities-with-a-capacity-of-one-hundred~~
18 ~~or-fewer-megawatts.~~

19 Sec. 55. Section 478.3, subsection 1, paragraph h, Code
20 1999, is amended to read as follows:

21 h. An allegation that the proposed construction is
22 necessary to serve a public use. This allegation may be
23 satisfied by the filing of an order of the federal energy
24 regulatory commission or its successor directing that the
25 project be constructed.

26 Sec. 56. NEW SECTION. 478.34 RELATIONSHIP TO COMPETITIVE
27 SERVICES.

28 The rights and powers conferred under this chapter,
29 including the right of eminent domain, shall be interpreted
30 and exercised in a manner consistent with the provisions of
31 chapter 476B.

32 Sec. 57. Section 499.14A, Code 1999, is amended to read as
33 follows:

34 499.14A ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS.

35 An electric ~~generation-and-transmission~~ cooperative

1 association may have one or more classes of members.
2 Qualifications, requirements, methods of acceptance, terms,
3 conditions, termination, and other incidents of membership
4 shall be set forth in the bylaws of the association. An
5 ~~electric-utility-as-defined-in-section-476-22-and-a-person-who~~
6 ~~generates-or-transmits-electric-power-for-sale-at-wholesale-to~~
7 ~~an-electric-utility-may-become-a-member-in-accordance-with-the~~
8 ~~bylaws-~~

9 Sec. 58. Section 499.30, subsection 5, Code 1999, is
10 amended to read as follows:

11 5. Notwithstanding an association's articles of
12 incorporation, for each taxable year of the association, the
13 association shall allocate all remaining net earnings to the
14 account of each member, including subscribers described in
15 section 499.16, ratably in proportion to the business the
16 member did with the association during that year. The
17 directors shall determine, or the articles of incorporation or
18 bylaws of the association may specify, the percentage or the
19 amount of the allocation to be currently paid in cash.
20 However, for a cooperative association, other than an electric
21 cooperative association other-than-a-public-utility-as-defined
22 in-section-476-1, the amount to be currently payable in cash
23 shall not exceed twenty percent of the allocation during any
24 period when unpaid local deferred patronage dividends of
25 deceased members for prior years are outstanding.
26 Notwithstanding the twenty percent allocation limitation, the
27 directors of a cooperative association or the articles of
28 incorporation or bylaws of the association may specify any
29 percentage or amount to be currently paid in cash to the
30 estates of deceased natural persons who were members. All the
31 remaining allocation not paid in cash shall be transferred to
32 a revolving fund as provided in section 499.33 and credited to
33 the members and subscribers. The credits in the revolving
34 fund are referred to in this chapter as deferred patronage
35 dividends.

1 Sec. 59. Section 499.33, subsection 2, paragraphs a and b,
2 Code 1999, are amended to read as follows:

3 a. Prior to other payments of deferred patronage dividends
4 or redemption of preferred stock held by members, the
5 directors of a cooperative association, other than a an
6 electric cooperative association which-is-a-public-utility-as
7 defined-in-section-476-1, shall pay local deferred patronage
8 dividends and redeem local deferred patronage preferred stock
9 of deceased natural persons who were members, and may pay
10 deferred patronage dividends or may redeem preferred stock of
11 deceased natural persons who were members or of members who
12 become ineligible, without reference to the order of priority.

13 b. The directors of a an electric cooperative association
14 which-is-a-public-utility-as-defined-in-section-476-1 may pay
15 deferred patronage dividends and redeem preferred stock of
16 deceased natural persons who were members, and may pay all
17 other deferred patronage dividends or redeem preferred stock
18 of members without reference to priority.

19 Sec. 60. STATUTORY CONSTRUCTION. This Act shall not be
20 construed to invalidate any proceedings under statutes
21 existing prior to the effective date of this Act.
22 Additionally, this Act shall not affect any action,
23 litigation, or appeal pending prior to the effective date of
24 this Act.

25 Sec. 61. DIRECTIONS TO CODE EDITOR. The Code editor shall
26 codify sections 28F.15 through 28F.29, as enacted in this Act,
27 as a separate subchapter of chapter 28F.

28 Sec. 62. EFFECTIVE DATE. This Act takes effect on June 1,
29 2000.

30

EXPLANATION

31 This bill creates new Code chapter 476B, which provides for
32 restructuring of portions of the electric utility industry and
33 related matters. Generally, the bill provides that all
34 consumers will be given the option to choose an electric
35 supplier at some future date as determined in the bill.

1 New Code section 476B.1 establishes the title of the
2 chapter as the "Electric Choice and Competition Act".

3 New Code section 476B.2 sets forth legislative findings
4 concerning restructuring.

5 New Code section 476B.3 establishes definitions for key
6 terms used in the new Code chapter.

7 New Code section 476B.4 provides for the unbundling of
8 rates and charges by electric companies and consumer-owned
9 utilities (electric cooperatives and municipal utilities).
10 The bill directs the electric companies and consumer-owned
11 utilities to post such rates and charges on the utilities
12 board's website. The section also provides for the posting of
13 all tariffs for transmission service and ancillary services
14 applicable to competitive electric service provider and end-
15 use consumer transactions by delivery service providers
16 providing transmission service and by control area operators.

17 New Code section 476B.5 provides that within 90 days of the
18 effective date of new Code chapter 476B, the board is to
19 convene a meeting of persons interested in participating in
20 the development of a consumer education program. Such
21 education program is to consist of two steps including message
22 development and message dissemination. The board is to
23 determine the method of message dissemination for electric
24 companies, and each local governing body is to determine the
25 method of message dissemination for consumer-owned utilities.
26 The bill provides that the total cost of message development
27 and dissemination shall not exceed \$6 million. The program is
28 to be funded through the imposition of a nonbypassable charge
29 on bills issued for electric service, with collection to be
30 completed by October 1, 2002.

31 New Code section 476B.6 establishes consumer protections,
32 as well as defining the rights of consumers with respect to
33 competitive electric services. The section prohibits a person
34 from providing or offering to provide competitive electric
35 services to an end-use consumer, or from aggregating end-use

1 consumers for the acquisition of competitive electric services
2 without first obtaining a license from the board. The section
3 authorizes the board to adopt rules to require a competitive
4 electric service provider to disclose to residential end-use
5 consumers information regarding service prices, terms, and
6 conditions. The board is authorized to adopt additional
7 licensing requirements regarding adequate notice to end-use
8 consumers prior to automatic contract renewal; circumstances
9 under which an end-use consumer has the right to terminate a
10 competitive electric service contract; and other reasonable
11 conditions or restrictions on a license. The board is
12 directed to maintain, and make available upon request, a list
13 of all licensed providers of competitive electric services.
14 The bill exempts from the licensing requirement an incumbent
15 provider that is a consumer-owned utility who chooses to
16 provide competitive electric services only within its assigned
17 service area.

18 The section provides that an end-use consumer shall have
19 access to competitive electric services and regulated delivery
20 services as provided in the new Code chapter. The section
21 sets forth rights of consumers under the bill.

22 New Code section 476B.7 provides that an end-use consumer
23 located in the assigned service area of a delivery service
24 provider will have the option to choose competitive electric
25 services from competitive electric service providers and
26 unbundled delivery services from the delivery service provider
27 beginning on October 1, 2002. The section provides that the
28 board may suspend the date for commencement of the option to
29 choose if the board determines that essential deadlines cannot
30 reasonably be met or there is a threat to service reliability
31 or the public safety.

32 New Code section 476B.8 provides for standard offer
33 service. Standard offer service will be available for
34 nonresidential end-use consumers that purchased fewer than
35 75,000 kilowatt-hours of electric service annually and

1 residential end-use consumers who do not chose a competitive
2 electric service provider. The service will be provided by
3 the incumbent provider and shall be regulated. Such service
4 shall continue until the earlier of the end-use consumer
5 making a choice of competitive electric service, the end-use
6 consumer no longer qualifies to receive standard offer
7 service, or January 1, 2009. Termination of standard offer
8 service on January 1, 2009, is conditioned upon the board
9 making certain findings. The section provides for
10 transitional service for certain end-use consumers and for
11 universal service protections and provides that low-income
12 consumers receiving universal service are protected from
13 disconnection of service from November 1 through April 1.
14 New Code section 476B.9 sets forth the responsibilities and
15 rights of delivery service providers. A delivery service
16 provider is required to provide safe, reliable, and prompt
17 delivery services and facilities. The board is given general
18 oversight responsibility for delivery service safety
19 requirements and inspection and maintenance activities for all
20 delivery service providers. The section provides that
21 unbundled delivery service must be provided on a
22 nondiscriminatory and comparable service basis. The section
23 provides that an incumbent provider and a delivery service
24 provider do not have any obligation to provide competitive
25 electric services to an end-use consumer that has an option to
26 choose competitive electric services. The section also
27 provides for assigned service areas for delivery service
28 providers, certificates of authority to furnish delivery
29 service to end-use consumers already receiving delivery
30 service; the obligation to extend delivery service facilities;
31 delivery service rate regulation; and rate complaints filed by
32 the consumer advocate. The section also provides that a
33 delivery service provider that is an electric company shall
34 not directly or indirectly include in distribution service
35 rates or charges any costs or expenses attributable to the

1 sale, lease, or other conveyance of commercial and residential
2 electric appliances, interior lighting systems or fixtures, or
3 electric heating, ventilating, or air conditioning systems and
4 component parts, or the servicing, repair, or maintenance of
5 such equipment.

6 New Code section 476B.10 sets forth the responsibilities
7 and rights of competitive electric service providers.

8 New Code section 476B.11 provides that a delivery service
9 provider shall install, own, and maintain metering as deemed
10 necessary by the delivery service provider. The section also
11 provides that an end-use consumer may install metering not
12 owned by the delivery service provider on the consumer's side
13 of the main disconnect, subject to reasonable connection
14 requirements of the delivery service provider and board rules.

15 New Code section 476B.12 sets forth billing requirements
16 associated with electric services. The section provides that
17 an end-use consumer is entitled to request a single
18 consolidated bill for competitive electric services, delivery
19 services, and control area services. Unless otherwise agreed
20 by the affected service providers, such consolidated billing
21 is the responsibility of the competitive electric service
22 provider selling competitive billing services.

23 New Code section 476B.13 sets forth the low-income
24 affordability and energy efficiency programs. These programs
25 are to be administered by the division of community action
26 agencies within the department of human rights. The Code
27 section creates an electric energy-efficiency fund and related
28 programs to be administered by the division of energy and
29 geological resources of the department of natural resources.

30 New Code section 476B.14 provides that a competitive
31 electric service provider, a delivery service provider, and a
32 control area operator must develop and post on the board's
33 website the procedures for filing a complaint regarding their
34 services and operations. The board is authorized to hear all
35 complaints.

1 New Code section 476B.15 provides for the imposition and
2 collection of transition charges. Such charges are for the
3 purpose of allowing electric companies to recover a portion of
4 their transition costs associated with electric generation.
5 Transition charges are to be billed commencing with service
6 rendered on October 1, 2002, and concluding with service
7 rendered on September 30, 2006. The section also provides
8 that the board may permit, but not require, an incumbent
9 provider that is an electric company to divest itself of its
10 generation assets and contracts for power and energy.

11 New Code section 476B.16 provides for the decommissioning
12 of nuclear generating facilities and the recovery of costs
13 associated with such decommissioning.

14 New Code section 476B.17 provides for securitization, or
15 the issuance of transitional funding instruments. The board
16 is authorized to issue transitional funding orders which
17 create intangible transition property in favor of an incumbent
18 provider or grantee representing the right to impose and
19 collect instrument funding charges necessary to pay the
20 principal and interest on the transitional funding
21 instruments. The section establishes the permissible uses of
22 the proceeds from such instruments. Such instruments do not
23 create an obligation on the part of the state.

24 New Code section 476B.18 prohibits a person with an
25 assigned service area in this state from offering competitive
26 power supply services within another person's assigned service
27 area in this state until the offering person allows the latter
28 person a reasonable opportunity to offer competitive power
29 supply services in the offering person's assigned service area
30 in this state.

31 New Code section 476B.19 provides that an electric
32 cooperative and a municipal utility are not subject to
33 regulation by the board except as specifically provided in
34 this chapter.

35 New Code section 476B.20 grants authority to the board to

1 impose civil remedies and penalties for certain violations.

2 New Code section 476B.21 provides for rehearings before the
3 board after the issuance of a final decision by the board.

4 New Code section 476B.22 provides for judicial review of
5 board decisions.

6 New Code section 476B.23 establishes certain contractual
7 rights and provides that certain end-use consumers may
8 terminate a contract for electric service in effect before the
9 effective date of the new Code chapter.

10 New Code section 476B.24 provides for certain benefits for
11 electric utility employees adversely affected as a result of
12 restructuring.

13 New Code section 476B.25 provides for reports to be
14 prepared by the board and the consumer advocate and submitted
15 to the general assembly.

16 New Code section 476B.26 creates an intervenor fund in the
17 amount of \$2,100,000 to be administered by the office of the
18 citizen's aide. The fund is to be used to reimburse nonprofit
19 entities that intervene in rulemaking proceedings before the
20 utilities board required under new Code chapter 476B. The
21 section is repealed effective October 1, 2002.

22 New Code sections 28F.15 through 28F.29 provide for the
23 funding of construction of open access transmission facilities
24 to be owned or leased by an electric power agency. An
25 electric power agency is defined in new Code chapter 476B as a
26 political subdivision that acquires or finances electric
27 facilities pursuant to Code chapter 28E or 28F.

28 The bill makes certain conforming and transitional
29 amendments to existing Code sections.

30 The bill takes effect June 1, 2000.

31

32

33

34

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HOUSE FILE 2530

H-8176

1 Amend House File 2530 as follows:
 2 1. Page 156 by striking lines 34 and 35 and
 3 inserting the following: "2006, the affiliate at the
 4 time of the transfer shall offer employment to a
 5 sufficient number of nonsupervisory employees of the
 6 transferred division, business unit, generating
 7 station, or generating unit to safely and reliably
 8 operate and maintain the transferred division,
 9 business unit, generating station, or generating unit.
 10 Unless modified or waived by a collective bargaining
 11 agreement, the employment offered shall satisfy the
 12 following conditions:
 13 a. The wage rates shall be no less than the wage
 14 rates in effect immediately prior to the transfer.
 15 b. Fringe benefits shall be substantially
 16 equivalent to the fringe benefits in effect
 17 immediately prior to the transfer.
 18 c. Terms and conditions of employment, other than
 19 wage rates and fringe benefits, shall be substantially
 20 equivalent to the terms and conditions in effect
 21 immediately prior to the transfer.
 22 d. The wage rates, fringe benefits, and terms and
 23 conditions shall continue for at least thirty months
 24 from the time of transfer.
 25 If ownership of the affiliate is".

By WISE of Lee

H-8176 FILED MARCH 6, 2000

HOUSE FILE 2530

H-8182

1 Amend House File 2530 as follows:
 2 1. Page 33, line 17, by striking the figure
 3 "2001" and inserting the following: "2000".
 4 2. Page 34, line 5, by striking the figure "2001"
 5 and inserting the following: "2000".
 6 3. Page 154, line 27, by striking the word "May"
 7 and inserting the following: "October".
 8 4. Page 155, line 11, by striking the figure
 9 "2007" and inserting the following: "2006".

By METCALF of Polk
CHIODO of Polk

H-8182 FILED MARCH 6, 2000

HOUSE FILE 2530

H-8359

1 Amend House File 2530 as follows:
2 1. Page 156, by striking lines 34 and 35 and
3 inserting the following: "2006, the affiliate at the
4 time of the transfer shall offer employment to a
5 sufficient number of nonsupervisory employees of the
6 transferred division, business unit, generating
7 station, or generating unit to safely and reliably
8 operate and maintain the transferred division,
9 business unit, generating station, or generating unit.
10 Unless modified or waived by a collective bargaining
11 agreement, the employment offered shall satisfy the
12 following conditions:
13 a. The wage rates shall be no less than the wage
14 rates in effect immediately prior to the transfer.
15 b. Fringe benefits shall be substantially
16 equivalent to the fringe benefits in effect
17 immediately prior to the transfer.
18 c. Terms and conditions of employment, other than
19 wage rates and fringe benefits, shall be substantially
20 equivalent to the terms and conditions in effect
21 immediately prior to the transfer.
22 d. The wage rates, fringe benefits, and terms and
23 conditions shall continue for at least thirty months
24 from the time of transfer unless the parties agree to
25 different terms and conditions of employment within
26 the thirty-month period.
27 If ownership of the affiliate is".

By WISE of Lee

H-8359 FILED MARCH 14, 2000

HOUSE FILE 2530

H-9014

1 Amend House File 2530 as follows:
2 1. Page 94, by inserting after line 30 the
3 following:
4 "If the federal government reduces or eliminates
5 the funding provided to this state for the federal
6 low-income home energy assistance program, the board
7 shall increase the levels of surcharges on electric
8 accounts in amounts sufficient to provide funding
9 equal to the difference between the historical average
10 of funding provided by the federal government and the
11 reduced amount of federal funding provided for the
12 program. When determining the increase in the levels
13 of surcharges under this paragraph, the board shall
14 not substantially deviate from the cost allocation
15 among consumer groups reflected in the initial funding
16 surcharges. For purposes of this paragraph,
17 "historical average" means the average amount of
18 funding provided by the federal government to this
19 state for the federal low-income home energy
20 assistance program for the federal fiscal year
21 commencing in 1981 through the federal fiscal year
22 ending in 1999."

By MURPHY of Dubuque

H-9014 FILED APRIL 20, 2000

HOUSE FILE 2530

H-8361

- 1 Amend House File 2530 as follows:
2 1. Page 84, line 28, by inserting after the word
3 "city" the following: "or county government entity".
4 2. Page 84, line 32, by inserting after the word
5 "city" the following: "or county".
6 3. Page 84, line 35, by inserting after the word
7 "city" the following: "or county".
8 4. Page 85, by striking line 4 and inserting the
9 following: "single city or county, or by a group of
10 cities or counties."
11 5. Page 85, line 5, by inserting after the word
12 "city" the following: "or county".
13 6. Page 85, line 7, by inserting after the word
14 "city" the following: "or county".
15 7. Page 85, line 14, by inserting after the word
16 "city" the following: "or county government entity".
17 8. Page 85, line 20, by striking the word "city"
18 and inserting the following: "governmental entity".
19 9. Page 85, line 21, by striking the word "city"
20 and inserting the following: "governmental entity".
21 10. Page 85, line 22, by inserting after the word
22 "chapter" the following: "331 or".
23 11. Page 85, line 25, by striking the word "city"
24 and inserting the following: "governmental entity".
25 12. Page 86, line 11, by inserting after the word
26 "city" the following: "or county".

By BRADLEY of Clinton

H-8361 FILED MARCH 15, 2000

HOUSE FILE 2530

H-8427

- 1 Amend House File 2530 as follows:
- 2 1. Page 39, line 9, by inserting after the word
- 3 "service" the following: "more than once".

By OSTERHAUS of Jackson

H-8427 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8432

- 1 Amend House File 2530 as follows:
- 2 1. Page 155, by striking lines 14 through 28 and
- 3 inserting the following: "impact of such workforce
- 4 reduction on its employees. An electric company shall
- 5 develop a workforce reduction plan not less than one
- 6 hundred and twenty days in advance of any planned
- 7 reduction in force caused by restructuring during the
- 8 period. The workforce reduction plan shall include
- 9 provisions for lump sum severance, lump sum early
- 10 retirement, lump sum reimbursements for medical
- 11 insurance, and lump sum tuition reimbursements which
- 12 are equivalent to the prevailing industry standard for
- 13 workforce reduction plans at the time the electric
- 14 company announces a workforce reduction. If the
- 15 employees are represented by a labor organization, the
- 16 electric utility shall negotiate in good faith with
- 17 the representatives of the affected workforce. If the
- 18 parties fail to reach an acceptable agreement, either
- 19 party may request binding arbitration. If the
- 20 employees are not represented by a labor organization
- 21 and will involuntarily lose employment, the electric
- 22 utility shall develop a workforce reduction plan
- 23 consistent with the requirements of this subsection
- 24 and to the satisfaction of the electric utility's
- 25 board of directors, if the electric utility is an
- 26 electric company, or its governing body, if the
- 27 electric utility is a consumer-owned utility. A
- 28 workforce reduction shall not occur unless the
- 29 electric utility complies with this subsection. For
- 30 the purpose of this section, the term".

By CHIODO of Polk

H-8432 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8453

- 1 Amend House File 2530 as follows:
- 2 1. Page 27, by inserting after line 35 the
- 3 following:
- 4 "(___) The billing unit and the price per billing
- 5 unit.
- 6 (___) The usage for the billing period, and the
- 7 monthly usage if the billing period is not monthly."
- 8 2. By renumbering as necessary.

By WISE of Lee

H-8453 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8459

- 1 Amend House File 2530 as follows:
- 2 1. Page 123, line 10, by striking the word
- 3 "fifty" and inserting the following: "ten".
- 4 2. Page 123, line 11, by striking the word
- 5 "fifty" and inserting the following; "ninety".

By HOLVECK of Polk

H-8459 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8460

- 1 Amend House File 2530 as follows:
- 2 1. Page 123, line 10, by striking the word
- 3 "fifty" and inserting the following: "twenty-five".
- 4 2. Page 123, line 11, by striking the word
- 5 "fifty" and inserting the following; "seventy-five".

By HOLVECK of Polk

H-8460 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8461

- 1 Amend House File 2530 as follows:
- 2 1. Page 36, line 9, by inserting after the word
- 3 "annually" the following: ", a state, county, or
- 4 local government end-use consumer regardless of annual
- 5 usage,".

By HOLVECK of Polk

H-8461 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8466

1 Amend House File 2530 as follows:
2 1. By striking page 41, line 27, through page 42,
3 line 11, and inserting the following:
4 "e. The board may approve a mechanism for
5 equalizing the generation component of individual zone
6 rates and charges of an incumbent provider on a
7 revenue neutral basis, if the board determines it to
8 be in the public interest. The equalization shall
9 occur over a period determined by the board to be just
10 and reasonable, but in no event shall the equalization
11 period be less than five years. The board, in its
12 discretion, may consider the electric operations of
13 affiliated incumbent providers to be a single
14 operation for purposes of equalizing zone prices."
By HOLVECK of Polk

H-8466 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8468

1 Amend House File 2530 as follows:
2 1. Page 39, line 15, by striking the word "At"
3 and inserting the following: "(1) At".
4 2. Page 39, by striking line 33, and inserting
5 the following: "and nondiscriminatory. The rates and
6 charges shall be adjusted to avoid duplicate recovery
7 of costs to be recovered under section 476B.15,
8 subsection 3, costs to be recovered under section
9 476B.16, and the costs projected to be offset by
10 section 476B.13.
11 (2) Upon determining the initial standard offer
12 service rates and charges under subparagraph (1), the
13 board shall further reduce such rates and charges by
14 five percent.
15 (3) An electric company, to the extent it".
By WISE of Lee MAY of Worth
BUKTA of Clinton O'BRIEN of Boone
FOEGE of Linn STEVENS of Dickinson
HUSER of Polk THOMAS of Clayton
LARKIN of Lee

H-8468 FILED MARCH 21, 2000

HOUSE FILE 2530

H-8482

1 Amend House File 2530 as follows:
2 1. Page 37, by inserting after line 4 the
3 following:
4 "(v) The market price for generation services is
5 equal to or less than the cost of generation services
6 included in the standard offer service rates and
7 charges."

By WEIGEL of Chickasaw

H-8482 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8483

1 Amend House File 2530 as follows:
2 1. Page 42, by striking lines 12 through 22, and
3 inserting the following:
4 "f. If the board does not allow the termination of
5 standard offer service in a relevant market pursuant
6 to paragraph "a", the incumbent provider shall
7 continue to offer standard offer service at rates and
8 charges then in effect until new rates and charges are
9 approved by the board to reflect overall changes in
10 revenues, expenses, and investments that have occurred
11 since standard offer service rates and charges were
12 last approved by the board. An application to
13 increase standard offer service rates and charges may
14 be filed prior to October 1, 2006, in accordance with
15 rules adopted by the board. However, in no event
16 shall changes in standard offer service rates and
17 charges implemented pursuant to this paragraph become
18 effective prior to October 1, 2006. An application to
19 increase standard offer service rates and charges made
20 pursuant to this paragraph shall be subject to the
21 requirements of section 476B.9, subsection 5."

By WEIGEL of Chickasaw

H-8483 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8484

1 Amend House File 2530 as follows:
2 1. Page 41, line 10, by inserting after the
3 figure "5" the following: ", so long as the increase
4 in its unbundled distribution service rates is not
5 offset by decreases in other costs or increases in
6 revenues due to sales increases".
7 2. Page 41, line 14, by inserting after the word
8 "jurisdiction" the following: ", so long as the
9 increase in its unbundled distribution service rates
10 is not offset by decreases in other costs or increases
11 in revenues due to sales increases".

By WEIGEL of Chickasaw

H-8484 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8485

1 Amend House File 2530 as follows:
2 1. Page 42, line 16, by striking the words
3 "market. The" and inserting the following: "market
4 if the market price for such competitive power supply
5 services is less than the price for such services
6 embedded in the standard offer service rate. If the
7 board determines that the market price for competitive
8 power supply services that an affected end-use
9 consumer would pay in the relevant competitive market
10 is less than the price for such services embedded in
11 the standard offer service rate, the".
12 2. Page 42, line 19, by inserting after the word
13 "shall" the following: "then".

By WEIGEL of Chickasaw

H-8485 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8487

1 Amend House File 2530 as follows:
2 1. Page 46, by striking lines 29 and 30 and
3 inserting the following: "residential end-use
4 consumers who have been determined to qualify for
5 assistance under the low-income affordability program
6 under section 476B.13,".

By METCALF of Polk

H-8487 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8491

1 Amend House File 2530 as follows:

2 1. By striking page 41, line 27, through page 42,
3 line 11.4 2. By relettering and correcting internal
5 references as necessary.

By GREINER of Washington

VAN ENGELENHOVEN of Mahaska

ARNOLD of Lucas

HOUSER of Pottawattamie

HEATON of Henry

H-8491 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8505

1 Amend House File 2530 as follows:

2 1. Page 45, by striking line 18 and inserting the
3 following: "review and approval by the board. Until
4 the termination of standard offer service,".5 2. Page 45, by striking line 33 and inserting the
6 following: "effective October 1, 2002. Upon the
7 termination of standard offer service".

By MURPHY of Dubuque

H-8505 FILED MARCH 22, 2000

HOUSE FILE 2530

H-8523

1 Amend House File 2530 as follows:

2 1. Page 86, by inserting after line 14 the
3 following:

4 "4. RENEWABLE ENERGY PORTFOLIO REQUIREMENTS.

5 a. REQUIREMENTS. (1) Commencing with calendar
6 year 2006, an amount equal to four percent of the
7 annual kilowatt-hours of competitive power supply
8 services sold to end-use consumers by each licensed
9 competitive electric service provider and services
10 sold by each service provider under section 476B.8
11 shall be attributable to renewable energy or renewable
12 energy credits. Commencing with calendar year 2009,
13 the amount shall increase to six percent and,
14 commencing with calendar year 2011, the amount shall
15 increase to eight percent. These requirements shall
16 terminate after calendar year 2021.

17 (2) The renewable energy requirements under
18 subparagraph (1) may be satisfied by a service
19 provider purchasing competitively priced renewable
20 energy from a renewable energy facility receiving
21 funds under section 476B.13, subsection 4; by using
22 renewable energy credits as provided in paragraph "b";
23 or by using renewable energy from any other renewable
24 energy facility in the continental United States,
25 which use can be by displacement.

26 (3) Nothing in this subsection shall prevent the
27 service providers subject to the renewable energy
28 requirements under subparagraph (1) from electing to
29 meet those requirements by voluntarily aggregating
30 their individual purchases, sales, uses, and renewable
31 credits.

32 (4) For the purpose of this subsection 4 and
33 section 476B.13, subsection 4, the services sold
34 pursuant to section 476B.8, subsection 4, by a
35 delivery service provider that is a consumer-owned
36 utility shall not be subject to the renewable energy
37 portfolio requirements of this subsection.

38 b. RENEWABLE CREDITS. The renewable energy
39 portfolio requirements of paragraph "a" may be
40 satisfied by a service provider, in whole or in part,
41 by purchasing or otherwise acquiring renewable energy
42 credits. Such credits may be acquired after the end
43 of a calendar year to satisfy the renewable energy
44 portfolio requirements for that prior calendar year.
45 The board shall propose rules by October 1, 2001, that
46 establish the system of renewable energy credits. The
47 rules, at a minimum, shall provide for the following:

48 (1) Credits may be issued for each kilowatt-hour
49 produced by a qualifying renewable energy facility
50 located in this state or any other state in the

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1 continental United States, including such production
2 by displacement. Credits may be for more than one-
3 year duration. For purposes of this subparagraph,
4 "qualifying renewable energy facility" shall be
5 interpreted as broadly as practicable by the board.

6 (2) Credits shall be issued to any service
7 provider subject to the renewable energy portfolio
8 requirements of paragraph "a" that permits an eligible
9 end-use consumer with a qualifying small renewable
10 energy facility to use net billing. For purposes of
11 this subparagraph, "eligible end-use consumer" is
12 limited to a residential, farm, or public school
13 district end-use consumer. Net billing means that the
14 eligible end-use consumer pays the competitive
15 electric service provider or provider of services
16 under section 476B.8 only for the difference in an
17 applicable billing period between the kilowatt-hours
18 supplied to the end-use consumer by that service
19 provider and the kilowatt-hours delivered to the
20 delivery system by the eligible end-use consumer from
21 a qualifying small renewable energy facility. A
22 qualifying small renewable energy facility is a
23 facility that is no larger than one megawatt; is
24 located on the property of the school district or the
25 end-use consumer's farm or residence; serves only the
26 electric energy needs of the school district, farm, or
27 residence; and is operated in parallel with the
28 delivery system. Credits issued for such facilities
29 shall be equal to one hundred fifty percent of
30 nameplate capacity at one hundred percent
31 availability.

32 (3) The owner of renewable energy credits may
33 give, trade, or sell the credits to another person,
34 including a service provider subject to the renewable
35 energy portfolio requirements of paragraph "a".

36 (4) The board, at any time, may request and obtain
37 from service providers subject to the renewable energy
38 portfolio requirements of paragraph "a" such
39 information as the board determines is necessary to
40 monitor or enforce compliance with the renewable
41 energy credit rules adopted pursuant to this paragraph
42 "b".

43 c. REPORTS. Commencing April 1, 2007, on or
44 before April 1 of each year, a service provider
45 subject to the renewable energy portfolio requirements
46 of paragraph "a" shall file with the board a report
47 for the immediately preceding calendar year, certified
48 by a corporate officer, setting forth the total
49 kilowatt-hour sales of the service provider to end-use
50 consumers in this state and the percent of those

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1 kilowatt-hours attributable to renewable energy; the
2 description, fuel type, and location of the renewable
3 energy facilities used to satisfy the renewable energy
4 portfolio requirements; the amount of any renewable
5 energy credits that the service provider will use to
6 satisfy the renewable energy portfolio requirements; a
7 verified statement that the renewable energy and
8 renewable energy credits used to satisfy the renewable
9 energy portfolio requirements have not been used to
10 serve or otherwise claimed as applicable to renewable
11 energy sales requirements outside this state and have
12 not been provided by renewable energy for which the
13 costs have been recovered through charges provided for
14 under section 476B.15, subsection 3, during the year.
15 The board may require other pertinent information be
16 included in the report.

17 d. SHORTFALLS. The board shall propose rules by
18 October 1, 2001, establishing a reasonable method and
19 grace period after the end of a calendar year to
20 enable a service provider subject to the renewable
21 energy portfolio requirements of paragraph "a" to
22 satisfy without penalty any shortfall in meeting its
23 renewable energy portfolio requirements in the prior
24 calendar year. The board shall consider the
25 provisions of section 476B.13, subsection 4, in the
26 development of these rules. The board may impose
27 reasonable penalties pursuant to section 476B.20 after
28 the expiration of the grace period established.

29 e. WAIVERS. (1) The board may waive all or part
30 of the renewable energy portfolio requirements if the
31 board finds any of the following:

32 (a) That extraordinary circumstances are present.

33 (b) That compliance with the requirements would
34 limit the development of a competitive electric market
35 in this state.

36 (c) That transaction costs associated with
37 delivery of renewable energy, including but not
38 limited to scheduling, nominating, balancing,
39 dispatch, and financial settlement, make compliance
40 with the requirements unreasonably uneconomic.

41 (d) That a consumer-owned utility has demonstrated
42 that a statute or a contract in effect as of January
43 1, 2000, precludes compliance.

44 For purposes of this subparagraph (1),
45 "extraordinary circumstances" includes, but is not
46 limited to, a demonstration that a competitive
47 electric service provider will serve a limited market
48 by providing back-up power to end-use consumers
49 receiving competitive power supply services from a
50 different competitive electric service provider. A

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1 waiver of the renewable energy portfolio requirements
2 granted by the board shall be for no more than four
3 years, but may be renewed by the board upon the
4 expiration of the waiver. In addition to other
5 persons entitled to service by statute or rules, a
6 person filing a request for a waiver or a renewal of a
7 waiver shall serve a copy of the filing on the energy
8 and geological resources division of the department of
9 natural resources or its successor.

10 (2) The board shall reduce the amount of the
11 renewable energy portfolio requirements in a specific
12 year to the extent that the department of natural
13 resources through the renewable energy and emissions
14 reduction fund created by section 476B.13, subsection
15 4, fails in that year to satisfy the mandates of that
16 subsection. Such reduction shall apply to all service
17 providers that are subject to the renewable energy
18 portfolio requirements of paragraph "a".

19 f. LEGISLATIVE REVIEW. The general assembly shall
20 review the requirements of this subsection if a
21 federal renewable energy sales requirement becomes
22 law."

23 2. Page 100, by striking lines 10 and 11 and
24 inserting the following:

25 "4. ENVIRONMENTAL FUND.

26 a. PURPOSE. An environmental".

27 3. Page 100, line 13, by striking the words "Iowa
28 department of economic development" and inserting the
29 following: "department of natural resources".

30 4. Page 100, by inserting after line 14 the
31 following:

32 "(0A) Create a source of competitively priced
33 renewable energy in an amount sufficient to satisfy or
34 exceed the annual renewable energy portfolio
35 requirements of all service providers subject to the
36 renewable energy portfolio requirements of section
37 476B.10, subsection 4."

38 5. Page 100, line 15, by striking the words
39 "Encourage investment in and development of" and
40 inserting the following: "Subsidize investment in".

41 6. Page 100, line 18, by striking the word
42 "Enable" and inserting the following: "Subsidize".

43 7. Page 100, by striking lines 19 through 23 and
44 inserting the following: "an extent sufficient to
45 enable such facilities to sell renewable energy at
46 prices competitive with other forms of electric
47 generation.

48 (3) Subsidize investment in existing or proposed
49 fossil-fueled generation facilities and in associated
50 equipment in this state that will reduce emissions,

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1 including carbon dioxide emissions, utilizing
2 techniques which may include co-firing of agricultural
3 waste and crops in existing plants."

4 8. By striking page 100, line 24, through page
5 101, line 12, and inserting the following:

6 "b. MANDATED REQUIREMENTS. (1) The department of
7 natural resources, utilizing the funding provided by
8 this subsection, shall subsidize and otherwise ensure
9 the development of Iowa-based renewable energy
10 facilities that will offer renewable energy for
11 purchase by service providers subject to the renewable
12 energy portfolio requirements of section 476B.10,
13 subsection 4, in an amount equal to four percent of
14 all kilowatt-hours sold to end-use consumers in each
15 of the calendar years 2006 through 2008, six percent
16 of all kilowatt-hours sold to end-use consumers in
17 each of the calendar years 2009 and 2010, and eight
18 percent of all kilowatt-hours sold to end-use
19 consumers in each of the calendar years 2011 through
20 2021. In determining the amount of incremental
21 kilowatt-hours of renewable energy needed to satisfy
22 the requirements of this paragraph, the department of
23 natural resources shall assume that seven hundred
24 seventeen million three hundred forty-nine thousand
25 kilowatt-hours will be available from renewable energy
26 facilities in existence prior to the effective date of
27 this Act. The department shall also utilize the
28 funding provided by this subsection to subsidize and
29 achieve quantifiable reductions in air emissions
30 reported to the United States environmental protection
31 agency and other government agencies for fossil-fueled
32 generation in this state.

33 (2) An applicant awarded a grant, loan, incentive,
34 or other subsidy under this subsection for the
35 construction, expansion, repowering, or fuel
36 substitution of a renewable energy facility must offer
37 the resultant renewable energy first to service
38 provider subject to the renewable energy portfolio
39 requirements of section 476B.10, subsection 4, at
40 prices competitive with the market prices for fossil-
41 fueled generation to enable each service provider to
42 satisfy such renewable energy portfolio requirements.
43 The board shall propose rules by October 1, 2001,
44 establishing the process governing offers and sales of
45 such renewable energy to be used by applicants and
46 those service providers subject to the renewable
47 energy portfolio requirements of section 476B.10,
48 subsection 4. In overseeing the pricing of the
49 renewable energy, the board shall recognize such
50 factors as the time differentiation of prices, the

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1 delivery point into the integrated system, and the
2 degrees of firmness of production and delivery. The
3 rules shall ensure that each such service provider has
4 a reasonable opportunity to satisfy its renewable
5 energy portfolio requirements entirely from renewable
6 energy facilities receiving subsidies from the fund,
7 if the service provider so chooses. The oversight
8 responsibility of the board and the obligation of an
9 applicant awarded a grant, loan, incentive, or other
10 subsidy to offer renewable energy at prices
11 competitive with the market prices for fossil-fueled
12 generation under this subparagraph (2) shall terminate
13 upon a finding by the board that such oversight
14 responsibility and obligations are not necessary to
15 protect the interests of consumers.

16 (3) In any year that service providers subject to
17 the renewable energy portfolio requirements of section
18 476B.10, subsection 4, do not purchase all of the
19 renewable energy offered by an applicant awarded a
20 grant, loan, incentive, or other subsidy under this
21 subsection, the applicant may sell the excess in the
22 wholesale market or, if the applicant is a licensed
23 competitive electric service provider, in the retail
24 market.

25 (4) In any year that the total renewable energy
26 kilowatt-hours made available under subparagraph (1)
27 are insufficient to satisfy the mandated requirements
28 of that subparagraph, the board shall reduce the
29 renewable energy portfolio requirements of section
30 476B.10, subsection 4, to the extent of the
31 insufficiency. The reduction shall apply to all
32 service providers subject to the renewable energy
33 portfolio requirements. The department of natural
34 resources shall include in its annual report required
35 by paragraph "g" for that year an identification of
36 the amount of the renewable energy insufficiency, the
37 reasons for the insufficiency, and a detailed plan for
38 avoiding a recurrence of an insufficiency utilizing
39 the available funding.

40 (5) The board and the department of natural
41 resources shall adopt rules as necessary for the
42 implementation of the respective duties of the board
43 and department."

44 9. Page 101, by striking lines 14 and 15 and
45 inserting the following: "be made available by the
46 department of natural resources in the form of grants,
47 loans, incentives, and other subsidies,".

48 10. Page 101, line 18, by striking the words
49 "Investment in and" and inserting the following:
50 "Subsidizing investment in and ensuring".

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1 11. Page 101, by striking lines 22 through 26 and
2 inserting the following:
3 "() Subsidizing investment in and ensuring
4 development of wind energy".
5 12. Page 101, line 29, by striking the words
6 "Investment in and" and inserting the following:
7 "Subsidizing investment in and encouraging".
8 13. Page 101, line 33, by inserting after the
9 word "levels" the following: "from fossil-fueled
10 electric generating facilities or reduce fossil-fueled
11 emissions of carbon dioxide from fossil-fueled
12 facilities. Co-firing of agricultural waste and crops
13 qualify as a permissible investment under this
14 subsection".
15 14. Page 101, line 34, by striking the words
16 "Investment in and" and inserting the following:
17 "Subsidizing investment in and encouraging".
18 15. Page 102, line 1, by inserting after the word
19 "state" the following: "than would result from the
20 use of fossil-fueled generation in existence as of the
21 effective date of this Act".
22 16. Page 102, line 2, by striking the words "Iowa
23 department of economic development" and inserting the
24 following: "department of natural resources".
25 17. Page 102, by striking lines 5 through 7 and
26 inserting the following: "loans, incentives, and
27 other subsidies from the fund. The rules shall
28 provide for a competitive process requiring the
29 submission of a proposal by an applicant seeking a
30 grant, loan, incentive, or other subsidy. The rules
31 shall specify the criteria that will be used to select
32 the successful applicants. The rules shall address
33 performance guarantees including, but not limited to,
34 conditioning payment of any such subsidies upon making
35 the resultant renewable energy available to service
36 providers subject to the renewable energy portfolio
37 requirements of section 476B.10, subsection 4. The
38 rules shall not discriminate against incumbent
39 providers and their affiliates and shall not
40 unreasonably favor any person, class of applicant, or
41 type of renewable energy facility, except as provided
42 in subparagraph (3).
43 (3) The department of natural resources, by
44 October 1, 2001, shall adopt rules".
45 18. Page 102, by striking line 10 and inserting
46 the following: "and mandated requirements of this
47 subsection. At least three and seven-tenths percent
48 of the".
49 19. Page 102, line 16, by striking the word "ten"
50 and inserting the following: "four and one-half".

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1 20. By striking page 102, line 21, through page
2 103, line 34, and inserting the following:

3 "(4) The department of natural resources may enter
4 into an agreement with an independent qualified person
5 for the administration and implementation of
6 paragraphs "a" and "b" and this paragraph "c".

7 d. ADMINISTRATIVE EXPENSE. The reasonable costs
8 incurred in administering this subsection shall be
9 reimbursed from moneys in the fund but shall not in
10 any twelve-month period exceed five percent of the
11 annual collections under paragraph "j". Reasonable
12 costs include the expenses of the department of
13 natural resources, as well as the expenses of the
14 board and the independent qualified person who has
15 entered into an agreement with the department of
16 natural resources, incurred in administering and
17 implementing paragraphs "b", "c", and "k".

18 e. OVERSIGHT. In addition to the annual report
19 required under paragraph "g", the department of
20 natural resources shall report quarterly to the
21 legislative fiscal committee regarding the
22 administration of the fund. The legislative fiscal
23 committee shall have oversight responsibility for the
24 fund expenditures.

25 f. INTERAGENCY COOPERATION. The department of
26 natural resources shall solicit assistance and advice
27 from the board, the Iowa energy center, and the Iowa
28 department of economic development, as appropriate.

29 g. ANNUAL REPORT. The department of natural
30 resources shall prepare an annual report concerning
31 the status of the fund, the amount of administrative
32 expenses incurred in the governance of the fund, the
33 progress toward achieving the purposes and mandated
34 requirements in the prior year and since the inception
35 of the fund, the amount of funding used for energy
36 efficiency programs under subsection 5 during the
37 prior year, and any recommendations for legislation to
38 encourage the development of additional renewable
39 energy resources and investments in fossil-fueled
40 generation and associated equipment to reduce air
41 emissions without increasing the charges under
42 paragraph "j". The report shall be submitted to the
43 governor and to the general assembly by April 1 of
44 each year, commencing in 2003 and concluding in 2022.

45 h. INDEPENDENT AUDIT. The department of natural
46 resources, every three years commencing in 2004, shall
47 cause an audit of the fund's collections and
48 disbursements, including administrative expenses, to
49 be conducted by an independent accounting firm. A
50 copy of the audit shall be included with the annual

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1 report required under paragraph "g".

2 i. INTERIM FUNDING. (1) An incumbent provider
3 that is an electric company shall begin collecting
4 funds for remittance to the renewable energy and
5 emissions reduction fund as of the date the incumbent
6 provider has fully recovered accumulated deferred
7 costs associated with electric energy efficiency plans
8 pursuant to section 476.6, subsection 19. From the
9 date such accumulated deferred costs have been fully
10 recovered until October 1, 2002, the amount collected
11 shall equal the amount of accumulated deferred costs
12 included in each electric company's rates and charges
13 prior to the date of full recovery and shall be
14 apportioned to customers on a monthly basis in the
15 same manner as those deferred electric energy
16 efficiency costs. All moneys collected pursuant to
17 this paragraph shall be remitted monthly to the
18 treasurer of state and deposited in the renewable
19 energy and emissions reduction fund. The moneys
20 deposited in the fund are appropriated for the
21 purposes of this subsection and subsection 5. The
22 treasurer of state shall make disbursements from the
23 fund as directed by the department of natural
24 resources or the board, and in accordance with this
25 paragraph.

26 (2) The board may direct all incumbent providers
27 that are electric companies to advance to the
28 treasurer of state, on an as needed basis, a maximum
29 of two million five hundred thousand dollars to fund
30 the needs assessment required under subsection 5. The
31 board may direct all or a portion of these amounts to
32 be advanced at any time after the effective date of
33 this Act. An electric company advancing funds for the
34 needs assessment shall be reimbursed from funds
35 collected pursuant to this paragraph, and interest
36 shall be paid on any funds advanced at the rate of
37 twelve percent per annum.

38 Moneys deposited in the fund pursuant to this
39 paragraph "i" may be used for the following purposes:

40 (a) A maximum of three million dollars to the
41 department of natural resources and the board for a
42 needs assessment and for reimbursement with interest
43 of funds advanced by electric companies.

44 (b) A maximum of ten percent of the moneys in the
45 fund for administrative expenses of the department of
46 natural resources related to the development of the
47 programs required by this subsection and programs
48 under subsection 5.

49 (c) A maximum of thirty percent of the moneys in
50 the fund to the department of natural resources for

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1 pilot electric energy efficiency programs and other
2 cost-effective electric energy efficiency programs for
3 residential and nonresidential consumers, customized
4 electric energy efficiency programs for nonresidential
5 consumers, community-based electric energy efficiency
6 programs, and public sector electric energy efficiency
7 programs developed by the department and approved by
8 the advisory committee established in subsection 5.
9 These programs shall be limited to the assigned
10 service areas of electric companies.

11 (d) A maximum of seven million dollars to the
12 board for reimbursement with interest of funds
13 advanced by incumbent providers that are electric
14 companies for the consumer education program.

15 (e) A maximum of one million two hundred forty
16 thousand dollars to the division of community action
17 agencies in the department of human rights for low-
18 income energy efficiency and energy affordability
19 assistance and for administrative expenses related to
20 the development of low-income energy efficiency
21 programs.

22 (f) A maximum of two million one hundred thousand
23 dollars for the intervenor fund created in section
24 476B.26.

25 j. LONG-TERM FUNDING. (1) The renewable energy
26 and emissions".

27 21. Page 104, by striking lines 7 and 8 and
28 inserting the following: "average collection over the
29 life of the fund of fifty-three million five hundred
30 thousand dollars per year. Except as provided in
31 subsection 5, any surcharge amounts collected that are
32 not required to satisfy the purposes and mandated
33 requirements of this subsection shall be used by the
34 department of natural resources for energy efficiency
35 programs under subsection 5. The monthly".

36 22. Page 104, line 15, by striking the word
37 "Eighty-seven" and inserting the following: "One
38 dollar and sixty-five".

39 23. Page 104, line 16, by striking the word
40 "Forty-eight" and inserting the following: "Ninety-
41 one".

42 24. Page 104, line 19, by striking the words
43 "Three dollars and fifty-one" and inserting the
44 following: "Six dollars and sixty-seven".

45 25. Page 104, line 23, by striking the words
46 "Fourteen dollars and sixty-nine" and inserting the
47 following: "Twenty-seven dollars and eighty-eight".

48 26. Page 104, line 27, by striking the words
49 "Sixty-three dollars and eighty-two" and inserting the
50 following: "One hundred twenty-one dollars and

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- 1 fifteen".
- 2 27. Page 104, line 31, by striking the words "Two
3 hundred fifty-one dollars and thirty-three" and
4 inserting the following: "Four hundred seventy-seven
5 dollars and eleven".
- 6 28. Page 104, line 35, by striking the words "Two
7 thousand three hundred nineteen" and inserting the
8 following: "Four thousand four hundred two".
- 9 29. Page 105, line 1, by striking the word
10 "twenty-one" and inserting the following: "fifty-
11 six".
- 12 30. Page 105, line 7, by striking the word
13 "Twenty-three" and inserting the following: "Twenty-
14 two".
- 15 31. Page 105, line 11, by striking the word
16 "twenty-seven" and inserting the following: "twenty-
17 four".
- 18 32. Page 105, line 15, by striking the word
19 "thirty" and inserting the following: "eighteen".
- 20 33. Page 105, line 19, by striking the words
21 "Twenty-three dollars and three" and inserting the
22 following: "Twenty-two dollars and fifty-one".
- 23 34. Page 105, line 23, by striking the words
24 "Ninety dollars and seventy-one" and inserting the
25 following: "Eighty-eight dollars and sixty-six".
- 26 35. Page 105, line 27, by striking the words
27 "Eight hundred thirty-seven dollars and six" and
28 inserting the following: "Eight hundred eighteen
29 dollars and fourteen".
- 30 36. Page 105, line 31, by striking the words
31 "Iowa energy center" and inserting the following:
32 "board".
- 33 37. Page 106, line 1, by striking the word "All"
34 and inserting the following: "Except as provided in
35 subsection 5, all".
- 36 38. Page 106, line 4, by inserting after the word
37 "fund" the following: "and, as provided in
38 subparagraph (1), for the purpose of funding energy
39 efficiency programs".
- 40 39. Page 106, line 6, by striking the words "Iowa
41 energy center" and inserting the following:
42 "department of natural resources".
- 43 40. Page 106, lines 11 and 12, by striking the
44 words "electric energy efficiency" and inserting the
45 following: "renewable energy and emissions
46 reduction".
- 47 41. Page 106, by striking lines 15 and 16 and
48 inserting the following: "selected by the department
49 of natural resources to do all of the".
- 50 42. Page 106, line 21, by striking the word

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1 "goals" and inserting the following: "mandated
2 requirements".

3 43. Page 106, line 24, by striking the word
4 "goals" and inserting the following: "mandated
5 requirements".

6 44. Page 106, line 28, by striking the words
7 "FUND AND".

8 45. Page 106, by striking lines 29 through 31 and
9 inserting the following:

10 "a. PURPOSE. For purposes of this".

11 46. Page 106, line 34, by striking the words "The
12 purpose of the fund is" and inserting the following:
13 "To the extent that amounts collected pursuant to
14 subsection 4 are not required to achieve the purposes
15 and mandated requirements of that subsection, the
16 division shall use the amounts available".

17 47. Page 107, by striking lines 14 through 19 and
18 inserting the following:

19 "() One person representing the state board of
20 regents, appointed by the governor.

21 "() One person representing the Iowa department
22 of economic development, appointed by the governor."

23 48. By striking page 108, line 26, through page
24 110, line 30.

25 49. Page 110, by striking line 31 and inserting
26 the following:

27 "c. ELECTRIC ENERGY EFFICIENCY PROGRAMS AND".

28 50. Page 110, line 34, by striking the letter
29 ""e"" and inserting the following: ""d"".

30 51. Page 110, line 35, by striking the letter
31 ""m"" and inserting the following: ""j"".

32 52. Page 111, by striking line 1 and inserting
33 the following: "available for electric energy
34 efficiency programs may be used".

35 53. Page 111, by striking line 4 and inserting
36 the following: "consumer. Moneys in the fund may
37 also be used for tree planting programs."

38 54. Page 111, by striking lines 7 and 8 and
39 inserting the following: "programs, establishing
40 criteria for use of any moneys made available for
41 electric energy efficiency programs, and providing for
42 the equitable".

43 55. Page 111, line 10, by striking the letter
44 ""d"" and inserting the following: ""c"".

45 56. Page 111, line 16, by inserting after the
46 word "local" the following: "electric energy
47 efficiency".

48 57. Page 111, line 18, by striking the word
49 "ninety" and inserting the following: "forty".

50 58. Page 111, line 19, by striking the word and

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1 letter "paragraph "f"" and inserting the following:

2 "subsection 4, paragraph "j",".

3 59. Page 111, by striking lines 21 through 25,
4 and inserting the following: "provider is unable to
5 spend the total amount it retains for electric energy
6 efficiency programs, the remaining balance shall be
7 remitted to the treasurer of state for deposit in the
8 renewable energy and emissions reduction fund. No
9 more than ten percent of the annual collections
10 retained by a consumer-".

11 60. Page 111, by striking lines 32 through 35 and
12 inserting the following: "provider choosing to retain
13 an annual amount of collections as provided in this
14 paragraph is ineligible to receive any additional
15 amounts in that year for electric energy efficiency
16 programs in its assigned service area from the moneys
17 made available to the division for energy efficiency
18 programs. An end-use consumer located in the
19 assigned".

20 61. Page 112, line 2, by striking the word
21 "funds" and inserting the following: "an annual
22 amount of collections".

23 62. Page 112, line 3, by striking the word
24 "funds" and inserting the following: "amounts in that
25 year".

26 63. Page 112, by striking line 4 and inserting
27 the following: "indirectly, from the moneys made
28 available to the division for energy efficiency
29 programs. A".

30 64. Page 112, line 7, by striking the word
31 "funds" and inserting the following: "an annual
32 amount of collections".

33 65. Page 112, line 14, by striking the letter
34 ""d"" and inserting the following: ""c"".

35 66. Page 112, line 17, by striking the word and
36 letter "e. NEEDS" and inserting the following: "d.
37 NEEDS".

38 67. Page 112, line 33, by striking the letter
39 ""i"" and inserting the following: ""g"".

40 68. By striking page 113, line 2, through page
41 116, line 4 and inserting the following:

42 "e. ADMINISTRATIVE EXPENSE. The reasonable
43 costs,".

44 69. Page 116, by striking lines 7 and 8 and
45 inserting the following: "subsection shall be
46 reimbursed from the available funds, but shall not
47 exceed ten percent of annual available funds."

48 70. Page 116, line 10, by striking the words
49 "administer the fund and".

50 71. By striking page 116, line 25, through page

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- 1 117, line 1.
- 2 72. Page 117, line 4, by striking the word "fund"
- 3 and inserting the following: "energy efficiency
- 4 programs".
- 5 73. Page 117, line 5, by striking the word "fund"
- 6 and inserting the following: "programs".
- 7 74. Page 117, line 9, by striking the words "the
- 8 board and".
- 9 75. Page 117, by striking line 23 and inserting
- 10 the following: "recommendations. Such
- 11 recommendations shall not include an increase in any
- 12 surcharge under subsection 4."
- 13 76. By renumbering, redesignating, and correcting
- 14 internal references as necessary.

By WISE of Lee

JENKINS of Black Hawk

H-8523 FILED MARCH 22, 2000

HOUSE FILE 2530**H-8535**

1 Amend House File 2530 as follows:

- 2 1. Page 30, by inserting after line 4 the
- 3 following:

- 4 "y. A commitment to not make solicitation calls to
- 5 a prospective end-use consumer from seven p.m. to nine
- 6 a.m. Monday through Saturday, or at any time on
- 7 Sunday."

By SHOULTZ of Black Hawk

H-8535 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8543

1 Amend House File 2530 as follows:

2 1. By striking page 157, line 24, through page
3 158, line 31, and inserting the following:

4 "1. PURPOSE. An intervenor fund in the amount of
5 two million one hundred thousand dollars is created,
6 to be administered by the board. The fund shall be
7 used to reimburse qualified not-for-profit entities
8 that intervene in rulemaking proceedings before the
9 board associated with rules that are required to be
10 proposed by a specific date established by chapter
11 476B.

12 2. INTERVENOR REQUIREMENTS. In a rulemaking
13 proceeding associated with rules that are required to
14 be proposed by a specific date established by chapter
15 476B, the board may compensate an intervenor
16 participating in the rulemaking proceeding that is not
17 a delivery service provider, competitive electric
18 service provider, or other entity engaged in the
19 electric business, for some or all of the reasonable
20 costs of participation in the proceeding if the board
21 finds both of the following:

22 a. The intervenor is a not-for-profit entity
23 having at least one hundred members who are residents
24 of this state.

25 b. Participation by the intervenor is necessary to
26 provide for the record an adequate presentation of a
27 significant position in which the not-for-profit
28 entity has a substantial interest, and such an
29 adequate presentation would not be possible without a
30 grant of compensation.

31 3. INTERVENOR FINANCING. The board shall
32 compensate a qualified not-for-profit entity up to ten
33 thousand dollars for the actual, reasonable costs
34 incurred by the entity in the rulemaking proceeding.
35 However, the board shall not award amounts for
36 reimbursement in excess of one hundred thousand
37 dollars per rulemaking proceeding. A qualified not-
38 for-profit entity may join with one or more other
39 qualified not-for-profit entities to intervene in a
40 rulemaking proceeding without prejudicing the
41 eligibility of any of the entities for compensation
42 under this section. If more than ten qualified not-
43 for-profit entities request reimbursement in a
44 rulemaking proceeding and the total amount requested
45 from all qualified not-for-profit entities is greater
46 than one hundred thousand dollars, the board shall
47 determine the method for distribution of the available
48 funding.

49 4. SOURCE OF FUNDS. A total of two million one
50 hundred thousand dollars shall be provided for

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1 intervenor compensation from the interim funding
2 mechanism established under section 476B.13,
3 subsection 5, paragraph "c". The board shall request
4 up to two million one hundred thousand dollars, on an
5 as needed basis, for distribution to qualified not-
6 for-profit entities or for reimbursement of the
7 board's administrative expenses related to proceedings
8 involving such intervenors. Administrative expenses
9 shall not exceed one hundred thousand dollars in
10 total.

11 5. IMPLEMENTATION. The board shall propose rules
12 to implement this section on or before July 1, 2000."

By WISE of Lee

H-8543 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8544

1 Amend the amendment, H-8523, to House File 2530, as
2 follows:

3 1. Page 4, by inserting after line 22 the
4 following:

5 "____. By striking page 92, line 8, through page
6 94, line 30.

7 _____. By striking page 97, line 9 through page
8 100, line 9, and inserting the following:

9 "The Iowa energy center and center for global and
10 regional environmental research shall conduct
11 environmental assessments. The Iowa energy center and
12 center for global and regional environmental research
13 shall each provide a written annual report to the
14 board which describes each center's activities and the
15 results that each center has accomplished. Each
16 report shall include an explanation of initiatives and
17 projects of importance to the state."

18 2. Page 8, line 2, by striking the word and
19 figures "103, line 34" and inserting the following:
20 "106, line 12".

21 3. By striking page 10, line 25, through page 11,
22 line 46.

23 4. Page 14, by striking line 12 and inserting the
24 following: "surcharge.

25 5A. FUNDING -- NONBYPASSABLE SURCHARGE.

26 a. The programs established in this section shall
27 be funded by all end-use consumers through a
28 nonbypassable monthly surcharge on all distribution
29 services within a delivery service provider's assigned
30 service area, including service provided under rates
31 or charges pursuant to section 476B.8. The monthly
32 surcharge shall be collected by the person billing the
33 end-use consumer for the service. The monthly
34 surcharge shall commence with bills issued on October
35 1, 2002. The monthly surcharge for each customer
36 class shall be as follows:

37 (1) One dollar and fifty cents for a residential
38 electric account.

39 (2) One dollar and fifty cents for a
40 nonresidential electric account with an annual usage
41 of less than twenty-five thousand kilowatt-hours in
42 the prior calendar year.

43 (3) Ten dollars for a nonresidential electric
44 account with an annual usage of twenty-five thousand
45 kilowatt-hours to one hundred thousand kilowatt-hours
46 in the prior calendar year.

47 (4) Thirty-six dollars for a nonresidential
48 electric account with an annual usage of more than one
49 hundred thousand kilowatt-hours to four hundred
50 thousand kilowatt-hours in the prior calendar year.

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1 (5) One hundred fifty dollars for a nonresidential
2 electric account with an annual usage of more than
3 four hundred thousand kilowatt-hours to one million
4 five hundred thousand kilowatt-hours in the prior
5 calendar year.

6 (6) Seven hundred fifty dollars for a
7 nonresidential electric account with an annual usage
8 of more than one million five hundred thousand
9 kilowatt-hours to six million kilowatt-hours in the
10 prior calendar year.

11 (7) Six thousand dollars for a nonresidential
12 electric account with an annual usage of more than six
13 million kilowatt-hours in the prior calendar year.

14 b. All moneys collected pursuant to this
15 subsection shall be remitted to the treasurer of the
16 state and deposited as follows:

17 (1) Twenty-three million five hundred thousand
18 dollars in a separate account to be used for the low-
19 income affordability program and a low-income energy
20 efficiency program as provided under subsection 1.
21 The treasurer shall make disbursements from this
22 account as appropriate. Notwithstanding section 8.33,
23 the unencumbered or unobligated moneys remaining at
24 the end of any fiscal year from the allocation made in
25 this subparagraph shall not revert but shall be
26 available for expenditure during subsequent fiscal
27 years until expended for the purposes for which
28 originally appropriated. Interest or earnings on
29 investments or time deposits of the moneys in the
30 account shall be retained for the purposes designated
31 under subsection 1.

32 After the third year of the program, the board
33 shall annually adjust the levels of surcharges on
34 electric accounts under paragraph "a" based on the
35 total program budget developed by the division. When
36 determining the per account charge, the board shall
37 not substantially deviate from the cost allocation
38 among consumer groups reflected in the initial funding
39 charges. Any increase in monthly surcharges as
40 provided in this subparagraph shall not go into effect
41 without prior approval by joint resolution as adopted
42 by the general assembly.

43 (2) Two million dollars in a separate account to
44 be used for environmental assessment as provided under
45 subsection 3. Eighty-five percent of the amounts
46 allocated to this account are appropriated to the Iowa
47 energy center created in section 266.39C. Fifteen
48 percent of the amounts allocated to this account are
49 appropriated to the center for global and regional
50 environmental research established by the state board

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1 of regents. Notwithstanding section 8.33, the
2 unencumbered or unobligated moneys remaining in the
3 account at the end of any fiscal year shall not revert
4 and shall be retained by the centers for the purposes
5 designated. Notwithstanding section 12C.7, subsection
6 2, interest or earnings on investments or time
7 deposits of the moneys in the account shall be
8 retained and used for the purposes designated under
9 subsection 3.

10 The Iowa energy center and the center for global
11 and regional environmental research shall each provide
12 a report to the legislative fiscal committee on a
13 monthly basis regarding any expenditures of funds
14 associated with each center's activities under this
15 subparagraph. A monthly report shall cover a calendar
16 month and is due the tenth day of the following month.

17 (3) Fifty-three million five hundred thousand
18 dollars in the environmental fund created in
19 subsection 4. The treasurer of state shall make
20 disbursements from this fund as requested by the
21 department of natural resources. The unencumbered or
22 unobligated moneys remaining in the fund at the end of
23 any fiscal year shall not revert but shall be
24 available for expenditure during subsequent fiscal
25 years. Notwithstanding section 12C.7, subsection 2,
26 interest or earnings on investments or time deposits
27 of the moneys deposited in the environmental fund
28 shall be credited to the fund.

29 c. Amounts collected pursuant to this subsection
30 and remitted to the treasurer of state are
31 appropriated for the purposes provided in this
32 subsection and shall not be subject to appropriation
33 for any other purpose by the general assembly, but
34 shall be used only for the purposes set forth in this
35 section.""

36 5. By renumbering as necessary.

By HOLMES of Scott

H-8544 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8545

1 Amend House File 2530 as follows:

2 1. Page 151, by striking lines 1 through 4 and
3 inserting the following: "licensed or is engaging in
4 conduct that may create a danger to public safety or
5 reliability of the delivery system or may lead to any
6 public injury. An emergency cease".

7 2. Page 151, by striking lines 21 through 27 and
8 inserting the following: "hearing, may impose a civil
9 penalty of no less than twenty-five thousand dollars
10 and up to fifty thousand dollars per occurrence per
11 day of outages. The board may impose additional
12 penalties for excessive numbers of delivery-related
13 outages or excessive outage durations caused by a
14 failure to undertake reasonable and prudent
15 maintenance measures to avoid such outages. The board
16 shall adopt such maintenance measures including, but
17 not limited to, inspection, repair, and replacement
18 standards for transmission and distribution systems of
19 investor-owned utilities. The board".

20 3. Page 151, line 31, by inserting after the word
21 "provider." the following: "The board shall also give
22 due consideration to the effort, or lack of effort,
23 undertaken in the restoration of service after an
24 outage occurs. The board shall adopt rules
25 establishing penalties on all outage occurrences with
26 a duration of greater than seventy-two hours no matter
27 what the cause, giving due consideration to conditions
28 beyond the control of the delivery service provider."

By CHIODO of Polk

H-8545 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8546

1 Amend House File 2530 as follows:
2 1. Page 118, by striking lines 26 through 29 and
3 inserting the following:
4 "5. A competitive electric service provider,
5 delivery service provider, or generation company shall
6 not interfere with, restrain, or coerce any employee
7 or other person in the exercise of the right to
8 disclose information to the board or other
9 governmental body regarding the safety and reliability
10 of the electrical system, or a portion of such system,
11 provided that the employee reasonably believes that
12 such information is true. A competitive electric
13 service provider, delivery service provider, or
14 generation company shall not dismiss, demote,
15 transfer, reprimand, harass, reduce the pay of,
16 discriminate against, or otherwise retaliate against,
17 any employee or other person because the employee or
18 other person made such disclosure. An employee or
19 other person may bring an action in a court of proper
20 jurisdiction and request a jury trial. Upon a finding
21 by a preponderance of the evidence that a competitive
22 electric service provider, delivery service provider,
23 or generation company has violated this subsection,
24 the aggrieved party is entitled to reinstatement if
25 the retaliatory action resulted in loss of employment,
26 as well as an award for all damages incurred, court
27 costs, and reasonable attorney fees. Punitive damages
28 in an amount not to exceed two hundred fifty thousand
29 dollars may also be awarded, as appropriate."

By CHIODO of Polk

H-8546 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8532

1 Amend House File 2530 as follows:

2 1. Page 30, line 28, by inserting after the word
3 "of" the following: "income level,".

By DODERER of Johnson

H-8532 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8533

1 Amend House File 2530 as follows:

2 1. Page 19, line 13, by inserting after the word
3 "of" the following: "initial".

4 2. Page 19, by inserting after line 14 the
5 following:

6 "4A. ASSESSMENT. The board shall determine the
7 amount of funding and the duration of the consumer
8 education program necessary to provide adequate
9 opportunity to allow end-use consumers to educate
10 themselves regarding competitive electric services and
11 their rights and responsibilities under this chapter."

12 3. By renumbering as necessary.

By DODERER of Johnson

H-8533 FILED MARCH 23, 2000

HOUSE FILE 2530

H-8549

1 Amend House File 2530 as follows:
2 1. Page 30, by inserting after line 4 the
3 following:
4 "y. A commitment that if the competitive electric
5 service provider purchases carbon emission credits,
6 such provider shall give a preference to purchasing
7 such credits from persons in this state engaged in
8 farming as defined in section 9H.1.
9 z. A commitment that if the competitive electric
10 service provider purchases electricity generated by
11 another person, that to the extent possible such
12 provider shall purchase such electricity from a
13 generator who is subject to the renewable energy
14 requirements of this chapter and who purchases carbon
15 emission credits from persons in this state engaged in
16 farming as defined in section 9H.1."

By DREES of Carroll

H-8549 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8550

1 Amend House File 2530 as follows:
2 1. Page 30, by inserting after line 4 the
3 following:
4 "y. A commitment to not require the use of a
5 prepaid meter or load limiter for any residential end-
6 use consumer. The board shall adopt rules prohibiting
7 the mandatory use of prepaid meters and load limiters
8 for all residential end-use consumers."
9 2. Page 44, line 10, by striking the word "may"
10 and inserting the following: "shall".
11 3. Page 44, line 12, by striking the words "some
12 or".
13 4. Page 44, lines 27 and 28 by striking the words
14 "or offered service only with the use of a prepaid
15 meter or load limiter,".

By OSTERHAUS of Jackson

H-8550 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8551

1 Amend House File 2530 as follows:
2 1. Page 176, by inserting after line 18, the
3 following:
4 "Sec. ____ INTERIM RATES AND CHARGES.
5 1. Notwithstanding the provisions of this Act, the
6 rates and charges for electric service provided by
7 such provider applicable to all end-use consumers, at
8 the option of the incumbent provider, shall be set
9 pursuant to one of the following methods:
10 a. The rates and charges shall be reduced for each
11 customer class by three percent.
12 b. The rates and charges shall reflect cost-based
13 rates and charges that are based on a rate proceeding
14 under chapter 476.
15 2. Rates and charges established pursuant to this
16 section shall be effective January 1, 2001."
17 2. By renumbering as necessary.

By KREIMAN of Davis

H-8551 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8552

1 Amend House File 2530 as follows:

2 1. Page 30, by inserting after line 4 the
3 following:

4 "y. A commitment to at least once annually,
5 provide a written statement to the competitive
6 electric service provider's customers of such
7 provider's policy regarding the sale or other
8 disposition of customer information to other persons.
9 The written statement shall be provided to the
10 competitive electric service provider's customers no
11 less than sixty days prior to any change in the
12 policy. The written statement shall explain the
13 change, and state the effective date of the change,
14 and whether or not the competitive electric service
15 provider has provided a written statement pursuant to
16 this section within the previous year. The written
17 statement shall provide the address and telephone
18 number of a person whom the customer can contact to
19 request that information regarding the customer not be
20 sold to any other person by the competitive electric
21 service provider. Upon the receipt of such a request,
22 the competitive electric service provider shall not
23 sell or otherwise provide information to any other
24 person regarding the customer making the request.

25 The written statement shall include the address and
26 phone number of the board and state that a complaint
27 regarding the sale of customer information may be made
28 to the board. The written statement shall also state
29 that a competitive electric service provider that
30 sells or otherwise provides customer information to
31 another person in violation of this section may be
32 subject to a civil penalty of one thousand dollars.

33 In addition to any other applicable penalty, a
34 competitive electric service provider violating this
35 paragraph is subject to a civil penalty of one
36 thousand dollars for each violation."

By THOMAS of Clayton

H-8552 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8553

1 Amend House File 2530 as follows:

2 1. Page 26, by inserting after line 35 the
3 following:

4 "____. A commitment not to engage in any
5 telemarketing practices in violation of rules adopted
6 by the board. The board shall adopt rules
7 establishing restrictions on telemarketing if the
8 board deems such restrictions to be in the best
9 interest of the public."

10 2. By renumbering as necessary.

By JENKINS of Black Hawk

H-8553 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8554

- 1 Amend House File 2530 as follows:
2 1. Page 176, by inserting after line 18 the
3 following:
4 "Sec. ____ . NONBINDING REFERENDUM. Notwithstanding
5 any statutory law or administrative rules to the
6 contrary, the secretary of state shall include on the
7 ballot for the next general election a measure to be
8 submitted to the people as to whether the state should
9 proceed with the restructuring of the electric utility
10 industry as provided in this Act, if enacted. The
11 ballot shall include an explanation of this Act
12 prepared by the secretary of state including that the
13 Act restructures the electric utility industry and
14 deregulates retail electricity rates. The referendum
15 shall be conducted consistent with the provisions of
16 chapter 49A and any expenses incurred shall be audited
17 and allowed as provided in section 49A.9. The
18 referendum shall not be binding on the general
19 assembly."
20 2. By renumbering as necessary.

By CATALDO of Polk

H-8554 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8555

- 1 Amend House File 2530 as follows:
2 1. Page 36, line 9, by inserting after the word
3 "annually" the following: ", a state or political
4 subdivision end-use consumer regardless of annual
5 usage,".

By HOLVECK of Polk

H-8555 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8558

1 Amend House File 2530 as follows:

2 1. Page 30, by inserting after line 4 the
3 following:

4 "y. A commitment to comply with the telemarketing
5 requirements established in section 476C.1 with
6 respect to the marketing of competitive electric
7 services to persons in this state."

8 2. Page 174, by inserting after line 18, the
9 following:

10 "Sec. ____ . NEW SECTION. 476C.1 TELEPHONE
11 SOLICITATION RESTRICTIONS.

12 1. As used in this section, unless the context
13 otherwise requires:

14 a. "Board" means the utilities board created in
15 section 474.1.

16 b. "Consumer" means an actual or prospective
17 purchaser, lessee, or recipient of a consumer good or
18 service.

19 c. "Consumer good or service" means any real
20 property or any tangible or intangible personal
21 property which is normally used for personal, family,
22 or household purposes, including, without limitation,
23 any such property intended to be attached to or
24 installed in any real property without regard to
25 whether it is so attached or installed, as well as
26 cemetery lots and timeshare estates, and any service
27 related to such property.

28 d. "Division" means the utilities division of the
29 department of commerce.

30 e. "Doing business in this state" means a business
31 which conducts telephone solicitations from a location
32 in this state or from other states or nations to
33 consumers located in this state.

34 f. "Merchant" means a person who, directly or
35 indirectly, offers or makes available to a consumer
36 any consumer good or service.

37 g. "Telephone solicitation" means any voice
38 communication over a telephone for the purpose of
39 encouraging the purchase or rental of, or investment
40 in, property, goods, services, wherever originated,
41 and includes any of the following purposes:

42 (1) To solicit a sale of a consumer good or
43 service.

44 (2) To offer an extension of credit for a consumer
45 good or service.

46 (3) To obtain information that will or may be used
47 for the direct solicitation of a sale of a consumer
48 good or service or an offer of extension of credit for
49 such purpose.

50 h. "Telephone solicitor" means a person doing

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1 business in this state, who makes or causes to be made
2 a telephone solicitation, including, but not limited
3 to, calls made by use of automatic dialing-announcing
4 device equipment.

5 i. "Unsolicited telephone solicitation" means a
6 telephone solicitation other than a call made as
7 follows:

8 (1) In response to an express request of the
9 person called.

10 (2) Primarily in connection with an existing debt
11 or contract, payment, or performance of which has not
12 been completed at the time of such call.

13 (3) To a person with whom the telephone solicitor
14 has a prior or existing business relationship.

15 (4) To a residential subscriber if the telephone
16 solicitation is made on behalf of a not-for-profit
17 organization exempt from paying taxes under section
18 501(c) of the Internal Revenue Code, and if a bona
19 fide member of the exempt organization makes such
20 communication.

21 2. a. A telephone solicitor who makes an
22 unsolicited telephone solicitation to a residential,
23 mobile, or telephonic paging device telephone number
24 shall identify the telephone solicitor's self by the
25 telephone solicitor's true first and last name, and
26 the business on whose behalf the telephone solicitor
27 is making the unsolicited telephone solicitation,
28 immediately upon making contact by telephone with the
29 person who is the object of the unsolicited telephone
30 solicitation.

31 b. (1) The division shall establish and maintain
32 a "no telephone solicitation calls" listing as
33 provided in this subsection. The division may enter
34 into an agreement with another person to maintain the
35 "no telephone solicitation calls" listing, as deemed
36 appropriate by the division. A consumer who is a
37 residential, mobile, or telephonic paging device
38 telephone subscriber desiring to be placed on a "no
39 telephone solicitation calls" listing indicating that
40 the consumer does not wish to receive unsolicited
41 telephone solicitations shall notify the division and
42 be placed on that listing upon receipt by the division
43 of a ten dollar initial listing fee. The inclusion of
44 a consumer on the listing may be renewed by such
45 consumer annually upon submitting a renewal request to
46 the division accompanied by a five dollar renewal fee.

47 (2) The division shall update its "no telephone
48 solicitation calls" listing on a quarterly basis,
49 including initial listing and renewal requests
50 submitted by consumers to the division during the

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1 calendar quarter immediately preceding the date of
2 such updating. The division, upon request, shall
3 provide a copy of the most current quarterly listing
4 for a fee as established by the division to a
5 telephone solicitor requesting such list, in either a
6 printed or electronic form.

7 (3) A fee imposed and collected under this section
8 shall be deposited in the general fund of the state
9 and is appropriated to the division, limited to an
10 amount which is sufficient for the administration of
11 this section.

12 (4) If, pursuant to 47 U.S.C. § 227(c)(3), the
13 federal communications commission establishes a single
14 national database of telephone numbers of consumers
15 who object to receiving telephone solicitations, the
16 commission shall include the portion of such national
17 database including consumer telephone numbers located
18 in this state in the "no telephone solicitation calls"
19 listing established and maintained by the division.

20 c. A telephone solicitor shall not make or cause
21 to be made any unsolicited telephone solicitations to
22 any residential, mobile, or telephonic paging device
23 telephone number if the number for that telephone
24 appears in the current quarterly listing provided by
25 the division. A telephone solicitor or person who
26 offers for sale consumer information which includes
27 residential, mobile, or telephonic paging device
28 telephone numbers, except directory assistance and
29 telephone directories sold by a telephone company or
30 an organization exempt under section 501(c) of the
31 Internal Revenue Code, shall screen and exclude those
32 numbers which appear on the division's current "no
33 telephone solicitation calls" list from any consumer
34 information offer or sold. This subsection does not
35 apply to a person licensed pursuant to chapter 543B
36 who calls an actual or prospective seller or lessor of
37 real property if such call is made in response to a
38 yard sign or other form of real estate sales
39 advertisement placed by the seller or lessor.

40 d. Upon a determination by the board, after a
41 hearing conducted pursuant to chapter 17A, that a
42 person has violated a provision of this subsection,
43 the board shall reduce the findings of the hearing to
44 writing and deliver a copy of the findings to the
45 person, may issue an order requiring the person to
46 cease and desist from engaging in the conduct
47 resulting in the violation, and may assess a civil
48 penalty of not more than ten thousand dollars against
49 the person.

50 e. The board, by rule, shall ensure that

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1 telecommunications providers inform their customers of
2 the customers' rights under this section. The
3 notification shall be made by both of the following:

4 (1) Annual inserts in the billing statements
5 mailed to such customers.

6 (2) Conspicuous publication of the notice in the
7 consumer information pages of local telephone
8 directories.

9 3. a. A contract made pursuant to a telephone
10 solicitation is not valid and enforceable against a
11 consumer unless made in compliance with this
12 subsection.

13 b. A contract made pursuant to a telephone
14 solicitation must satisfy all of the following:

15 (1) The contract must be reduced to writing and
16 signed by the consumer.

17 (2) The contract must comply with all other
18 applicable laws and rules.

19 (3) The contract must match the description of
20 goods or services as principally used in the telephone
21 solicitation.

22 (4) The contract must contain the name, address,
23 and telephone number of the seller, the total price of
24 the contract, and a detailed description of the goods
25 or services being sold.

26 (5) The contract must contain, in bold,
27 conspicuous type, immediately preceding the signature,
28 the following statement:

29 "You are not obligated to pay any money unless you
30 sign this contract and return it to the seller."

31 (6) The contract must not exclude from its terms
32 any oral or written representations made by the
33 telephone solicitor to the consumer in connection with
34 the transaction.

35 c. This subsection does not apply to contractual
36 sales specifically regulated under chapter 714D or
37 other law, or to the sale of financial services,
38 security sales, or sales transacted by insurance
39 companies or their wholly owned subsidiaries or
40 agents, or to the sale of cable television services to
41 a franchised cable television operator's existing
42 subscribers within that cable television operator's
43 franchise area, or to any sales where no prior payment
44 is made to the merchant and an invoice accompanies the
45 goods or services allowing the consumer no less than
46 seven days to cancel or return the goods or services
47 without obligation for any payment.

48 4. a. A merchant who engages a telephone
49 solicitor to make or cause to be made a telephone
50 solicitation shall not make or submit any charge to a

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1 consumer's credit card account or make or cause to be
2 made any electronic transfer of funds until after the
3 merchant receives from the consumer a copy of the
4 contract, signed by the consumer, which complies with
5 this section.

6 b. This subsection does not apply to chapter 714D
7 or to any of the following:

8 (1) A transaction made pursuant to prior
9 negotiations in the course of a visit by the consumer
10 to a merchant operating a retail business
11 establishment which has a fixed permanent location and
12 where consumer goods are displayed or offered for sale
13 on a continuing basis.

14 (2) A transaction in which the consumer may obtain
15 a full refund for the return of undamaged and unused
16 goods or a cancellation of services notice to the
17 seller within seven days after receipt by the
18 consumer, and the seller will process the refund
19 within thirty days after receipt of the returned
20 merchandise by the consumer.

21 (3) A transaction in which the consumer purchases
22 goods or services pursuant to an examination of a
23 television, radio, or print advertisement or a sample,
24 brochure, or catalog of the merchant that contains all
25 of the following:

26 (a) The name, address, and telephone number of the
27 merchant.

28 (b) A description of the goods or services being
29 sold.

30 (c) Any limitations or restrictions that apply to
31 the offer.

32 (4) A transaction in which the merchant is a bona
33 fide charitable organization or a newspaper.

34 5. A violation of subsection 3 or 4 is a violation
35 of section 714.16, subsection 2, paragraph "a". The
36 remedies and penalties provided by section 714.16,
37 including but not limited to injunctive relief and
38 civil penalties, apply to violations of this section.

39 6. A consumer who receives more than one telephone
40 solicitation within any twelve-month period by or on
41 behalf of the same person in violation of this section
42 may do one or both of the following:

43 a. Bring an action to enjoin further violations.

44 b. Bring an action to recover the greater of the
45 following:

46 (1) Actual monetary damages incurred by the
47 consumer as a result of a violation of this section.

48 (2) Not less than one hundred dollars but not more
49 than two thousand dollars for each violation of this
50 section.

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- 1 7. In a civil action resulting from a transaction
- 2 involving a violation of this section, a prevailing
- 3 plaintiff, after judgment in the trial court and
- 4 exhaustion of all appeals, if any, is entitled to
- 5 costs and reasonable attorney fees."
- 6 3. By renumbering as necessary.

By THOMAS of Clayton

H-8558 FILED MARCH 27, 2000

HOUSE FILE 2530

H-8589

- 1 Amend House File 2530 as follows:
- 2 1. Page 122, line 14, by striking the words
- 3 "difference between".
- 4 2. Page 122, by striking lines 15 and 16 and
- 5 inserting the following: "with an incumbent
- 6 provider's generation assets."
- 7 3. Page 122, by striking line 17 and inserting
- 8 the following:
- 9 "c. The future contract payments".
- 10 4. Page 122, line 18, by striking the words
- 11 "market value of" and inserting the following:
- 12 "under".
- 13 5. Page 122, by striking lines 20 through 26.

By SHEY of Linn

H-8589 FILED MARCH 28, 2000

HOUSE FILE 2530

H-8658

- 1 Amend House File 2530 as follows:
- 2 1. Page 122, line 14, by striking the words
- 3 "difference between".
- 4 2. Page 122, by striking lines 15 and 16 and
- 5 inserting the following: "with an incumbent
- 6 provider's generation assets."
- 7 3. Page 122, by striking line 17 and inserting
- 8 the following:
- 9 "c. The future contract payments".
- 10 4. Page 122, line 18, by striking the words
- 11 "market value of" and inserting the following:
- 12 "under".

By SHEY of Linn

H-8658 FILED MARCH 29, 2000

H-8665

1 Amend House File 2530 as follows:

2 1. By striking page 157, line 24, through page
3 158, line 31, and inserting the following:

4 "1. PURPOSE. An intervenor fund in the amount of
5 two million one hundred thousand dollars is created,
6 to be administered by the board. The fund shall be
7 used to reimburse qualified not-for-profit entities
8 that intervene in rulemaking proceedings before the
9 board associated with rules that are required to be
10 proposed by a specific date established by chapter
11 476B.

12 2. INTERVENOR REQUIREMENTS. In a rulemaking
13 proceeding associated with rules that are required to
14 be proposed by a specific date established by chapter
15 476B, the board may compensate an intervenor
16 participating in the rulemaking proceeding that is not
17 a delivery service provider, competitive electric
18 service provider, or other entity engaged in the
19 electric business, for some or all of the reasonable
20 costs of participation in the proceeding if the board
21 finds both of the following:

22 a. The intervenor is a not-for-profit entity
23 having at least one hundred members who are residents
24 of this state.

25 b. Participation by the intervenor is necessary to
26 provide for the record an adequate presentation of a
27 significant position in which the not-for-profit
28 entity has a substantial interest, and such an
29 adequate presentation would not be possible without a
30 grant of compensation.

31 3. INTERVENOR FINANCING. The board shall
32 compensate a qualified not-for-profit entity up to ten
33 thousand dollars for the actual, reasonable costs
34 incurred by the entity in the rulemaking proceeding.
35 A qualified not-for-profit entity may join with one or
36 more other qualified not-for-profit entities to
37 intervene in a rulemaking proceeding without
38 prejudicing the eligibility of any of the entities for
39 compensation under this section.

40 4. SOURCE OF FUNDS. A total of two million one
41 hundred thousand dollars shall be provided for
42 intervenor compensation from the interim funding
43 mechanism established under section 476B.13,
44 subsection 5, paragraph "c". The board shall request
45 up to two million one hundred thousand dollars, on an
46 as needed basis, for distribution to qualified not-
47 for-profit entities or for reimbursement of the
48 board's administrative expenses related to proceedings
49 involving such intervenors. Administrative expenses
50 shall not exceed one hundred thousand dollars in

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1 total.

2 5. IMPLEMENTATION. The board shall propose rules
3 to implement this section on or before July 1, 2000."

By WISE of Lee

H-8665 FILED MARCH 30, 2000

HOUSE FILE 2530

H-8667

1 Amend House File 2530 as follows:

2 1. Page 73, line 8, by inserting after the word
3 "business." the following: "To the extent that a
4 delivery service provider that is an electric company
5 provides, transfers, or otherwise conveys any assets,
6 whether tangible or intangible, including labor and
7 capital, or goods or services other than tariffed
8 goods or services, to or for the benefit of such
9 provider's unregulated affiliates, the board, for the
10 purpose of establishing rates or otherwise assuring
11 compliance with this chapter and the rules of the
12 board, shall value such transactions at the market
13 price. If the market price cannot be determined, such
14 transactions shall be valued using the fully
15 distributed cost of such assets, goods, or services.
16 However, such valuation shall not apply to the use of
17 an electric company's name and logo or to transactions
18 under subsection 12, paragraph "a", subparagraph (4),
19 except for those assets, goods, or services which are
20 transferred or provided in such transaction to an
21 unregulated affiliate company which competes with
22 nonaffiliated persons engaged in the businesses
23 identified in subsection 11, paragraphs "a" and "b",
24 or in the business of installing and maintaining
25 plumbing and refrigeration equipment or in the
26 business of installing or maintaining electrical or
27 mechanical equipment on the end-use consumer's side of
28 the main disconnect. The board, after notice and
29 hearing, may adopt rules as necessary to implement
30 this subsection including alternative pricing methods,
31 provided such alternative pricing methods are in the
32 public interest and maintain fair competition."

33 2. Page 73, by striking lines 9 through 15 and
34 inserting the following:

35 "b. A delivery service provider that is an
36 electric company shall only provide regulated services
37 in a manner designed to avoid cross-subsidization of
38 unregulated services and in a manner that, as a result
39 of the provision of such services or as a result of
40 transactions with its unregulated affiliates, does not
41 confer an unfair competitive advantage upon such
42 affiliates which compete with nonaffiliated persons.
43 The board, upon complaint and for purposes of
44 achieving the objectives of paragraph "a" or this
45 paragraph, or to prevent unfair competition, shall
46 make such timely determinations as are necessary to
47 ascertain if a violation of paragraph "a" or this
48 paragraph, or a violation of the board's rules or an
49 order, has occurred."

50 3. Page 77, by striking line 11 and inserting the

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1 following:

2 "11. TREATMENT FOR CERTAIN NONUTILITY AFFILIATE
3 SERVICES. In addition to the requirements of
4 subsection 10, a delivery service".

5 4. Page 77, line 15, by striking the word "and"
6 and inserting the following: "or".

7 5. Page 77, line 35, by inserting after the word
8 "office." the following: "This subsection, with
9 respect to work other than that identified in this
10 subsection, shall not be construed to prohibit the use
11 of those employees of a delivery service provider that
12 is an electric company who are covered by a collective
13 bargaining agreement from performing, or being used in
14 the performance of, work for its affiliates; provided
15 that a delivery service provider that is an electric
16 company complies with all other provisions in this
17 chapter, including the prohibitions on cross-
18 subsidization and any relevant rules or orders issued
19 by the board, including transfer pricing rules,
20 regarding the use of such vehicles, service tools and
21 instruments, or employees."

22 6. Page 78, line 1, by inserting after the word
23 "provider" the following: "that is an electric
24 company".

25 7. Page 78, lines 2 and 3, by striking the words
26 "and employees to market its systems, services, and
27 equipment" and inserting the following: "or
28 employees".

29 8. Page 151, line 15, by striking the words
30 "sales practices" and inserting the following:
31 "competitive or sales practices, including the
32 existence of a cross-subsidy,".

By HOFFMAN of Crawford
SHEY of Linn
LARSON of Linn
HAHN of Muscatine
KETTERING of Sac
DAVIS of Wapello
RAECKER of Polk
SUNDERBRUCH of Scott
WARNSTADT of Woodbury

MARTIN of Scott
HEATON of Henry
JAGER of Black Hawk
WISE of Lee
THOMSON of Linn
CHIDO of Polk
CATALDO of Polk
VAN ENGELENHOVEN of Mahaska
BAUDLER of Adair

H-8667 FILED MARCH 30, 2000

HOUSE FILE 2530

H-8671

1 Amend House File 2530 as follows:

2 1. Page 54, line 35, by striking the word and
3 figure "chapter 6B" and inserting the following:
4 "section 6B.46 with respect to a utility or part of a
5 utility within a proposed municipally assigned service
6 area".

7 2. Page 166, by inserting after line 18 the
8 following:

9 "Sec. _____. Section 364.2, subsection 4, Code 1999,
10 is amended by adding the following new paragraph:

11 NEW PARAGRAPH. g. If the revenue collected
12 pursuant to the assessment of a franchise fee is
13 negatively impacted by the enactment and
14 implementation of chapter 476B, the city assessing
15 such fee and the person franchised shall negotiate an
16 amendment to the franchise granted by the city to such
17 person which will result in the collection of revenues
18 comparable to the revenue that would have been
19 collected by the city if chapter 476B had not been
20 enacted. The city is not required to comply with the
21 public hearing, election, and notice requirements of
22 paragraphs "a", "b", and "c" for purposes of
23 negotiating and approving such amendment."

By CHIODO of Polk
METCALF of Polk

H-8671 FILED MARCH 30, 2000

HOUSE FILE 2530

H-8726

1 Amend the amendment, H-8361, to House File 2530, as
2 follows:

3 1. Page 1, line 3, by striking the words "or
4 county government entity" and inserting the following:
5 ", within the city's corporate limits, or a county
6 governmental entity, in unincorporated areas,".

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

9 "_____. Page 84, line 30, by striking the words
10 "its jurisdiction" and inserting the following: "the
11 jurisdiction of the city or county governmental
12 entity"."

By BRADLEY of Clinton

H-8726 FILED APRIL 4, 2000

HOUSE FILE 2530

H-8861

1 Amend House File 2530 as follows:

2 1. Page 37, by inserting after line 4 the
3 following:

4 "(v) The market price as determined by the board
5 is less than the generation component of standard
6 offer service reflected in rates on October 1, 2006,
7 adjusted for the annual inflation factor as defined in
8 section 422.4."

9 2. Page 42, line 20, by inserting after the word
10 "supply." the following: "Beginning on October 1,
11 2006, notwithstanding the cost of acquiring
12 competitive power supply services, the utilities board
13 shall not approve an increase in the generation
14 component of each standard offer service rate by more
15 than the annual inflation factor as defined in section
16 422.4."

By VAN ENGELENHOVEN of Mahaska
GREINER of Washington
ARNOLD of Lucas

HOUSER of Pottawattamie
REYNOLDS of Van Buren
MUNDIE of Webster

H-8861 FILED APRIL 12, 2000

HOUSE FILE 2530

H-8908

1 Amend the amendment, H-8523, to House File 2530, as
2 follows:

3 1. Page 4, by inserting after line 22 the
4 following:

5 "_____. By striking page 92, line 8, through page
6 94, line 30.

7 _____ . By striking page 97, line 9 through page
8 100, line 9, and inserting the following:

9 "The Iowa energy center and center for global and
10 regional environmental research shall conduct
11 environmental assessments. The Iowa energy center and
12 center for global and regional environmental research
13 shall each provide a written annual report to the
14 board which describes each center's activities and the
15 results that each center has accomplished. Each
16 report shall include an explanation of initiatives and
17 projects of importance to the state."

18 2. Page 8, line 2, by striking the word and
19 figures "103, line 34" and inserting the following:
20 "106, line 12".

21 3. By striking page 10, line 25, through page 11,
22 line 46.

23 4. Page 14, by striking line 12 and inserting the
24 following: "surcharge.

25 5A. FUNDING -- NONBYPASSABLE SURCHARGE.

26 a. The programs established in this section shall
27 be funded by all end-use consumers through a
28 nonbypassable monthly surcharge on all distribution
29 services within a delivery service provider's assigned
30 service area, including service provided under rates
31 or charges pursuant to section 476B.8. The monthly
32 surcharge shall be collected by the person billing the
33 end-use consumer for the service. The monthly
34 surcharge shall commence with bills issued on October
35 1, 2002. The monthly surcharge for each customer
36 class shall be as follows:

37 (1) One dollar and fifty cents for a residential
38 electric account.

39 (2) One dollar and fifty cents for a
40 nonresidential electric account with an annual usage
41 of less than twenty-five thousand kilowatt-hours in
42 the prior calendar year.

43 (3) Ten dollars for a nonresidential electric
44 account with an annual usage of twenty-five thousand
45 kilowatt-hours to one hundred thousand kilowatt-hours
46 in the prior calendar year.

47 (4) Thirty-six dollars for a nonresidential
48 electric account with an annual usage of more than one
49 hundred thousand kilowatt-hours to four hundred
50 thousand kilowatt-hours in the prior calendar year.

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1 (5) One hundred fifty dollars for a nonresidential
2 electric account with an annual usage of more than
3 four hundred thousand kilowatt-hours to one million
4 five hundred thousand kilowatt-hours in the prior
5 calendar year.

6 (6) Seven hundred fifty dollars for a
7 nonresidential electric account with an annual usage
8 of more than one million five hundred thousand
9 kilowatt-hours to six million kilowatt-hours in the
10 prior calendar year.

11 (7) Five thousand five hundred dollars for a
12 nonresidential electric account with an annual usage
13 of more than six million kilowatt-hours in the prior
14 calendar year.

15 b. For the purpose of determining the monthly
16 surcharge under paragraph "a", the term "accounts" may
17 be interpreted by the board in appropriate
18 circumstances to mean end-use consumers. After the
19 first twelve-month period that moneys are collected
20 pursuant to this subsection, the monthly surcharge
21 amounts shall be adjusted by the board as necessary to
22 yield no less than seventy-nine million dollars
23 annually and no more than eighty million dollars
24 annually. For a nonresidential consumer with no prior
25 calendar-year usage, the delivery service provider may
26 use a reasonable estimate of the consumer's usage.
27 The board, by rule, shall provide a schedule for
28 remittances. The initial rules shall be proposed by
29 December 1, 2001.

30 c. All moneys collected pursuant to this
31 subsection shall be remitted to the treasurer of the
32 state and deposited as follows:

33 (1) Twenty-three million five hundred thousand
34 dollars in a separate account to be used for the low-
35 income affordability program and a low-income energy
36 efficiency program as provided under subsection 1.
37 The treasurer shall make disbursements from this
38 account as appropriate. Notwithstanding section 8.33,
39 the unencumbered or unobligated moneys remaining at
40 the end of any fiscal year from the allocation made in
41 this subparagraph shall not revert but shall be
42 available for expenditure during subsequent fiscal
43 years until expended for the purposes for which
44 originally appropriated. Interest or earnings on
45 investments or time deposits of the moneys in the
46 account shall be retained for the purposes designated
47 under subsection 1.

48 After the third year of the program, the board
49 shall annually adjust the levels of surcharges on
50 electric accounts under paragraph "a" based on the

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1 total program budget developed by the division. When
2 determining the per account charge, the board shall
3 not substantially deviate from the cost allocation
4 among consumer groups reflected in the initial funding
5 charges. Any increase in monthly surcharges as
6 provided in this subparagraph shall not go into effect
7 without prior approval by joint resolution as adopted
8 by the general assembly.

9 For purposes of this paragraph, "division" means
10 the division of community action agencies within the
11 department of human rights or its successor.

12 (2) Two million dollars in a separate account to
13 be used for environmental assessment as provided under
14 subsection 3. Eighty-five percent of the amounts
15 allocated to this account are appropriated to the Iowa
16 energy center created in section 266.39C. Fifteen
17 percent of the amounts allocated to this account are
18 appropriated to the center for global and regional
19 environmental research established by the state board
20 of regents. Notwithstanding section 8.33, the
21 unencumbered or unobligated moneys remaining in the
22 account at the end of any fiscal year shall not revert
23 and shall be retained by the centers for the purposes
24 designated. Notwithstanding section 12C.7, subsection
25 2, interest or earnings on investments or time
26 deposits of the moneys in the account shall be
27 retained and used for the purposes designated under
28 subsection 3.

29 The Iowa energy center and the center for global
30 and regional environmental research shall each provide
31 a report to the legislative fiscal committee on a
32 monthly basis regarding any expenditures of funds
33 associated with each center's activities under this
34 subparagraph. A monthly report shall cover a calendar
35 month and is due the tenth day of the following month.

36 (3) Fifty-three million five hundred thousand
37 dollars in the environmental fund created in
38 subsection 4. The treasurer of state shall make
39 disbursements from this fund as requested by the
40 department of natural resources. The unencumbered or
41 unobligated moneys remaining in the fund at the end of
42 any fiscal year shall not revert but shall be
43 available for expenditure during subsequent fiscal
44 years. Notwithstanding section 12C.7, subsection 2,
45 interest or earnings on investments or time deposits
46 of the moneys deposited in the environmental fund
47 shall be credited to the fund.

48 d. Amounts collected pursuant to this subsection
49 and remitted to the treasurer of state are
50 appropriated for the purposes provided in this

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1 subsection and shall not be subject to appropriation
2 for any other purpose by the general assembly, but
3 shall be used only for the purposes set forth in this
4 section.""

5 5. By renumbering as necessary.

By HOLMES of Scott

H-8908 FILED APRIL 17, 2000

HOUSE FILE 2530

H-8920

1 Amend House File 2530 as follows:

2 1. Page 47, line 34, by inserting after the word
3 "provisions." the following: "The board shall adopt
4 appropriate benchmarks regarding outage duration and
5 delivery service restoration. In adopting benchmarks,
6 the board shall give due consideration to historical
7 data and shall also address outages of extended
8 duration."

9 2. Page 48, line 12, by inserting after the word
10 "and" the following: "continual".

11 3. Page 79, by inserting after line 25 the
12 following:

13 "(5) Until January 1, 2006, any reduction of ten
14 percent or more in employment levels of delivery
15 service employees engaged in installing, operating, or
16 maintaining delivery services and facilities that
17 occurs within any twelve-month period, whether by
18 means of layoff, termination, retirement, severance,
19 or attrition."

20 4. Page 118, line 27, by inserting after the word
21 "detrimental" the following: "or retaliatory".

22 5. Page 118, line 29, by inserting after the word
23 "board." the following: "In addition to the remedies
24 and penalties in section 476B.20, the board may order
25 a delivery service provider that is an electric
26 company to reinstate an employee affected by a
27 violation of this subsection."

28 6. Page 125, line 16, by inserting after the word
29 "PROVIDERS." the following: "a."

30 7. Page 125, by inserting after line 31 the
31 following:

32 "b. For the purpose of recovering start-up costs
33 under this subsection, the following shall be presumed
34 to be reasonable costs incurred pursuant to section
35 476B.24:

36 (1) Lump sum tuition reimbursement at any college,
37 vocational or technical school, or other similar
38 program in this state attended by the employee within
39 two years of the employee's severance, equivalent to
40 one year's tuition or three thousand dollars,
41 whichever is greater.

42 (2) Lump sum reimbursements of health or medical
43 insurance coverage at existing coverage and
44 contribution levels for the employee and eligible
45 family members for a period of twenty-four months
46 following the employee's severance or until the
47 employee obtains health care coverage under another
48 employee health care coverage plan, whichever period
49 is shorter.

50 (3) The lump sum value of any early retirement

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1 program offered to those employees affected by loss of
2 employment that includes supplemental payments of at
3 least seven hundred twenty dollars per month and
4 continued health care coverage at applicable rates in
5 effect for active employees until age sixty-two.

6 (4) Lump sum severance payments based on years of
7 service and rates of pay in effect on the date of
8 separation for at least ten percent of the employee's
9 base pay for employees with one through five years of
10 service; fifty percent of base pay for employees with
11 six through ten years of service; and seventy-five
12 percent of base pay for employees with eleven or more
13 years of service, but in no event less than two weeks
14 of weekly base pay for each year of full-time
15 employment."

16 8. Page 125, line 32, by inserting before the
17 words "An electric" the following: "c."

18 9. Page 156, by striking lines 34 and 35 and
19 inserting the following: "2006, that affiliate shall
20 continue to employ the utility's nonsupervisory
21 employees who were employed by the utility at such
22 division, business unit, generating station, or
23 generating unit at the time of the transfer under the
24 same terms and conditions of employment as those
25 employees enjoyed at the time of the transfer. If the
26 ownership of the affiliate is".

27 10. Page 157, line 3, by striking the words
28 "continue to".

29 11. By renumbering as necessary.

By WISE of Lee

JENKINS of Black Hawk

H-8920 FILED APRIL 17, 2000

HOUSE FILE 2530

H-8921

1 Amend the amendment, H-8523, to House File 2530, as
2 follows:

3 1. Page 1, line 15, by inserting after the word
4 "percent." the following: "In any given year, these
5 requirements shall be reduced by the percentage of
6 total kilowatt-hours of retail sales in this state
7 represented by renewable energy, the costs of which
8 have been recovered through charges provided for under
9 section 476B.15, subsection 3."

10 2. Page 2, line 2, by inserting after the word
11 "displacement." the following: "To the extent not
12 inconsistent with a renewable energy credit system
13 established by federal law or rule, credits shall only
14 be issued for renewable energy facilities constructed
15 after January 1, 2000."

16 3. Page 4, lines 13 and 14, by striking the words
17 "renewable energy and emissions reduction" and
18 inserting the following: "environmental".

19 4. Page 4, by inserting after line 22 the
20 following:

21 "_____. Page 93, by striking lines 7 through 10 and
22 inserting the following:

23 "(g) Amounts as determined by the board after
24 January 15, 2001, for nonresidential electric account
25 with an annual usage of more than six million
26 kilowatt-hours. The board, after affording all
27 interested persons a reasonable opportunity to comment
28 and provide information concerning the amounts of the
29 surcharges to be charged under this subparagraph
30 subdivision, shall determine the amounts of the
31 monthly surcharges. The monthly surcharges shall be
32 designed to produce, in a manner that is fair and
33 equitable to the affected end-use consumers, a total
34 of seven million two hundred five thousand two hundred
35 sixty-nine dollars annually from such accounts."

36 "_____. Page 93, line 22, by striking the figure
37 "(4)" and inserting the following: "(d)".

38 "_____. Page 93, line 26, by striking the figure
39 "(5)" and inserting the following: "(e)".

40 "_____. Page 93, line 30, by striking the figure
41 "(6)" and inserting the following: "(f)".

42 "_____. Page 93, line 34, by striking the figure
43 "(7)" and inserting the following: "(g)".

44 "_____. Page 94, line 1, by inserting after the word
45 "year." the following: "The monthly surcharge under
46 this subparagraph subdivision shall only apply to an
47 account that received electric service from the
48 consumer-owned utility prior to October 1, 2002."

49 "_____. Page 94, by inserting after line 1 the
50 following:

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1 "(4) The board, after affording all interested
2 persons a reasonable opportunity to comment and
3 provide information concerning the amounts of the
4 surcharges to be assessed under this paragraph against
5 nonresidential electric accounts with annual usage of
6 more than six million kilowatt-hours, shall determine
7 the amounts of the monthly surcharges to be assessed
8 against new nonresidential electric accounts of end-
9 use consumers with annual usage of more than six
10 million kilowatt-hours that first receives electric
11 service on or after October 1, 2002. The monthly
12 surcharges shall be designed to produce an amount that
13 is fair and equitable to the affected end-use
14 consumers and are applicable to the assigned service
15 areas of electric companies and consumer-owned
16 utilities. A monthly surcharge collected from a new
17 end-use consumer shall not exceed the monthly
18 surcharge to be collected from a similar existing end-
19 use consumer that is located in the assigned service
20 area of a delivery service provider that is an
21 electric company and was receiving electric service
22 prior to October 1, 2002."

23 _____. Page 94, line 2, by striking the word "For"
24 and inserting the following: "(5) For".

25 _____. Page 94, line 11, by striking the word "All"
26 and inserting the following: "(6) All".

27 _____. Page 94, line 22, by striking the word
28 "After" and inserting the following: "(7) After".

29 _____. Page 98, by striking lines 6 through 9, and
30 inserting the following:

31 "(g) Amounts as determined by the board after
32 January 15, 2001, for nonresidential electric accounts
33 with an annual usage of more than six million
34 kilowatt-hours. The board, after affording all
35 interested persons a reasonable opportunity to comment
36 and provide information concerning the amounts of the
37 surcharges to be charged under this subparagraph
38 subdivision, shall determine the amounts of the
39 monthly surcharges. The monthly surcharges shall be
40 designed to produce, in a manner that is fair and
41 equitable to the affected consumers, a total of six
42 hundred thirteen thousand two hundred fourteen dollars
43 annually from such accounts."

44 _____. Page 98, line 34, by inserting after the
45 word "year." the following: "The monthly surcharge
46 under this subparagraph subdivision shall only apply
47 to an account that received electric service from the
48 consumer-owned utility prior to October 1, 2002."

49 _____. Page 98, by inserting after line 34 the
50 following:

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1 "(3A) The board, after affording all interested
2 persons a reasonable opportunity to comment and
3 provide information concerning the amounts of the
4 surcharges to be charged under this subsection against
5 nonresidential electric accounts with annual usage of
6 more than six million kilowatt-hours, shall determine
7 the monthly surcharges to be assessed against new
8 nonresidential electric accounts of end-use consumers
9 with annual usage of more than six million kilowatt-
10 hours that first receive electric service on or after
11 October 1, 2002. The monthly surcharges shall be
12 designed to produce an amount that is fair and
13 equitable to the affected end-use consumers and are
14 applicable to the assigned service areas of electric
15 companies and consumer-owned utilities. A monthly
16 surcharge collected from a new end-use consumer shall
17 not exceed the monthly surcharge to be collected from
18 a similar existing end-use consumer that is located in
19 the assigned service area of a delivery service
20 provider that is an electric company and was receiving
21 electric service prior to October 1, 2002."

22 5. Page 4, by striking lines 30 through 37.

23 6. Page 6, by striking lines 2 through 7 and
24 inserting the following: "degrees of firmness of
25 production and delivery. The oversight".

26 7. Page 9, lines 4 and 5, by striking the words
27 "renewable energy and emissions reduction" and
28 inserting the following: "environmental".

29 8. Page 9, lines 18 and 19, by striking the words
30 "renewable energy and emissions reduction" and
31 inserting the following: "environmental".

32 9. Page 10, lines 25 and 26, by striking the
33 words "renewable energy and emissions" and inserting
34 the following: "environmental".

35 10. Page 10, by inserting after line 26 the
36 following:

37 "_____. Page 103, line 35, by striking the word
38 "reduction"."

39 11. Page 11, by striking lines 6 through 11 and
40 inserting the following:

41 "_____. By striking page 104, line 35, through page
42 105, line 3, and inserting the following:

43 "(g) Amounts as determined by the board after
44 January 15, 2001, for nonresidential electric accounts
45 with an annual usage of more than six million
46 kilowatt-hours. The board, after affording all
47 interested persons a reasonable opportunity to comment
48 and provide information concerning the amounts of the
49 surcharges to be charged under this subparagraph
50 subdivision, shall determine the amounts of the

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1 monthly surcharges. The monthly surcharges shall be
2 designed to produce, in a manner that is fair and
3 equitable to the affected consumers, a total of
4 seventeen million one hundred seventy thousand two
5 dollars annually from such accounts.""

6 12. Page 11, by inserting after line 29 the
7 following:

8 "____. Page 105, line 29, by inserting after the
9 word "year." the following: "The monthly surcharge
10 under this subparagraph subdivision shall only apply
11 to an account that received electric service from the
12 consumer-owned utility prior to October 1, 2002."

13 "____. Page 105, by inserting after line 29 the
14 following:

15 "(3A) The board, after affording all interested
16 persons a reasonable opportunity to comment and
17 provide information concerning the amounts of the
18 surcharges to be charged under this paragraph against
19 nonresidential electric accounts with annual usage of
20 more than six million kilowatt-hours, shall determine
21 the amounts of the monthly surcharges to be assessed
22 against new nonresidential electric accounts of end-
23 use consumers with annual usage of more than six
24 million kilowatt-hours that first receives electric
25 service on or after October 1, 2002. The monthly
26 surcharges shall be designed to produce an amount that
27 is fair and equitable to the affected end-use
28 consumers and are applicable to the assigned service
29 areas of electric companies and consumer-owned
30 utilities. A monthly surcharge collected from a new
31 end-use consumer shall not exceed the monthly
32 surcharge to be collected from a similar existing end-
33 use consumer that is located in the assigned service
34 area of a delivery service provider that is an
35 electric company and was receiving electric service
36 prior to October 1, 2002.""

37 13. Page 11, lines 45 and 46, by striking the
38 words "renewable energy and emissions reduction" and
39 inserting the following: "environmental".

40 14. Page 13, line 8, by striking the words
41 "renewable energy and emissions reduction" and
42 inserting the following: "environmental".

43 15. Page 14, by inserting after line 12 the
44 following:

45 "____. Page 176, by inserting after line 18 the
46 following:

47 "Sec. ____ . CONSUMER-OWNED UTILITIES REPORT. On or
48 before January 15, 2001, the Iowa association of
49 electric cooperatives and the Iowa association of
50 municipal utilities may submit a joint written report

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1 to the general assembly setting forth any conclusions
2 of the associations concerning whether the
3 nonbypassable monthly surcharges assessed against end-
4 use consumers as provided in section 476B.13,
5 subsection 1, paragraph "f", subparagraph (3),
6 subparagraph subdivision (g); section 476B.13,
7 subsection 3, paragraph "a", subparagraph (3),
8 subparagraph subdivision (g); and section 476B.13,
9 subsection 4, paragraph "j", subparagraph (3),
10 subparagraph subdivision (g); should remain the same
11 or be adjusted. If the associations recommend that
12 such monthly surcharges be adjusted, such adjustments
13 shall be designed to annually produce seven hundred
14 twenty-eight thousand one hundred fifty-seven dollars
15 under section 476B.13, subsection 1, paragraph "f",
16 subparagraph (3), subparagraph subdivision (g); sixty-
17 one thousand nine hundred seventy-one dollars under
18 section 476B.13, subsection 3, paragraph "a",
19 subparagraph (3), subparagraph subdivision (g); and
20 eight hundred ninety-three thousand four hundred nine
21 dollars under section 476B.13, subsection 4, paragraph
22 "j", subparagraph (3), subparagraph subdivision (g)."
23 16. By renumbering as necessary.

By JENKINS of Black Hawk

H-8921 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8924

1 Amend the amendment, H-8523, to House File 2530 as
2 follows:

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

5 "____. Page 1, by inserting after line 22 the
6 following:

7 "____. The use of securitization as provided in
8 this chapter will result in net savings that can be
9 shared with end-use consumers to reduce end-use
10 consumer charges.""

11 2. Page 4, by inserting after line 22 the
12 following:

13 "____. Page 96, by inserting after line 28 the
14 following:

15 "1. INTERIM LOW-INCOME ASSISTANCE. Incumbent
16 providers that are electric companies shall
17 collectively advance to the division a total of seven
18 million dollars on October 1, 2000, and a total of
19 seven million dollars on October 1, 2001. The
20 percentage of the total contributed by each electric
21 company shall be determined by the board. The amounts
22 advanced shall be used by the division for low-income
23 affordability assistance and low-income energy
24 efficiency assistance prior to the commencement of the
25 funding under paragraph "f". The electric companies
26 shall be reimbursed on or before October 1, 2002,
27 without interest, for the funds each advanced.
28 Reimbursement shall be from the interim fund
29 established in subsection 4, paragraph "i.""

30 3. Page 10, by inserting after line 24 the
31 following:

32 "(g) Fourteen million dollars to the board to
33 reimburse incumbent providers that are electric
34 companies on October 1, 2002, for funds advanced
35 pursuant to subsection 1, paragraph "l"."

36 4. Page 14, by inserting after line 12 the
37 following:

38 "____. Page 129, by inserting after line 17 the
39 following:

40 "d. Securitization creates net savings that can be
41 shared with end-use consumers to reduce consumer
42 charges by one percent or more, and sharing such
43 savings shall be required as a condition of board
44 authorization of securitization."

45 "____. Page 130, by inserting after line 31 the
46 following:

47 "(__). An amount sufficient to reduce standard
48 offer service rates by one percent.""

49 5. By renumbering and relettering as necessary.

By WISE of Lee

JENKINS of Black Hawk

HOUSE FILE 2530

H-8928

1 Amend House File 2530 as follows:

2 1. Page 73, line 8, by inserting after the word
3 "business." the following: "To the extent that a
4 delivery service provider that is an electric company
5 provides, transfers, or otherwise conveys any assets,
6 whether tangible or intangible, including labor and
7 capital, or goods or services other than tariffed
8 goods or services, to or for the benefit of such
9 provider's unregulated affiliates, the board, for the
10 purpose of establishing rates or otherwise assuring
11 compliance with this chapter and the rules of the
12 board, shall value such transactions at the market
13 price. If the market price cannot be determined, such
14 transactions shall be valued using the fully
15 distributed cost of such assets, goods, or services.
16 However, such valuation shall not apply to the use of
17 an electric company's name and logo or to transactions
18 under subsection 12, paragraph "a", subparagraph (4),
19 except for those assets, goods, or services which are
20 transferred or provided in such transaction to an
21 unregulated affiliate company which competes with
22 nonaffiliated persons engaged in the businesses
23 identified in subsection 11, paragraphs "a" and "b",
24 or in the business of installing and maintaining
25 plumbing and refrigeration equipment or in the
26 business of installing or maintaining electrical or
27 mechanical equipment on the end-use consumer's side of
28 the main disconnect. The board may implement, by
29 rule, order, or other appropriate action, the intent
30 of this subsection to prevent the creation of unfair
31 competitive advantage, maintain competition, and
32 protect consumers. In addition, the board, after
33 notice and opportunity for comment, may waive the
34 requirements of this paragraph with respect to
35 transfer pricing and adopt rules containing
36 alternative pricing methods provided such alternative
37 pricing methods are in the public interest and are
38 consistent with the intent of this subsection."

39 2. Page 73, by striking lines 9 through 15 and
40 inserting the following:

41 "b. A delivery service provider that is an
42 electric company shall only provide regulated services
43 in a manner designed to avoid cross-subsidization of
44 unregulated services and in a manner that, as a result
45 of the provision of such services or as a result of
46 transactions with its unregulated affiliates, does not
47 confer an unfair competitive advantage upon such
48 affiliates which compete with nonaffiliated persons.
49 The board, upon complaint and for purposes of
50 achieving the objectives of paragraph "a" or this

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1 paragraph, or to prevent unfair competition, shall
2 make such timely determinations as are necessary to
3 ascertain if a violation of paragraph "a" or this
4 paragraph, or a violation of the board's rules or an
5 order, has occurred."

6 3. Page 77, by striking line 11 and inserting the
7 following:

8 "11. TREATMENT FOR CERTAIN NONUTILITY AFFILIATE
9 SERVICES. In addition to the requirements of
10 subsection 10, a delivery service".

11 4. Page 77, line 15, by striking the word "and"
12 and inserting the following: "or".

13 5. Page 77, line 35, by inserting after the word
14 "office." the following: "This subsection, with
15 respect to work other than that identified in this
16 subsection, shall not be construed to prohibit the use
17 of those employees of a delivery service provider that
18 is an electric company who are covered by a collective
19 bargaining agreement from performing, or being used in
20 the performance of, work for its affiliates; provided
21 that a delivery service provider that is an electric
22 company complies with all other provisions in this
23 chapter, including the prohibitions on cross-
24 subsidization and any relevant rules or orders issued
25 by the board, including transfer pricing rules,
26 regarding the use of such vehicles, service tools and
27 instruments, or employees."

28 6. Page 78, line 1, by inserting after the word
29 "provider" the following: "that is an electric
30 company".

31 7. Page 78, lines 2 and 3, by striking the words
32 "and employees to market its systems, services, and
33 equipment" and inserting the following: "or
34 employees".

35 8. Page 151, line 15, by striking the words
36 "sales practices" and inserting the following:
37 "competitive or sales practices, including the
38 existence of a cross-subsidy".

By HOFFMAN of Crawford

H-8928 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8929

1 Amend the amendment, H-8523, to House File 2530, as
2 follows:

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

5 "_____. Page 12, lines 5 and 6, by striking the
6 words "refuse-derived fuel,".

7 "_____. Page 12, line 10, by striking the words "one
8 hundred" and inserting the following: "twenty-five".

9 2. Page 1, line 5, by striking the word
10 "Commencing" and inserting the following: "(a)
11 Commencing".

12 3. Page 1, by striking lines 15 and 16 and
13 inserting the following: "increase to eight percent.

14 (b) For purposes of calculating an amount under
15 subparagraph subdivision (a), the following apply:

16 (i) For purposes of the four percent requirement,
17 no more than one-half of the renewable energy or
18 renewable energy credits shall be attributable from
19 existing facilities brought on line prior to January
20 1, 2000.

21 (ii) For purposes of the six percent requirement,
22 no more than one-third of the renewable energy or
23 renewable energy credits shall be attributable from
24 existing facilities brought on line prior to January
25 1, 2000.

26 (iii) For purposes of the eight percent
27 requirement, no more than one-quarter of the renewable
28 energy or renewable energy credits shall be
29 attributable from existing facilities brought on line
30 prior to January 1, 2000."

31 4. Page 1, by striking lines 24 and 25 and
32 inserting the following: "energy facility. The
33 output of the facility must be readily capable of
34 being physically metered and verified in this state by
35 the board."

36 5. Page 1, by striking lines 42 through 44 and
37 inserting the following: "credits."

38 6. Page 1, line 49, by striking the word
39 "facility" and inserting the following: "facility."

40 7. By striking page 1, line 50, through page 2,
41 line 2, and inserting the following: "The output of
42 the facility must be readily capable of being
43 physically metered and verified in this state by the
44 board. Credits may be for more than one-".

45 8. Page 2, by striking lines 3 through 5 and
46 inserting the following: "year duration."

47 9. Page 2, by striking lines 8 through 13 and
48 inserting the following: "requirements of paragraph
49 "a" that permits an end-use consumer with a qualifying
50 small renewable energy facility to use net billing.

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1 "Net billing" means that the".

2 10. Page 2, lines 16 and 17, by striking the
3 words "only for the difference in an applicable
4 billing period" and inserting the following: "for the
5 difference".

6 11. Page 2, line 21, by inserting after the word
7 "facility." the following: "If electricity generated
8 by the consumer-generator exceeds the electricity
9 supplied by the competitive electric service provider,
10 the consumer-generator shall not be billed for the
11 energy but only for usual consumer charges for the
12 applicable billing period and shall be credited for
13 the excess kilowatt-hours generated during the
14 applicable billing period, with the kilowatt-hour
15 credit appearing on the consumer-generated electricity
16 billing for the following applicable billing period.
17 On September 30 of each calendar year, any accumulated
18 unused kilowatt-hour credits shall be purchased at a
19 rate per kilowatt-hour to be determined by the board.
20 The rate per kilowatt-hour determined by the board
21 shall not be more than the rate at which the consumer-
22 generator would have been billed for a kilowatt-hour
23 supplied to the consumer-generator during the most
24 recent billing period."

25 12. Page 2, by striking lines 24 through 27 and
26 inserting the following: "located on the property of
27 the end-use consumer; serves the electricity energy
28 needs of the end-use customer; and is operated in
29 parallel with the".

30 13. Page 2, line 31, by inserting after the word
31 "availability" the following: "plus one hundred
32 percent of the kilowatt-hours purchased on September
33 30 of each year".

34 14. Page 2, by inserting after line 31 the
35 following:

36 "(2A) Credits may be certified by the board if
37 they are issued by another state government for
38 kilowatt-hours produced by a qualifying renewable
39 energy facility that would qualify for credits in this
40 state if produced in this state, if such energy is
41 able to be metered in this state, and if that energy
42 is verified by the board as not being used to serve or
43 otherwise claimed as applicable to renewable energy
44 sales requirements outside this state."

45 15. Page 3, by striking lines 17 through 28 and
46 inserting the following:

47 "d. SHORTFALLS. If the board finds that a service
48 provider fails to acquire sufficient renewable
49 generation, purchase renewable energy, or receive
50 renewable credits as required under this subsection,

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1 the service provider shall be assessed a penalty of
2 fifty dollars per megawatt hour that such provider has
3 failed to generate purchase or receive credits for, or
4 two hundred percent of the average costs of credits
5 traded during the year, as determined by the board.
6 Penalties collected shall be remitted to the
7 environmental fund."

8 16. Page 3, by striking lines 29 through 43 and
9 inserting the following:

10 "e. WAIVERS. (1) The board may waive all or part
11 of the renewable energy portfolio requirements if the
12 board determines that extraordinary circumstances are
13 present and compliance with such requirement would
14 prevent or severely curtail the service provider's
15 ability to participate in the market, or where a
16 consumer-owned utility can demonstrate that a statute
17 or a contract in effect as of January 1, 2000,
18 precludes compliance."

19 17. Page 5, line 8, by striking the words "and
20 otherwise ensure".

21 18. Page 5, lines 26 and 27, by striking the
22 words "prior to the effective date of this Act" and
23 inserting the following: "on or after January 1,
24 1990, but prior to January 1, 2000".

25 19. By striking page 5, line 33, through page 6,
26 line 24.

27 20. Page 7, line 47, by striking the words "At
28 least three" and inserting the following: "Three".

29 21. Page 10, line 27, by striking the word and
30 figure "and 8" and inserting the following: "through
31 11".

32 22. Page 10, by striking lines 30 through 35 and
33 inserting the following: "thousand dollars per year.
34 Surcharge amounts collected shall be used by the
35 department of natural resources for renewable energy
36 or energy efficiency programs as deemed appropriate by
37 the department, after consultation with the advisory
38 committee established in subsection 5, paragraph "b".
39 The monthly surcharge shall commence with bills issued
40 on October 1, 2002. The monthly surcharge for energy
41 efficiency programs shall cease to be collected with
42 bills issued after December 31, 2016. The monthly
43 surcharge for renewable energy programs shall cease to
44 be collected with bills issued after December 31,
45 2021."

46 23. Page 12, by striking lines 19 and 20 and
47 inserting the following:

48 "() One person representing the Iowa energy
49 center at Iowa state university of science and
50 technology, appointed by its president.

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1 () One person representing the center for global
2 and regional environmental research at the university
3 of Iowa, appointed by its president.

4 () One person representing the center for energy
5 and environmental education at the university of
6 northern Iowa, appointed by its president.

7 () One person representing the department of
8 natural resources."

9 . Page 108, by inserting after line 25 the
10 following:

11 "The department of natural resources shall convene
12 the initial meeting of the advisory committee. The
13 committee shall conduct additional meetings as it
14 deems necessary."

15 24. Page 14, by striking lines 9 through 12.

16 25. By renumbering, relettering, or redesignating
17 and correcting internal references as necessary.

By WITT of Black Hawk

H-8929 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8934

1 Amend House File 2530 as follows:
2 1. Page 155, by striking lines 14 through 28 and
3 inserting the following: "impact of such workforce
4 reduction on its employees. An electric utility shall
5 develop a workforce reduction plan not less than one
6 hundred twenty days in advance of any planned
7 workforce reduction which results from restructuring
8 of the electric utility industry during the period
9 between the effective date of this chapter and January
10 1, 2007. A workforce reduction plan shall include
11 lump sum severance provisions, lump sum early
12 retirement provisions, lump sum reimbursements for
13 medical insurance, and lump sum tuition reimbursements
14 which are equivalent to the prevailing industry
15 standard for workforce reduction plans at the time the
16 electric company announces a workforce reduction. If
17 the employees of an electric company are represented
18 by a labor organization, the collective bargaining
19 agreement shall remain in effect and the provisions of
20 this chapter shall not decrease or limit any benefit
21 set forth in such agreement. The electric utility and
22 the representatives of the affected workforce may
23 negotiate any changes and if an agreement is not
24 reached within sixty days, shall proceed to binding
25 arbitration. An arbitrator's award shall not decrease
26 or limit any benefit set forth in an existing
27 collective bargaining agreement. If such employees
28 are not represented by a labor organization and will
29 involuntarily lose employment, the electric utility
30 shall develop a workforce reduction plan in accordance
31 with the provisions of this subsection and to the
32 satisfaction of its board of directors, if an electric
33 company, or its governing body, if a consumer-owned
34 utility. Workforce reductions shall not occur unless
35 the electric utility complies with the above stated
36 provisions. For purposes of this section,".

By CHIODO of Polk

H-8934 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8935

1 Amend the amendment, H-8523, to House File 2530 as
2 follows:
3 1. Page 9, by striking lines 36 and 37 and
4 inserting the following: "shall be paid on any funds
5 advanced at a rate determined by the board based on
6 the actual cost of capital to such electric company."

By CHIODO of Polk

H-8935 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8936

1 Amend the amendment, H-8545, to House File 2530, as
2 follows:

3 1. Page 1, line 10, by striking the words "and up
4 to fifty thousand dollars".

By CHIODO of Polk

H-8936 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8937

1 Amend the amendment, H-8546, to House File 2530, as
2 follows:

3 1. Page 1, line 11, by inserting after the word
4 "employee" the following: "'or other person'".

By CHIODO of Polk

H-8937 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8947

1 Amend House File 2530 as follows:

2 1. Page 94, by inserting after line 30 the
3 following:

4 "If the federal government reduces or eliminates
5 funding for programs administered under this
6 subsection, notwithstanding any contrary provision of
7 this subsection, the board shall increase the levels
8 of surcharges on electric accounts in amounts
9 sufficient to replace the amount of federal funding
10 lost, up to a maximum of forty million dollars. When
11 determining the increase in the levels of surcharges
12 under this paragraph, the board shall not
13 substantially deviate from the cost allocation among
14 consumer groups reflected in the initial funding
15 surcharges."

By MURPHY of Dubuque

H-8947 FILED APRIL 18, 2000

HOUSE FILE 2530

H-8998

1 Amend the amendment, H-8523, to House File 2530, as
2 follows:

3 1. Page 12, line 37, by inserting after the word
4 "programs." the following: "The division shall select
5 one or more statewide, nonprofit organizations with
6 experience in tree planting for energy efficiency to
7 administer the tree planting and care programs and the
8 division shall expend an amount not to exceed one
9 million dollars for such programs."

By RAECKER of Polk

H-8998 FILED APRIL 19, 2000

HOUSE FILE 2530

H-9009

1 Amend House File 2530 as follows:

2 1. Page 1, line 1, by inserting after the word
3 "TITLE" the following: "-- CITATION".

4 2. Page 1, by inserting after line 22 the
5 following:

6 "_____. The use of securitization as provided in
7 this chapter will result in net savings that can be
8 shared with end-use consumers to reduce end-use
9 consumer charges."

10 3. Page 129, by inserting after line 17 the
11 following:

12 "d. Securitization creates net savings that can be
13 shared with end-use consumers to reduce consumer
14 charges by one percent or more, and sharing such
15 savings shall be required as a condition of board
16 authorization of securitization."

17 4. Page 130, by inserting after line 31 the
18 following:

19 "(a) An amount sufficient to reduce standard offer
20 service rates by one percent."

21 5. By renumbering as necessary.

By WISE of Lee

H-9009 FILED APRIL 19, 2000