

House Study Bill 218

Bill Text

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1 1 Section 1. NEW SECTION. 476B.1 TITLE.
1 2 This chapter shall be known and may be cited as the
1 3 "Electric Choice and Competition Act".
1 4 Sec. 2. NEW SECTION. 476B.2 LEGISLATIVE FINDINGS.
1 5 The general assembly finds and declares all of the
1 6 following:
1 7 1. Electricity is essential and vital to the health and
1 8 well-being of all the citizens of the state of Iowa.
1 9 2. The citizens of the state are dependent upon the
1 10 availability of reliable, low-cost electricity, which is
1 11 essential to sustained economic development.
1 12 3. Advances in electric generation technology and federal
1 13 initiatives to introduce competition into the wholesale
1 14 electric market favor and compliment the introduction of
1 15 competition into the retail electric market in Iowa.
1 16 4. Restructuring the electric industry to provide greater
1 17 competition and more efficient regulation is a nationwide
1 18 trend, and Iowa must pursue restructuring and increased
1 19 consumer choice to introduce competitive incentives to provide
1 20 electric service at fair and reasonable prices to the
1 21 businesses and citizens of this state.
1 22 5. It is in the public interest to allow and encourage the
1 23 development of competitive markets for electric generation and
1 24 other electric services where possible because a competitive
1 25 market is likely to be more effective than regulation in
1 26 determining the efficient price for these services and in
1 27 promoting efficiency in operations.
1 28 6. A competitive electric market holds the potential for
1 29 end-use consumers of electricity to have access to reliable
1 30 and safe competitive electric services at fair and reasonable
1 31 prices while providing for competitive choice, more effective
1 32 use of resources, and an improved quality and variety of
1 33 competitive electric services.
1 34 7. A competitive electric industry must have adequate and
1 35 reasonable safeguards to protect the public interest.
2 1 Residential and small commercial consumer service safeguards
2 2 and protections shall be maintained or improved.
2 3 8. Encouraging the development of a competitive market can
2 4 be accomplished in a manner that protects the environment.
2 5 9. A competitive market encourages economic development by
2 6 permitting competitive markets to determine the most efficient
2 7 use of resources.
2 8 10. The needs of Iowa's low-income consumers of electric
2 9 services, including the need for economic energy efficiency
2 10 improvements and programs, can be met while restructuring the
2 11 electric industry.
2 12 11. Recognizing that the full costs of generation, fuel,
2 13 power, and energy owned or purchased by an incumbent provider
2 14 or consumer-owned utility, to the extent included in regulated
2 15 rates, have been determined to be just, reasonable, prudent,
2 16 and used and useful, incumbent providers and consumer-owned
2 17 utilities should be afforded an opportunity to prepare for the
2 18 transition from regulation to competition and afforded an
2 19 opportunity to recover a reasonable amount of the costs of the
2 20 transition.
2 21 12. Consumer-owned utilities can participate successfully

2 22 in a competitive electric environment by retaining their local
2 23 control over their own governance, including setting rates,
2 24 terms, and conditions for products and services.

2 25 13. Facilities and personnel needed to maintain the safety
2 26 of the electric supply, as well as all other competitive and
2 27 regulated electric services, must remain available and
2 28 operational.

2 29 14. The establishment of competitive electric markets
2 30 should be undertaken in a manner that mitigates any
2 31 detrimental effect on the safety and reliability of the
2 32 electric system and on utility employees.

2 33 15. Delivery services should remain regulated. In
2 34 recognition of their exclusive assigned service areas,
2 35 delivery service providers should have an obligation to extend
3 1 the delivery grid to all consumers within the assigned service
3 2 area. Standards of conduct for delivery service providers and
3 3 provisions regarding transactions between delivery service
3 4 providers and their affiliates should be implemented.

3 5 16. Full and fair competition in the markets for
3 6 generation and electric services other than delivery service
3 7 should be encouraged and promoted. It is not the intent of
3 8 this chapter to displace applicable antitrust and unfair
3 9 competition laws and the enforcement of the same with respect
3 10 to competitive electric services or to weaken regulation with
3 11 respect to delivery services subject to the jurisdiction of
3 12 the Iowa utilities board.

3 13 Sec. 3. NEW SECTION. 476B.3 DEFINITIONS.

3 14 As used in this chapter, unless the context otherwise
3 15 requires:

3 16 1. "Affiliate" means a person, other than a municipal
3 17 utility or other political subdivision, that directly, or
3 18 indirectly, through one or more intermediaries, controls, is
3 19 controlled by, or is under common control with another person.

3 20 2. "Aggregation" means the process of organizing end-use
3 21 consumers into a group for the acquisition of competitive
3 22 electric services.

3 23 3. "Aggregator" means a person that organizes end-use
3 24 consumers into a group and arranges for the acquisition of
3 25 competitive electric services from a competitive electric
3 26 service provider without taking title to those services.

3 27 4. "Alliance" means a group of electric cooperatives or
3 28 their consumer-owned affiliates.

3 29 5. "Alternative energy" means electric energy measured in
3 30 kilowatt-hours produced from an alternative energy facility.

3 31 6. "Alternative energy facility" means an electric
3 32 generating unit whose energy input is derived, in whole or in
3 33 part, from solar, wind, geothermal, landfill gas, refuse-
3 34 derived fuel, agricultural crops or residues, wood, or other
3 35 renewable energy sources as determined by the board.

4 1 "Alternative energy facility" also includes a hydroelectric
4 2 generating unit with a nameplate capacity or with a contract
4 3 for hydroelectric capacity no greater than one hundred
4 4 megawatts.

4 5 7. "Ancillary services" means those services that are
4 6 necessary to support the transmission of demand and energy
4 7 from generation to the point of usage while maintaining
4 8 reliable operation of the delivery system in accordance with
4 9 good operating practices. Ancillary services, as defined by
4 10 the federal energy regulatory commission as of the effective
4 11 date of this chapter, include all of the following:

4 12 a. Scheduling, system control, and dispatch.

4 13 b. Reactive supply and voltage control from generation
4 14 sources.

4 15 c. Regulation and frequency response.

4 16 d. Energy imbalance.

4 17 e. Operating reserve spinning.

4 18 f. Operating reserve supplemental.

4 19 8. "Assigned service area" means a geographic area
4 20 designated by the board within which a designated person has
4 21 the exclusive right to provide bundled electric services prior
4 22 to May 1, 2002, or unbundled delivery services on or after May
4 23 1, 2002.

4 24 9. "Assignee" means a person, other than an incumbent
4 25 provider or grantee, to which an interest in intangible
4 26 transition property is assigned, sold, or transferred.

4 27 10. "Balancing" means the responsibility of a control area
4 28 operator to make necessary changes in the output of the
4 29 sources of generation under its control to maintain the
4 30 required voltage and frequency of the grid under its control.

4 31 11. "Basic energy service" means power supply services
4 32 provided by a consumer-owned utility to an end-use consumer
4 33 who has not chosen a competitive electric service provider or
4 34 is otherwise without a competitive electric service provider.

4 35 12. "Bilateral contract" means a contract between two
5 1 persons.

5 2 13. "Board" means the Iowa utilities board within the
5 3 department of commerce created in section 474.1.

5 4 14. "Board's website" means an electronic posting site
5 5 maintained or approved by the board.

5 6 15. "Bundled electric service" means combining generation,
5 7 transmission, distribution, and other electric services, and
5 8 pricing the combination as an undifferentiated package rather
5 9 than as individual services.

5 10 16. "Business unit" means a division or other economic
5 11 unit of a person and is considered to be an affiliate of other
5 12 business units of the person.

5 13 17. "Capacity" means a measurement of the electrical
5 14 output of a generating plant usually expressed in kilowatts or
5 15 megawatts.

5 16 18. "Comparable service" means regulated services provided
5 17 to any person on the same or functionally equivalent basis,
5 18 and under the same or functionally equivalent terms and
5 19 conditions, as the regulated services provided by a delivery
5 20 service provider to itself or its affiliates.

5 21 19. "Competitive electric services" means competitive
5 22 electric power supply services sold at retail in this state
5 23 commencing on or after May 1, 2002, in the assigned service
5 24 areas of delivery service providers that are electric
5 25 companies and commencing no later than October 1, 2002, in the
5 26 assigned service areas of consumer-owned utilities. Electric
5 27 metering services, electric meter information gathering
5 28 services, and electric billing services sold at retail in the
5 29 assigned service areas of electric companies by competitive
5 30 electric service providers commencing on or after May 1, 2002,
5 31 and other services of electric companies determined by the
5 32 board after December 31, 2002, to be competitive pursuant to
5 33 this chapter are competitive electric services. Electric
5 34 metering services, electric meter information gathering
5 35 services, and electric billing services sold at retail in the
6 1 assigned service area of a consumer-owned utility by a
6 2 competitive electric service provider shall not be regulated
6 3 by the board or local governing body except as provided in
6 4 this chapter. Services provided pursuant to section 476B.8
6 5 are regulated electric services and not competitive electric
6 6 services.

6 7 20. "Competitive electric service provider" means a person
6 8 that provides or offers to provide competitive electric
6 9 services in this state and includes an aggregator.

6 10 21. "Competitive power supply services" means demand,
6 11 energy, and ancillary services sold at retail in this state,
6 12 excluding scheduling, system control, load profiling and
6 13 financial settlement, when related to distribution, whether
6 14 subject to the regulation of the board or a local governing
6 15 body.

6 16 22. "Consumer-owned utility" means a municipal utility or
6 17 electric cooperative.

6 18 23. "Control" means the possession, direct or indirect, of
6 19 the power to direct or cause the direction of the management
6 20 and policies of a person through ownership, by contract, or
6 21 otherwise.

6 22 24. "Control area" means an electric delivery system or
6 23 combination of electric delivery systems to which a common
6 24 automatic control scheme is applied in order to do the
6 25 following:

6 26 a. Match, at all times, the sum of the power output of the
6 27 generators within the electric delivery systems and demand and
6 28 energy purchased from entities outside the electric delivery
6 29 systems with the load in the electric delivery systems.

6 30 b. Maintain, within the limits of good operating practice,
6 31 scheduled interchange with other control areas.

6 32 c. Maintain the frequency of the electric delivery systems
6 33 within reasonable limits in accordance with good operating
6 34 practices.

6 35 d. Arrange for, provide, or verify that sufficient
7 1 generating capacity or the right to sufficient generating
7 2 capacity is available to maintain operating reserves in
7 3 accordance with good operating practice.

7 4 25. "Control area operator" means a person operating a
7 5 control area.

7 6 26. "Delivery service" means the transportation of
7 7 electricity from one point on a delivery service provider's
7 8 system to another point on that system in this state.
7 9 Delivery service includes transmission service and
7 10 distribution service.

7 11 27. "Delivery service provider" means a person that
7 12 provides delivery service in this state but does not include a
7 13 licensed competitive electric service provider that purchases
7 14 delivery service from an electric company or consumer-owned
7 15 utility and resells the delivery service at retail to an end-
7 16 use consumer.

7 17 28. "Demand" means electric power measured in kilowatts or
7 18 megawatts.

7 19 29. "Distribution service" means that portion of delivery
7 20 service provided in this state that is not subject to the
7 21 exclusive jurisdiction of the federal energy regulatory
7 22 commission, or for consumer-owned utilities is not subject to
7 23 section 211 of the federal Power Act. If a provider of
7 24 distribution service is an electric company that is also a
7 25 control area operator, the control area operations which are
7 26 not subject to the exclusive jurisdiction of the federal
7 27 energy regulatory commission, if any, shall be considered to
7 28 be a part of distribution service and subject to the
7 29 jurisdiction of the board.

7 30 30. "Electric company" means a delivery service provider,
7 31 either on a bundled basis prior to May 1, 2002, or on an
7 32 unbundled basis on or after May 1, 2002, but does not include
7 33 a consumer-owned utility, municipal electric cooperative
7 34 association, or governmental subdivision.

7 35 31. "Electric cooperative" means a person formed or
8 1 organized as a cooperative under the laws of this state or
8 2 elsewhere, that engages in any of the following activities:
8 3 generation of electricity, transmission of electricity,
8 4 distribution of electricity, sale of electricity, control area
8 5 operator services, or performance of ancillary services as
8 6 designated by the federal energy regulatory commission. An
8 7 electric cooperative includes a consumer-owned affiliate of an
8 8 electric cooperative, an alliance, and an incorporated city
8 9 utility provider.

8 10 32. "Electric power agency" means a political subdivision
8 11 that acquires or finances electric facilities pursuant to
8 12 chapter 28E or 28F.

8 13 33. "Eligible rates" means those rates specified in an
8 14 application for a transitional funding order from which
8 15 instrument funding charges may be deducted and collected.
8 16 Eligible rates may include any of the following: bundled
8 17 electric rates, unbundled distribution service rates, other
8 18 unbundled rates, standard offer service rates, universal
8 19 service rates, transitional service rates, basic energy
8 20 service rates, transition charges, any other charges
8 21 authorized under section 476B.15, or any other rates for
8 22 tariffed services.

8 23 34. "End-use consumer" means a person that prior to having
8 24 the option to choose competitive electric service, purchases
8 25 for use in this state bundled electric service or that
8 26 participates in an electric retail access pilot project
8 27 approved by the board or local governing body. On and after
8 28 the date a person has the option to choose competitive
8 29 electric service, "end-use consumer" means a person that
8 30 purchases, directly or through a competitive electric service
8 31 provider, for use in this state, standard offer service,
8 32 transitional service, universal service, basic energy service,
8 33 or unbundled distribution service sold at retail.

8 34 35. "Energy" means electric power measured in kilowatt-
8 35 hours (kWh).

9 1 36. "Good operating practices" means any of the practices,
9 2 methods, and acts engaged in or approved by a significant
9 3 portion of the electric industry during a relevant time
9 4 period, or any of the practices, methods, or acts which, in
9 5 the exercise of reasonable judgment in light of the facts
9 6 known at the time the decision was made, could reasonably have
9 7 been expected to accomplish the desired result at reasonable
9 8 cost consistent with good business practices, reliability,
9 9 safety, and expedition. "Good operating practices" is not
9 10 limited to the optimum practice, method, or act, to the
9 11 exclusion of all others, but rather to acceptable practices,
9 12 methods, or acts consistently adhered to and generally
9 13 accepted in the region.

9 14 37. "Grantee" means a person, other than an incumbent
9 15 provider or an assignee which acquires its interest from an
9 16 incumbent provider, to whom or for whose benefit the board
9 17 creates, establishes, and grants rights in, to, or under
9 18 intangible transition property.

9 19 38. "Grid" means the interconnected system used for
9 20 delivering electricity within this state.

9 21 39. "Holder" means a holder of transitional funding
9 22 instruments, including a trustee, collateral agent, nominee,
9 23 or other such person acting for the benefit of such a holder.

9 24 40. "Incorporated city utility provider" means a
9 25 corporation, existing on the effective date of this chapter,
9 26 with assets worth one million dollars or more, which has one
9 27 or more platted villages located within the territorial limits
9 28 of the tract of land which it owns, and which provides
9 29 electricity to ten thousand or fewer end-use consumers.

9 30 41. "Incumbent provider" means a person, or the person's
9 31 successor or assign, that provided bundled electric service
9 32 within an assigned service area on the effective date of this
9 33 chapter.

9 34 42. "Instrument funding charge" means a nonbypassable
9 35 charge authorized in a transitional funding order to be
10 1 applied and invoiced to each responsible consumer, a class of
10 2 responsible consumers of an incumbent provider, or other
10 3 person or group of persons obligated to pay eligible rates
10 4 from which the instrument funding charge has been deducted and
10 5 stated separately pursuant to section 476B.17, subsection 4,
10 6 paragraph "d".

10 7 43. "Intangible transition property" means the right,
10 8 title, and interest of an incumbent provider, grantee, or
10 9 assignee arising pursuant to a transitional funding order to

10 10 impose and receive instrument funding charges, and all related
10 11 revenues, collections, claims, payments, money, or proceeds of
10 12 the transitional funding order, including all right, title,
10 13 and interest of an incumbent provider, grantee, or assignee
10 14 in, to, under, and pursuant to such transitional funding
10 15 order, whether or not such intangible transition property is
10 16 characterized on the books of the incumbent provider as a
10 17 regulatory asset, a cost incurred by the incumbent provider,
10 18 or otherwise. Intangible transition property arises and
10 19 exists only to the extent that instrument funding charges are
10 20 authorized in a transitional funding order that becomes
10 21 effective in accordance with this chapter. Such intangible
10 22 transition property shall continue to exist to the extent
10 23 provided in the transitional funding order.

10 24 44. "Interval metering" means metering that records end-
10 25 use consumer usage on the same time frame as pricing changes
10 26 in the market, typically hourly or more frequently.

10 27 45. "Issuer" means a person, other than an incumbent
10 28 provider, which has issued transitional funding instruments.

10 29 46. "Load" means the amount of demand or energy delivered
10 30 to or required by an end-use consumer or consumers.

10 31 47. "Load profiling" means the process of estimating
10 32 rather than directly measuring the demand and energy
10 33 consumption of an end-use consumer during a period of time.

10 34 48. "Local governing body" means the board of directors of
10 35 an electric cooperative as provided in section 499.36, the
11 1 utility board of a municipal electric utility as defined in
11 2 section 388.1, or the council of a city, as defined in section
11 3 362.2, whose municipal electric utility is not operated by a
11 4 utility board.

11 5 49. "Municipal electric cooperative association" means an
11 6 electric cooperative, the membership of which is composed
11 7 entirely of municipal utilities.

11 8 50. "Municipal utility" means all or part of an electric
11 9 light and power plant system which is owned by a city,
11 10 including all land, easements, rights of way, fixtures,
11 11 equipment, accessories, improvement, appurtenances, and other
11 12 property necessary or useful for the operation of the
11 13 municipal utility. Municipal utility includes a combined
11 14 utility system, as defined in section 384.80, in which at
11 15 least one of the components of the combined utility system is
11 16 a municipal electric utility.

11 17 51. "Nonbypassable charge" means a charge assessed by a
11 18 delivery service provider to an end-use consumer located
11 19 within the delivery service provider's assigned service area
11 20 or to a competitive electric service provider serving that
11 21 end-use consumer, regardless of whether the consumer purchases
11 22 delivery service from that delivery service provider.

11 23 52. "Nuclear decommissioning" means a series of activities
11 24 undertaken at the time a nuclear power plant is permanently
11 25 retired from service to ensure that the final entombment,
11 26 decontamination, dismantlement, removal, and disposal of the
11 27 structures, systems, and components of the power plant,
11 28 including the plant site, and any radioactive components and
11 29 materials associated with the plant, is accomplished in
11 30 compliance with all applicable state and federal laws, and to
11 31 ensure that such final disposition does not pose any material
11 32 threat to the public health and safety.

11 33 53. "Nuclear decommissioning costs" means all reasonable
11 34 costs and expenses that are expected to be incurred or are
11 35 actually incurred in connection with nuclear decommissioning
12 1 including all costs and expenses to prepare a unit of a plant
12 2 for decommissioning, such as the cost of moving spent fuel
12 3 off-site, interim spent fuel storage costs, and interim costs
12 4 incurred pursuant to a SAFSTOR decommissioning phase as
12 5 approved and defined by the nuclear regulatory commission, and
12 6 all costs and expenses after the actual decommissioning

12 7 occurs, such as physical security and radiation monitoring
12 8 expenses. "Nuclear decommissioning costs" also includes
12 9 reasonable costs and expenses to return the plant site to a
12 10 condition suitable for public use.

12 11 54. "Person" means person as defined in section 4.1.

12 12 55. "Responsible consumer" means all of the following:

12 13 a. Prior to May 1, 2002, a person who receives bundled
12 14 electric service pursuant to a tariff or contract.

12 15 b. On or after May 1, 2002, a person responsible for
12 16 payment for distribution services pursuant to a tariff or
12 17 contract.

12 18 c. At any time, any other person responsible for payment
12 19 of eligible rates pursuant to a tariff or contract as
12 20 specified by an incumbent provider in its application for a
12 21 transitional funding order.

12 22 56. "Scheduling" means the process by which a person
12 23 notifies the control area operator of the amounts of demand
12 24 and energy it intends to provide to the grid for a specified
12 25 period of time, and the source and destination of that demand
12 26 and energy.

12 27 57. "Tariff" means a document containing rates, charges,
12 28 schedules, regulations, terms, or conditions of regulated
12 29 electric service, filed or posted with the appropriate
12 30 regulatory authority.

12 31 58. "Transition charges" means nonbypassable charges to
12 32 end-use consumers, or to competitive electric service
12 33 providers or delivery service providers that are consumer-
12 34 owned utilities, that are designed to compensate an incumbent
12 35 provider or electric cooperative for all or a portion of the
13 1 provider's or cooperative's transition costs.

13 2 59. "Transition costs" means both of the following:

13 3 a. Costs and reduced revenues as calculated pursuant to
13 4 section 476B.15 incurred by an incumbent provider as a result
13 5 of changing from electric regulation under chapter 476 to a
13 6 competitive electric industry pursuant to this chapter.

13 7 b. Costs and reduced revenues as calculated by an electric
13 8 cooperative pursuant to section 476B.15, subsection 5, as a
13 9 result of changing from electric regulation under chapter 476
13 10 to a competitive electric industry pursuant to this chapter.

13 11 60. "Transitional funding instruments" means any
13 12 instruments, pass-through certificates, notes, debentures,
13 13 certificates of participation, bonds, certificates of
13 14 beneficial interest, or other evidences of indebtedness or
13 15 instruments evidencing a beneficial interest which are issued
13 16 by or on behalf of an incumbent provider or issuer pursuant to
13 17 a transitional funding order; which are issued pursuant to an
13 18 executed indenture, pooling agreement, security agreement, or
13 19 other similar agreement of an incumbent provider or issuer
13 20 creating a security interest, ownership interest, or other
13 21 beneficial interest in intangible transition property; and the
13 22 proceeds of which are to be used for the purposes set forth in
13 23 section 476B.17, subsection 3, paragraph "c".

13 24 61. "Transitional funding order" means an order of the
13 25 board issued under section 476B.17 creating and establishing
13 26 intangible transition property and the rights of any person in
13 27 such property, and approving the sale, pledge, assignment, or
13 28 other transfer of intangible transition property, the issuance
13 29 of transitional funding instruments, and the imposition and
13 30 collection of instrument funding charges.

13 31 62. "Transmission service" means the portion of delivery
13 32 service that is subject to the exclusive jurisdiction of the
13 33 federal energy regulatory commission, or for consumer-owned
13 34 utilities, the portion of delivery service subject to section
13 35 211 of the federal Power Act.

14 1 63. "Unbundled rates" means separate charges for
14 2 components of regulated electric services such as distribution
14 3 services.

14 4 64. "Unbundled services" means distribution service and
14 5 other services specified in section 476B.4.

14 6 Sec. 4. NEW SECTION. 476B.4 UNBUNDLING OF RATES AND
14 7 SERVICES.

14 8 1. ELECTRIC COMPANIES. On or before October 1, 1999, an
14 9 incumbent provider that is an electric company shall file with
14 10 the board unbundled rates as provided in this subsection. At
14 11 a minimum, unbundled rates for an electric company shall
14 12 reflect separate charges for distribution service; types of
14 13 delivery service metering; supplying competitive electric
14 14 service providers with meter information, if applicable;
14 15 delivery service billings issued to competitive electric
14 16 service providers; delivery service billings issued to end-use
14 17 consumers; connecting to the delivery system those meters not
14 18 owned by the delivery service provider; processing a change in
14 19 an end-use consumer's competitive electric service provider;
14 20 transition charges pursuant to section 476B.15, if applicable;
14 21 and nuclear decommissioning cost recovery pursuant to section
14 22 476B.16, if applicable. To the extent it elects to perform
14 23 billing services for competitive electric service providers
14 24 through its regulated delivery service function under section
14 25 476B.12 or elects to perform meter reading or meter
14 26 information gathering through its regulated delivery service
14 27 function under section 476B.11, an electric company shall also
14 28 propose unbundled rates for such services that shall apply to
14 29 all competitive electric service providers in a
14 30 nondiscriminatory manner. An electric company may propose
14 31 other regulated, unbundled rates and charges associated with
14 32 delivery service, as appropriate. Terms and conditions
14 33 associated with all unbundled rates and charges shall be filed
14 34 with the board at the time of filing unbundled rates. The
14 35 board shall treat the filing as a submission under section
15 1 476.6, except that subsection 5 of that section shall not
15 2 apply.

15 3 The initial unbundled rates for the services specified in
15 4 this subsection shall be based upon cost of service, including
15 5 current cost of capital. The electric company shall submit
15 6 written evidence with its initial unbundled rate filing to
15 7 support its proposed unbundled rates and charges, including
15 8 direct and allocated costs associated with the levels of the
15 9 unbundled rates and charges. The method used to determine
15 10 class cost of service, to the maximum extent practicable,
15 11 shall permit identification of cost differences attributable
15 12 to variations in demand, energy, voltage delivery level,
15 13 customer components of cost, and other factors.

15 14 The board shall approve rates, charges, terms, and
15 15 conditions that are just, reasonable, and nondiscriminatory.
15 16 The unbundled rates, charges, terms, and conditions approved
15 17 by the board shall be posted on the board's website for
15 18 informational purposes by no later than November 1, 2001, and
15 19 shall become effective on May 1, 2002.

15 20 2. ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES. Each
15 21 incumbent provider that is a consumer-owned utility, pursuant
15 22 to its local governing process, shall unbundle and post on the
15 23 board's website its rates and charges by January 1, 2002. At
15 24 a minimum, unbundled rates for a consumer-owned utility shall
15 25 reflect separate charges for distribution service; connecting
15 26 to the delivery system meters not owned by the delivery
15 27 service provider; supplying meter information to competitive
15 28 electric service providers, if applicable; and processing a
15 29 change in an end-use consumer's competitive electric service
15 30 provider. A consumer-owned utility may unbundle and post
15 31 other rates and charges, such as transition costs including
15 32 nuclear decommissioning costs, as determined by its local
15 33 governing body. The costs associated with meter reading or
15 34 meter information gathering may be included in the
15 35 distribution service rate as long as, for each metered

16 1 location, the consumer-owned utility makes the information
16 2 available at a reasonable cost-based fee to the competitive
16 3 electric service provider serving the metered location. Meter
16 4 reading, meter information, and billing charges, if
16 5 applicable, shall be posted. Terms and conditions associated
16 6 with all unbundled rates shall be posted at the same time as
16 7 the posting of unbundled rates. The unbundled rates, charges,
16 8 terms, and conditions of service of each consumer-owned
16 9 utility shall be established by its local governing body, be
16 10 nondiscriminatory, comply with section 476B.9, subsection 6,
16 11 and become effective when the first end-use consumer within
16 12 the assigned service area of the consumer-owned utility has
16 13 the option to choose competitive services.

16 14 3. CONTROL AREA OPERATORS.

16 15 a. A control area operator that is an electric company
16 16 shall file control area service rates, charges, terms, and
16 17 conditions applicable to distribution service with the board
16 18 by October 1, 1999. The filing shall also include the
16 19 processes proposed to be used by the control area operator for
16 20 scheduling and system control related to distribution service,
16 21 load profiling, and financial settlement, if applicable. The
16 22 filing shall be subject to review and approval by the board
16 23 pursuant to section 476B.9, subsection 7. Control area
16 24 service rates, charges, terms, conditions, and processes
16 25 approved by the board shall be posted on the board's website
16 26 for informational purposes by no later than November 1, 2001,
16 27 and shall become effective May 1, 2002.

16 28 b. A control area operator that is a consumer-owned
16 29 utility shall post on the board's website control area service
16 30 rates, charges, terms, and conditions applicable to
16 31 distribution service and the processes for load profiling and
16 32 financial settlement to be used by the control area operator.
16 33 The rates, charges, terms, conditions, and processes shall be
16 34 nondiscriminatory, comply with section 476B.9, subsection 6,
16 35 be regulated by the consumer-owned utility's local governing
17 1 body unless subject to the exclusive jurisdiction of the
17 2 federal energy regulatory commission or the exclusive
17 3 jurisdiction of another federal agency or, for consumer-owned
17 4 utilities, subject to section 211 of the federal Power Act, be
17 5 posted on the board's website for informational purposes by no
17 6 later than January 1, 2002, and become effective when the
17 7 first Iowa end-use consumer in the control area has the option
17 8 to choose competitive electric services.

17 9 4. INFORMATIONAL POSTING OF TRANSMISSION TARIFFS. On or
17 10 before November 1, 2001, each delivery service provider that
17 11 provides transmission service and each control area operator
17 12 shall post on the board's website, for informational purposes
17 13 only, all tariffs for transmission service and ancillary
17 14 services applicable to competitive electric service provider
17 15 and end-use consumer transactions that have been accepted by
17 16 the federal energy regulatory commission or another federal
17 17 agency with jurisdiction. The posting on the board's website
17 18 shall be updated at the time the delivery service provider
17 19 updates its comparable posting on the federal website.

17 20 Sec. 5. NEW SECTION. 476B.5 CONSUMER EDUCATION.

17 21 1. OBJECTIVE. Educated consumers and the availability of
17 22 information sufficient to allow consumers to evaluate the
17 23 prices, terms, and conditions of service offered are essential
17 24 to an efficient competitive marketplace. It is the intent of
17 25 this section to establish a consumer education program that
17 26 explains changes in the retail electric market and provides
17 27 information necessary to help consumers make appropriate
17 28 choices regarding their electric service, to understand their
17 29 rights and responsibilities as consumers, including rights
17 30 under the federal Telemarketing and Consumer Fraud and Abuse
17 31 Prevention Act, and to understand the legal obligations of the
17 32 competitive electric service providers and delivery service

17 33 providers. A collaborative process shall be used to develop a
17 34 consumer education program to assist consumers in
17 35 understanding their rights and opportunities. The board shall
18 1 determine the date for commencement of the education program
18 2 approved by the board.

18 3 2. COLLABORATIVE PROCESS. Within ninety days after the
18 4 effective date of this chapter, the board shall convene an
18 5 initial meeting of persons interested in participating in the
18 6 development of a consumer education program. Additional
18 7 meetings shall be scheduled by the board as necessary.
18 8 Interested persons shall be provided an opportunity for input,
18 9 consistent with the objective of commencing the consumer
18 10 education program on a date determined by the board.

18 11 3. STANDARDS. A consumer education program shall be
18 12 developed in a two-step process, including message development
18 13 and message dissemination. Message development shall be
18 14 designed to educate consumers about all of the following:

18 15 a. The existing market and the process for purchasing
18 16 competitive and regulated electric services in a competitive
18 17 market.

18 18 b. Consumers' rights and responsibilities in a competitive
18 19 electric market.

18 20 c. The rights and responsibilities of competitive electric
18 21 service providers, aggregators, and delivery service
18 22 providers.

18 23 d. The role of the board and the office of consumer
18 24 advocate.

18 25 The messages shall focus upon the educational and
18 26 informational needs of nonresidential consumers using fewer
18 27 than one hundred thousand kilowatt-hours annually and
18 28 residential consumers including rural consumers. The content
18 29 and dissemination of the messages shall be as competitively
18 30 neutral as practicable.

18 31 The board shall specify the methods of message
18 32 dissemination for electric companies. The method of message
18 33 dissemination for consumer-owned utilities shall be determined
18 34 by each local governing body with due consideration of the
18 35 recommendations of the board. However, the board shall
19 1 specify the minimum number of times that consumer-owned
19 2 utilities must disseminate the messages. The board shall
19 3 develop the messages and, for electric companies, the method
19 4 of message dissemination, giving due consideration to the
19 5 comments and suggestions received through the collaborative
19 6 process.

19 7 4. MAXIMUM COST. The total cost of message development
19 8 and dissemination shall not exceed six million dollars.

19 9 5. FUNDING. The costs of message development and
19 10 dissemination shall be funded through nonbypassable charges on
19 11 the bills issued for bundled electric service, with collection
19 12 to be completed by May 1, 2002. The costs of message
19 13 development shall be apportioned among the incumbent providers
19 14 in proportion to the number of kilowatt-hours used within an
19 15 incumbent provider's assigned service area in 1998 to the
19 16 total number of kilowatt-hours used in 1998 in all assigned
19 17 service areas. Ninety percent of the costs of message
19 18 dissemination shall be allocated to incumbent providers that
19 19 are electric companies and shall be apportioned among electric
19 20 companies in proportion to the number of kilowatt-hours used
19 21 within the electric company's assigned service area in 1998 to
19 22 the total number of kilowatt-hours used in 1998 in the
19 23 assigned service areas of all electric companies. The
19 24 remaining ten percent of the costs of message dissemination,
19 25 not to exceed six hundred thousand dollars, shall be allocated
19 26 to consumer-owned incumbent providers and shall be apportioned
19 27 among them in proportion to the number of kilowatt-hours used
19 28 in 1998 within the assigned service area of each to the total
19 29 number of kilowatt-hours used in 1998 in the assigned service

19 30 areas of all consumer-owned incumbent providers.

19 31 The board shall determine the date for commencement of
19 32 collection of the nonbypassable charge and shall specify for
19 33 electric companies by December 31, 1999, the method of
19 34 allocating the costs among rates, which method may differ from
19 35 the method used for apportioning costs among consumer-owned
20 1 incumbent providers. Moneys collected from the nonbypassable
20 2 charges shall be forwarded to the board quarterly. A
20 3 consumer-owned utility may collect its share of message
20 4 development costs and the costs of its own message
20 5 dissemination program through a nonbypassable delivery charge.

20 6 6. OTHER COMMUNICATIONS. Nothing in this section shall
20 7 prohibit a person from communicating to an end-use consumer in
20 8 an accurate and truthful manner regarding the competitive
20 9 electric market and regulated electric services through a
20 10 means other than the consumer education program developed
20 11 under this section. In addition, the board may continue to
20 12 provide information and education following the conclusion of
20 13 the consumer education program, but shall not continue the
20 14 nonbypassable charge established for that purpose.

20 15 Sec. 6. NEW SECTION. 476B.6 CONSUMER PROTECTIONS
20 16 RIGHTS AND RESPONSIBILITIES OF CONSUMERS.

20 17 1. LICENSE REQUIRED.

20 18 a. Except as provided in this section, a person shall not
20 19 provide or offer to provide competitive electric services to
20 20 an end-use consumer, or aggregate end-use consumers for the
20 21 acquisition of competitive electric services without first
20 22 obtaining a license from the board. This section does not
20 23 prohibit a person from communicating to an end-use consumer in
20 24 an accurate and truthful manner regarding the emerging
20 25 competitive electric market in this state and the person's
20 26 planned role in that market. In addition to the licensing
20 27 requirements in this section, the board may adopt, by rule,
20 28 additional licensing requirements consistent with this section
20 29 that are required to protect the public from fraud and unfair,
20 30 deceptive, or other abusive business sales practices, to
20 31 provide for reasonable disclosure of service terms and
20 32 conditions and consumer rights and responsibilities, and to
20 33 protect the integrity of the delivery system. However, the
20 34 disclosure of fuel sources to an end-use consumer or the board
20 35 shall only be required if necessary to support advertising
21 1 claims. The board may adopt, by rule, additional licensing
21 2 requirements regarding adequate notice to end-use consumers
21 3 prior to automatic contract renewal. The board may establish
21 4 reasonable conditions or restrictions on a license. Unless
21 5 otherwise expressly provided by this chapter, the licensing
21 6 rules adopted by the board shall not discriminate in favor of
21 7 or against incumbent providers or their affiliates. The
21 8 initial licensing rules shall be proposed by the board no
21 9 later than October 1, 1999.

21 10 b. The board may reject a request for a license if the
21 11 request does not contain sufficient information for the board
21 12 to evaluate the request, but must reject such a request within
21 13 thirty days of the request's filing. The board shall fully
21 14 describe in writing any deficiencies in a license request that
21 15 is rejected.

21 16 c. The board shall rule upon a request for a license that
21 17 is not found to be deficient within one hundred twenty days of
21 18 the filing of the request with the board. However, the board
21 19 may process a request for a license, but shall not make a
21 20 license effective until one hundred eighty days after the
21 21 adoption of the initial rules under paragraph "a".

21 22 d. The board shall maintain a current list of all licensed
21 23 providers of competitive electric services. The board shall
21 24 make such a list available to a person upon request and shall
21 25 post the list on its website.

21 26 e. A license shall not be required for an incumbent

21 27 provider that is a consumer-owned utility who chooses to
21 28 provide competitive electric services only within its assigned
21 29 service area, either through the incumbent provider or its
21 30 affiliate.

21 31 f. The board may charge reasonable fees for licensing
21 32 requests and for administering licenses.

21 33 2. LICENSE REQUIREMENTS FOR COMPETITIVE ELECTRIC SERVICE
21 34 PROVIDERS OTHER THAN AGGREGATORS. In addition to other

21 35 requirements that the board may adopt under subsection 1, a
22 1 competitive electric service provider, except one acting only
22 2 as an aggregator, shall file with the board as a condition of
22 3 obtaining a license under this section all of the following:

22 4 a. The legal name and all trade names under which the
22 5 licensee will operate, a description of the business structure
22 6 of the licensee, evidence of authorization to do business in
22 7 the state if required, and, if applicable, the state of
22 8 organization.

22 9 b. The names, business addresses, and business telephone
22 10 numbers of the principal officers of the licensee, the name
22 11 and business address of the agent for the licensee who can be
22 12 contacted regarding its operations in this state, and a
22 13 telephone number at which the agent can be contacted twenty-
22 14 four hours a day.

22 15 c. Identification of any affiliates that are licensees
22 16 under this section and a listing of the names and addresses of
22 17 all affiliates of the competitive electric service provider
22 18 engaged in the provision of competitive electric services in
22 19 any other state.

22 20 d. Identification of any state in which the licensee or an
22 21 affiliate has had a comparable license suspended, revoked, or
22 22 denied, including identification of the title and number of
22 23 any applicable proceedings and a copy of any final orders in
22 24 such proceedings or the citation to the website where the text
22 25 of the orders can be found.

22 26 e. A listing of all pending and completed legal actions
22 27 and formal complaints pertaining to the provision of retail or
22 28 wholesale electric service in the United States that have been
22 29 filed against the licensee or its affiliates with a public
22 30 utility regulatory body other than the board in the twelve
22 31 months prior to the date of the request for a license,
22 32 including identification of the title and number of any
22 33 applicable proceedings and a copy of any final orders in such
22 34 proceedings or the citation to the website where the text of
22 35 the orders can be found.

23 1 f. Unless the licensee is an incumbent provider or a
23 2 consumer-owned utility with delivery service property in this
23 3 state on the effective date of this chapter, or a municipal
23 4 electric cooperative association established prior to the
23 5 effective date of this chapter, a demonstration that the
23 6 licensee has the operational and financial capability to
23 7 obtain and deliver the services it proposes to offer.

23 8 g. A commitment to provide the board, upon the board's
23 9 request, with evidence supporting the basis of any advertising
23 10 claims made regarding fuel sources.

23 11 h. A commitment to disclose to each prospective end-use
23 12 consumer prior to the initiation of service those terms and
23 13 conditions of service and those rights and responsibilities of
23 14 the end-use consumer associated with the offered service that
23 15 are required to be disclosed by rules adopted by the board
23 16 pursuant to subsection 1 and section 476B.8, subsection 3.

23 17 i. A bond or other demonstration of the financial
23 18 capability to satisfy claims and expenses that can reasonably
23 19 be anticipated to occur as part of operations under its
23 20 license, including the failure to honor contractual
23 21 commitments. The adequacy of the bond or demonstration shall
23 22 be determined by the board and reviewed by the board from time
23 23 to time. In determining the adequacy of the bond or

23 24 demonstration, the board shall consider the extent of the
23 25 services to be offered, the size of the licensee, and the size
23 26 of the load to be served, with the objective of ensuring that
23 27 the board's financial requirements do not unreasonably erect
23 28 barriers to market entry. In no event shall the board require
23 29 a bond or other demonstration of financial capability in
23 30 excess of ten million dollars. A person not subject to
23 31 paragraph "f" is deemed by the board to have fulfilled the
23 32 requirements of this paragraph.

23 33 j. A commitment that, commencing with calendar year 2006,
23 34 an annual calendar year average of at least two percent of the
23 35 capacity, in megawatts, available for purchase by end-use
24 1 consumers as a competitive power supply service will represent
24 2 the licensee's ownership of, or contracts for the purchase of,
24 3 capacity from alternative energy facilities, provided that the
24 4 board may waive this requirement to the extent that it
24 5 determines that compliance with the requirement is not
24 6 practicable or that the requirement constitutes a significant
24 7 impediment to the development of competitive electric
24 8 services, or to the extent that a consumer-owned utility can
24 9 demonstrate that a statute or a contract in effect as of
24 10 January 1, 1999, precludes compliance. For purposes of
24 11 meeting this requirement, the capacity available for purchase
24 12 from alternative energy facilities shall be calculated by
24 13 multiplying an alternative energy facility's nameplate
24 14 capacity in megawatts or kilowatts by the fraction of fuel
24 15 input derived from geothermal, landfill gas, refuse-derived
24 16 fuel, agricultural crops or residues, or wood. If the
24 17 facility was not designed as an alternative energy facility,
24 18 the facility's rated capacity for purposes of reliability in
24 19 the applicable reliability region or council, or its
24 20 successor, shall be used in lieu of the nameplate capacity in
24 21 determining the megawatts available for purchase from
24 22 alternative energy facilities. In the case of a solar, wind,
24 23 or hydroelectric alternative energy facility, the megawatts
24 24 available for purchase shall be deemed to be equal to the
24 25 nameplate capacity or contract amount. If the board finds
24 26 that any costs of a contract for alternative energy during an
24 27 annual calendar year are being recovered through the charges
24 28 provided in section 476B.15, subsection 3, the alternative
24 29 energy in that contract shall not be used to satisfy the
24 30 requirement of this paragraph for that year. A licensee may
24 31 credit against the capacity requirement of this paragraph one
24 32 hundred fifty percent of the nameplate capacity of any
24 33 alternative energy facility located in this state that is no
24 34 larger than five hundred kilowatts in nameplate capacity to
24 35 the extent that the licensee agrees to allow net billing. For
25 1 purposes of this paragraph, "net billing" means that an end-
25 2 use consumer's electric service and the generation from its
25 3 alternative energy facility are both measured by a single
25 4 meter, and the end-use consumer only pays for service net of
25 5 its own generation.

25 6 k. A commitment not to terminate the provision of
25 7 competitive electric service, or to request a delivery service
25 8 provider to disconnect electric service, to an end-use
25 9 consumer without providing at least twelve calendar days'
25 10 prior notice to the end-use consumer, unless the contract
25 11 between a nonresidential end-use consumer and the licensee
25 12 provides otherwise.

25 13 l. A commitment to comply with the applicable rules of the
25 14 board and this chapter, and to recognize an end-use consumer's
25 15 rights including the right to voluntarily aggregate under
25 16 subsection 4, paragraph "e".

25 17 m. A commitment to comply with all applicable federal,
25 18 state, and regional rules and procedures, including those for
25 19 the use, operation, and maintenance of the electric delivery
25 20 system including control area operations. This shall include

25 21 a commitment by the proposed licensee to accept, to the extent
25 22 required by the applicable authority, the responsibility to
25 23 report the loads of the end-use consumers served by the
25 24 proposed licensee to the North American electric reliability
25 25 council or its successor, or a person performing similar
25 26 functions.

25 27 n. A commitment that competitive electric services, when
25 28 offered to residential end-use consumers, will be provided for
25 29 a minimum of thirty days.

25 30 o. A commitment to advise each end-use consumer of the
25 31 right to rescind the selection of a competitive electric
25 32 service offered by the licensee within three business days of
25 33 selection, in accordance with rules adopted pursuant to
25 34 subsection 4, paragraph "o".

25 35 p. A commitment not to transfer to another person the
26 1 competitive electric service account of any end-use consumer
26 2 except with the consent of the end-use consumer or in
26 3 accordance with any applicable statute. This chapter does not
26 4 preclude a competitive electric service provider from
26 5 transferring all or a portion of its end-use consumers and
26 6 competitive electric service accounts pursuant to a sale or
26 7 transfer of all or a substantial portion of a competitive
26 8 electric service provider's competitive electric service
26 9 business in this state, provided that the transfer satisfies
26 10 all of the following conditions:

26 11 (1) The transferee will serve the affected end-use
26 12 consumers through a licensed competitive electric service
26 13 provider.

26 14 (2) The transferee will honor the transferor's contracts
26 15 with affected end-use consumers.

26 16 (3) The transferor provides written notice of the transfer
26 17 to each affected end-use consumer prior to the transfer.

26 18 (4) An affected residential end-use consumer is given
26 19 thirty days to change to a competing competitive electric
26 20 service provider without penalty.

26 21 q. A commitment not to charge or attempt to collect any
26 22 charges from end-use consumers for any competitive electric
26 23 service or electric equipment not contracted for or otherwise
26 24 agreed to by the end-use consumer.

26 25 r. A commitment that the licensee will have the facilities
26 26 and the personnel to contact the delivery service provider in
26 27 a timely fashion, as provided by rules adopted by the board,
26 28 upon receipt of information from an end-use consumer of the
26 29 existence of an emergency situation with respect to delivery
26 30 service. The initial rules shall be proposed by October 1,
26 31 1999.

26 32 s. A commitment that if the licensee ceases to comply with
26 33 contractual commitments to end-use consumers, fails to
26 34 schedule energy with the control area operator for two
26 35 consecutive twenty-four-hour periods, fails to deliver energy
27 1 scheduled with or committed to a control area operator for two
27 2 consecutive twenty-four-hour periods, ceases operation under
27 3 its license, or otherwise substantially defaults on its
27 4 obligations under its license, within eight hours of such
27 5 occurrence, the licensee shall do both of the following:

27 6 (1) Provide the board with the names and addresses of all
27 7 end-use consumers of the licensee.

27 8 (2) If any of the end-use consumers of the licensee are
27 9 located in the assigned service area of a delivery service
27 10 provider that is a consumer-owned utility, the licensee shall
27 11 provide that delivery service provider with the names and
27 12 addresses of such consumers.

27 13 t. A commitment to include on bills rendered to
27 14 residential end-use consumers all of the following:

27 15 (1) The period of time for which the billing is
27 16 applicable.

27 17 (2) The amount owed for current service, including an

27 18 itemization of all charges.
27 19 (3) Any past due amount owed.
27 20 (4) The last date for timely payment.
27 21 (5) The amount of penalty for any late payment.
27 22 (6) The location for or method of remitting payment.
27 23 (7) A toll-free telephone number for the end-use consumer
27 24 to contact for information and to make complaints regarding
27 25 the licensee.
27 26 (8) A toll-free telephone number for the end-use consumer
27 27 to contact the licensee in the event of an emergency.
27 28 (9) A toll-free telephone number for the end-use consumer
27 29 to notify the delivery service provider of an emergency
27 30 regarding delivery service.
27 31 (10) If the bill is to an end-use consumer in the assigned
27 32 service area of a delivery service provider that is an
27 33 electric company, information regarding regulated rates,
27 34 charges, refunds, and services as provided in rules adopted by
27 35 the board as being required by the public interest. The
28 1 initial rules shall be by October 1, 1999.
28 2 u. A commitment to notify the board during the pendency of
28 3 the license request and after the issuance of the license of
28 4 any substantial change in the representations and commitments
28 5 required by this subsection within fourteen days of such
28 6 change.
28 7 v. A commitment to annually submit to the board such
28 8 information as the board reasonably determines by rule is
28 9 necessary to monitor the development of competitive electric
28 10 services in this state and the licensee's compliance with this
28 11 chapter. Information submitted pursuant to this paragraph
28 12 shall be kept confidential and shall not be available for
28 13 public examination. The initial rules shall be by October 1,
28 14 1999.
28 15 3. LICENSE REQUIREMENTS FOR AGGREGATORS. In addition to
28 16 other requirements that the board may adopt under subsection
28 17 1, each competitive electric service provider that acts only
28 18 as an aggregator shall file with the board the information
28 19 specified in subsection 2, paragraphs "a", "b", "c", "d", "e",
28 20 "g", "h", "k", "l", "n", "o", "p", "u", and "v". If the
28 21 aggregator will be issuing bills to end-use consumers, then it
28 22 shall also file the information required in subsection 2,
28 23 paragraphs "q", "r", and "t".
28 24 4. RIGHTS OF CONSUMERS.
28 25 a. An end-use consumer shall have access to competitive
28 26 electric services and regulated delivery services in
28 27 accordance with this chapter.
28 28 b. The electric grid shall be extended to every end-use
28 29 consumer in accordance with section 476B.9 and such applicable
28 30 rules as are adopted by the board, or, for a consumer-owned
28 31 utility, policies adopted by the local governing body.
28 32 c. An end-use consumer shall have nondiscriminatory access
28 33 to use the electric grid in accordance with this chapter.
28 34 d. An end-use consumer shall not be refused competitive
28 35 electric services, regulated delivery services, standard offer
29 1 service, transitional service, basic energy service, or
29 2 universal service on the basis of age, race, religion,
29 3 national origin, gender, or disability within the meaning of
29 4 the federal Americans with Disabilities Act.
29 5 e. An end-use consumer shall have the right to voluntarily
29 6 aggregate with other end-use consumers for the purpose of
29 7 seeking competitive electric services. Aggregation shall not
29 8 be restricted by any rule or regulation except those
29 9 determined necessary by the board to maintain the safety or
29 10 reliability of the delivery system or to prevent fraud or
29 11 unfair advantage. An end-use consumer shall not be forced to
29 12 aggregate with any group of end-use consumers or other persons
29 13 without the end-use consumer's express consent.
29 14 f. An end-use consumer that has the option to choose

29 15 competitive electric services under this chapter may negotiate
29 16 a bilateral contract for these services.

29 17 g. An end-use consumer or an account of an end-use
29 18 consumer shall not be transferred by a competitive electric
29 19 service provider to another person except as provided in
29 20 subsection 2, paragraph "p".

29 21 h. An end-use consumer located in the assigned service
29 22 area of an incumbent provider that is an electric company
29 23 shall have the right not to choose another competitive
29 24 electric service provider and automatically receive service
29 25 under section 476B.8, subsection 1 or 2, as applicable, from
29 26 their incumbent provider without further action by the end-use
29 27 consumer.

29 28 i. An end-use consumer located in the assigned service
29 29 area of an incumbent provider that is a consumer-owned utility
29 30 shall have the right not to choose another competitive
29 31 electric service provider and automatically receive service
29 32 from the consumer-owned utility under section 476B.8,
29 33 subsection 4, without further action by the end-use consumer.

29 34 j. A residential end-use consumer who is located in the
29 35 assigned service area of an electric company and who either
30 1 has made a good faith effort to obtain a competitive electric
30 2 service provider, but has not been able to do so, or qualifies
30 3 for assistance under section 476B.13, subsection 1, shall have
30 4 the option to receive electric services pursuant to section
30 5 476B.8, subsection 3, and the rules adopted pursuant to that
30 6 subsection. An end-use consumer who is located in the
30 7 assigned service area of a consumer-owned utility and who is
30 8 without a competitive electric service provider shall have the
30 9 option to receive electric services pursuant to section
30 10 476B.8, subsection 4.

30 11 k. Except as otherwise provided in this chapter, on or
30 12 after May 1, 2002, information regarding the electric usage
30 13 history or electric account credit history of an individual
30 14 end-use consumer in the possession of an electric company,
30 15 consumer-owned utility, delivery service provider, control
30 16 area operator, competitive electric service provider, or
30 17 aggregator shall not be provided to any other electric
30 18 company, consumer-owned utility, delivery service provider,
30 19 control area operator, competitive electric service provider,
30 20 or aggregator except pursuant to an order of the board or a
30 21 court having jurisdiction, pursuant to a final determination
30 22 of an appropriate governmental entity with authority to compel
30 23 disclosure of such information, with the consent of the end-
30 24 use consumer, or pursuant to a proposed sale or transfer of
30 25 all or a substantial portion of the electric business in this
30 26 state of the person disclosing the information.

30 27 l. An end-use consumer shall be entitled to request from
30 28 its incumbent provider or competitive electric service
30 29 provider the most recent twenty-four months of the consumer's
30 30 historical usage information, if reasonably available, from
30 31 its account. The requested information shall be provided to
30 32 the end-use consumer without charge one time per calendar
30 33 year. If requested more than once per calendar year, the end-
30 34 use consumer may be charged the reasonable cost incurred by
30 35 the incumbent provider or competitive electric service
31 1 provider in providing the information.

31 2 m. The board may adopt rules regarding physical
31 3 disconnection procedures. Only a delivery service provider
31 4 with an assigned service area shall physically disconnect end-
31 5 use consumers located within its assigned service area. Rules
31 6 adopted, at a minimum, shall provide that disconnection is
31 7 warranted by any of the following:

31 8 (1) Failure to pay charges for delivery service including
31 9 nonbypassable charges.

31 10 (2) Failure of an end-use consumer that does not qualify
31 11 for service under section 476B.8 to designate one or more

31 12 competitive electric service providers to provide competitive
31 13 power supply services, and, where applicable, electric
31 14 metering, or electric billing services.

31 15 (3) Failure to pay for standard offer service,
31 16 transitional service, basic energy service, or universal
31 17 service.

31 18 The initial rules shall be proposed by June 1, 2001.

31 19 n. An end-use consumer shall have the right to install
31 20 metering in accordance with section 476B.11.

31 21 o. An end-use consumer shall have three business days
31 22 after the selection of a competitive electric service provider
31 23 or a competitive electric service, but prior to the initiation
31 24 of the service, within which to rescind the selection. The
31 25 board shall propose rules by June 1, 2001, applicable to
31 26 competitive electric service providers regarding the manner,
31 27 method, and content of the notice to be provided to end-use
31 28 consumers regarding this right.

31 29 p. Provisions addressing consumer fraud, including
31 30 misrepresentations regarding service and terms of service,
31 31 contained in section 714.16, subsection 2, paragraph "a", and
31 32 all accompanying provisions of chapter 714 shall apply to
31 33 competitive electric service providers.

31 34 q. A residential end-use consumer that is certified as a
31 35 low-income consumer shall have the opportunity to receive
32 1 assistance for bill payment and energy efficiency programs as
32 2 provided in section 476B.13, subsection 1, and is eligible to
32 3 request electric service under section 476B.8, subsection 3 or
32 4 4, as applicable.

32 5 r. The board shall establish rules of uniform
32 6 applicability to all competitive electric service providers
32 7 that it determines to be required to protect the public
32 8 interest regarding credit practices, consumer deposit
32 9 practices, collection practices, service termination
32 10 practices, billing practices, accuracy of information, public
32 11 safety, electric service reliability, and quality of electric
32 12 service. The initial rules shall be proposed by June 1, 2001.

32 13 Sec. 7. NEW SECTION. 476B.7 AVAILABILITY OF CHOICE.

32 14 1. Beginning on May 1, 2002, an end-use consumer located
32 15 in the assigned service area of a delivery service provider
32 16 that is an electric company shall have the option to choose
32 17 competitive electric services from competitive electric
32 18 service providers and unbundled delivery services from a
32 19 delivery service provider. An end-use consumer located in the
32 20 assigned service area of a delivery service provider that is a
32 21 consumer-owned utility shall have the option to choose
32 22 competitive electric services from competitive electric
32 23 service providers and unbundled delivery services from the
32 24 delivery service provider on a date to be determined by the
32 25 consumer-owned utility's local governing body, but in no event
32 26 prior to May 1, 2002, or after October 1, 2002. The board
32 27 shall adopt rules regarding the procedures to be used by
32 28 delivery service providers, competitive electric service
32 29 providers, and end-use consumers for those end-use consumers
32 30 exercising their option to choose competitive electric
32 31 services, including the amount of notice that must be provided
32 32 to the delivery service provider prior to switching from
32 33 bundled electric service to unbundled delivery service. The
32 34 initial rules shall be proposed by October 1, 2000.

32 35 2. After January 1, 1999, the board shall not initiate or
33 1 order an increase or a reduction in any of the bundled
33 2 electric rates or standard offer service rates of an electric
33 3 company except as provided in section 476B.8.

33 4 3. A consumer-owned utility pursuant to a decision by its
33 5 local governing body may implement a retail access pilot
33 6 project at any time prior to the time end-use consumers within
33 7 the assigned service area have the option to choose
33 8 competitive electric services. Such pilot projects shall be

33 9 terminated at the time end-use consumers within the consumer-
33 10 owned utility's assigned service area have the option to
33 11 choose competitive electric services. An incumbent provider
33 12 that is an electric company may propose a retail access pilot
33 13 project to the board.

33 14 4. The board may order the suspension of the dates for
33 15 commencement of the option to choose competitive electric
33 16 services specified in subsection 1 if the board determines
33 17 that essential deadlines cannot reasonably be met or there is
33 18 a threat to service reliability or the public safety. The
33 19 suspension may apply to all end-use consumers or some portion
33 20 of such consumers. The suspension shall continue until the
33 21 board determines the concern has been resolved or until the
33 22 conclusion of the next regular session of the Iowa general
33 23 assembly following the suspension, whichever occurs first.

33 24 5. If nationally recognized bond counsel determines that
33 25 access to a municipal utility's delivery system by a
33 26 competitive electric service provider, or provision of
33 27 competitive electric services by the municipal utility, will
33 28 result in the loss of exemption from federal income taxation
33 29 for interest on debt incurred for electric facilities prior to
33 30 the effective date of this chapter, the governing body of the
33 31 municipal utility may defer the commencement of the option to
33 32 choose competitive electric service in its assigned service
33 33 area for a period of up to six months following the date on
33 34 which the debt is eligible to be currently refunded. The
33 35 reasonable costs of replacing tax-exempt bonds with taxable
34 1 bonds may be collected as a nonbypassable charge. This
34 2 subsection shall not be used to unreasonably impair the
34 3 ability of consumers to choose competitive electric services.

34 4 6. The board may adopt rules for evaluating whether other
34 5 regulated electric services of electric companies subject to
34 6 the jurisdiction of the board should become competitive
34 7 services, in addition to the competitive electric services
34 8 specified in this chapter. For the purpose of this
34 9 subsection, the board's authority shall not include
34 10 distribution service except the control area services subject
34 11 to its jurisdiction. The initial rules shall be proposed by
34 12 June 1, 2001. Upon a board determination that a service
34 13 provided by an electric company is subject to effective
34 14 competition, the board shall deregulate the price of the
34 15 service. Service regulation, but not rate regulation, shall
34 16 continue if the service is deemed essential and the public
34 17 interest requires retention of service regulation.

34 18 Sec. 8. NEW SECTION. 476B.8 PRICE PROTECTIONS FOR
34 19 CERTAIN CONSUMERS.

34 20 1. STANDARD OFFER SERVICE.

34 21 a. (1) A nonresidential end-use consumer that purchased
34 22 fewer than twenty-five thousand kilowatt-hours of electric
34 23 service in 2001 and in each calendar year after 2001 and a
34 24 residential end-use consumer located within the assigned
34 25 service area of an incumbent provider that is an electric
34 26 company shall be provided electric service by the incumbent
34 27 provider under this subsection commencing May 1, 2002. This
34 28 service shall be provided by the incumbent provider's
34 29 competitive electric service provider or its delivery service
34 30 provider, at its option, and shall be a regulated service.
34 31 This service shall continue until the earlier of any of the
34 32 following:

34 33 (a) The end-use consumer selects an electric service
34 34 offering other than the one provided in this subsection.

34 35 (b) The end-use consumer no longer qualifies to receive
35 1 service under the terms and conditions of this paragraph "a"
35 2 or the applicable standard offer service tariff or board
35 3 rules.

35 4 (c) January 1, 2006.

35 5 (2) Termination of standard offer service on January 1,

35 6 2006, is conditioned upon the board finding, after a contested
35 7 case proceeding concluding not later than October 1, 2005,
35 8 that as of January 1, 2006, all of the following conditions
35 9 will exist:

35 10 (a) Transition cost recovery under section 476B.15,
35 11 subsection 1, will have concluded.

35 12 (b) The delivery service provider substantially complies
35 13 with all applicable board rules governing the administration
35 14 of open access and comparable distribution service adopted
35 15 pursuant to section 476B.9, subsection 2.

35 16 (c) The delivery service provider has in place an
35 17 enforceable dispute resolution process.

35 18 (d) Transaction costs assessed by the delivery service
35 19 provider to end-use consumers exercising their option to
35 20 choose competitive electric services are reasonable.

35 21 (e) Competitive electric services purchased by end-use
35 22 consumers eligible for standard offer service are subject to
35 23 effective competition in the relevant markets.

35 24 (3) In determining whether a service is or becomes subject
35 25 to effective competition in the relevant markets, the board,
35 26 in addition to other factors, shall consider whether a
35 27 comparable service is available from a competitive electric
35 28 service provider other than the incumbent provider and whether
35 29 market forces are sufficient to assure competitively priced
35 30 services without regulation. If the board finds that any of
35 31 the conditions under subparagraph (2) have not been met,
35 32 standard offer service shall continue until a showing is made
35 33 by the incumbent provider and the board determines all
35 34 conditions are met. An end-use consumer has no right to
35 35 return to standard offer service after any of the conditions
36 1 identified under subparagraph (1) occur, except that an end-
36 2 use consumer having selected an electric service offering
36 3 other than standard offer service may return to standard offer
36 4 service if all of the following apply:

36 5 (a) No more than ninety days have passed since the
36 6 consumer left standard offer service.

36 7 (b) The consumer has not previously left and returned to
36 8 standard offer service.

36 9 (c) The consumer is otherwise still qualified to receive
36 10 standard offer service.

36 11 The ninety-day period in subparagraph subdivision (a) shall
36 12 not extend the termination date of standard offer service.

36 13 b. At the time an incumbent provider that is an electric
36 14 company files its initial unbundled rates with the board
36 15 pursuant to section 476B.4, it shall also file its initial
36 16 standard offer service tariffs under this subsection, which
36 17 shall be subject to review and approval by the board. The
36 18 initial standard offer service tariffs shall reflect the
36 19 electric rates, charges, terms, and conditions of the tariffs
36 20 applicable to nonresidential end-use consumers using fewer
36 21 than twenty-five thousand kilowatt-hours per year and the
36 22 tariffs applicable to residential end-use consumers, as those
36 23 tariffs existed in the rate zones of the incumbent provider's
36 24 assigned service area on the effective date of this chapter,
36 25 adjusted to avoid duplicate recovery of costs to be recovered
36 26 under section 476B.15, subsection 3, costs to be recovered
36 27 under section 476B.16, and the portion of uncollectible costs
36 28 projected to be offset by the programs established under
36 29 section 476B.13, subsection 1. However, the board may approve
36 30 modifications to the terms and conditions of such tariffs
36 31 existing on the effective date of this chapter to the extent
36 32 just, reasonable, and nondiscriminatory. An electric company,
36 33 to the extent it has not already done so, shall eliminate
36 34 automatic adjustment mechanisms in effect pursuant to section
36 35 476.6, subsection 11, that are applicable to standard offer
37 1 service rates. Elimination shall be accomplished by adjusting
37 2 the initial standard offer service rates to include a

37 3 representative amount of the costs which would have been
37 4 recovered through the mechanisms. If an electric company's
37 5 nuclear generating unit is unavailable for reasons beyond the
37 6 electric company's reasonable control, the electric company
37 7 may file with the board an adjustment reflecting changes in
37 8 exogenous factors beyond the control of the electric company.
37 9 The board shall allow the adjustment to become effective
37 10 immediately. The board shall review the adjustment within
37 11 thirty days after the date the adjustment is effective, and
37 12 order refunds of the revenues resulting from the adjustment if
37 13 the board determines after its review that the nuclear
37 14 generating unit's unavailability was reasonably within the
37 15 control of the electric company. The effective date of the
37 16 automatic adjustment mechanism elimination for standard offer
37 17 service rates shall be May 1, 2002. An electric company may
37 18 retain automatic adjustment mechanisms to the extent the
37 19 mechanisms apply to transitional service under subsection 2.
37 20 c. After January 1, 1999, the board shall not initiate or
37 21 order an increase or a reduction in any of the bundled
37 22 electric rates of an electric company or in the standard offer
37 23 service rates established pursuant to this section except as
37 24 provided in this subsection. However, an incumbent provider
37 25 that is an electric company may reduce its bundled electric
37 26 rates or standard offer service rates at any time, so long as
37 27 such reduction is effected in a nondiscriminatory manner, the
37 28 reduction is filed with the board thirty days prior to the
37 29 proposed effective date of the reduction, and the reduced
37 30 rates are posted on the board's website. The board may hold a
37 31 hearing on the reduction prior to the proposed effective date
37 32 and may suspend the effective date for up to an additional
37 33 sixty days. The board shall approve the reduction unless it
37 34 determines that it is unreasonably discriminatory or would
37 35 constitute predatory pricing as defined by applicable
38 1 antitrust law. A board finding of predatory pricing under
38 2 this paragraph shall be given no weight in any subsequent
38 3 legal action, except with respect to judicial review of the
38 4 board's ruling brought pursuant to section 476B.22.
38 5 d. Commencing January 1, 2003, an incumbent provider that
38 6 is an electric company may increase its standard offer service
38 7 rates to reflect increases in its unbundled distribution
38 8 service rates approved by the board under section 476B.9,
38 9 subsection 5. An incumbent provider that is an electric
38 10 company may also increase its standard offer service rates
38 11 after January 1, 2003, to reflect increases in applicable
38 12 transmission service rates approved by a federal or state
38 13 agency with rate jurisdiction. Standard offer service rates
38 14 incorporating an increase permitted by this paragraph shall be
38 15 filed with the board thirty days prior to becoming effective.
38 16 The increased standard offer service rates shall become
38 17 effective at the conclusion of the thirty-day period unless
38 18 the board determines that the incumbent provider has increased
38 19 standard offer service rates by an amount greater than the
38 20 increase in unbundled distribution service rates or
38 21 transmission service rates, in which case the board may
38 22 suspend the effective date for up to an additional sixty days.
38 23 If the board suspends a filing made pursuant to this
38 24 paragraph, the board shall provide the incumbent provider with
38 25 an opportunity for hearing.
38 26 e. On or before January 1, 2003, an incumbent provider
38 27 that is an electric company may file with the board a
38 28 mechanism to increase or decrease standard offer service rates
38 29 by adjusting the generation components of the rates to or
38 30 toward the market price of generation that an affected end-use
38 31 consumer should reasonably be expected to pay after the
38 32 termination of standard offer service. The mechanism shall be
38 33 approved by the board if it finds, after hearing, that it is
38 34 in the public interest and is as revenue neutral to the

38 35 incumbent provider as practicable. In determining the public
39 1 interest of the mechanism, the board, in addition to other
39 2 factors, shall consider whether the approval of the mechanism
39 3 would contribute to the development of effective competition
39 4 in the relevant markets. A mechanism approved under this
39 5 paragraph shall not become effective before January 1, 2004.
39 6 The board shall determine the market price that the affected
39 7 end-use consumer would reasonably be expected to pay in the
39 8 relevant competitive market. An incumbent provider's filing
39 9 under this paragraph is subject to section 476B.9, subsection
39 10 5.

39 11 f. If the board does not allow the termination of standard
39 12 offer service in a relevant market on or before January 1,
39 13 2006, pursuant to paragraph "a", the incumbent provider shall
39 14 be required to acquire competitive power supply services in
39 15 the market for this service. The price of standard offer
39 16 service shall be adjusted to reflect the cost of acquiring
39 17 that supply. The board shall adopt rules to assure
39 18 competitive pricing under this paragraph.

39 19 g. At any time, an incumbent provider that is an electric
39 20 company may file with the board a request to recalculate the
39 21 generation component of its bundled electric rates or standard
39 22 offer service rates to reflect changes in revenues, expenses,
39 23 and investments due to exogenous factors beyond the control of
39 24 the electric company. Such filing is subject to section
39 25 476B.9, subsection 5.

39 26 h. At a time and in a manner determined by the board to be
39 27 reasonable and in the public interest, an electric company
39 28 shall notify those end-use consumers receiving standard offer
39 29 service of the termination of such service and the
39 30 alternatives reasonably available to such consumers.

39 31 i. Rates, charges, terms, and conditions in effect under
39 32 this subsection shall be posted on the board's website.

39 33 j. An end-use consumer receiving standard offer service
39 34 under this subsection shall also be billed for applicable
39 35 charges under section 476B.13, subsection 1, section 476B.15,
40 1 subsection 3, and section 476B.16.

40 2 2. TRANSITIONAL SERVICE.

40 3 a. Commencing on May 1, 2002, a nonresidential end-use
40 4 consumer of an incumbent provider that is an electric company
40 5 who purchased twenty-five thousand kilowatt-hours of electric
40 6 service or more from the electric company in 2001 and who has
40 7 not chosen competitive electric services from another
40 8 competitive electric service provider shall receive
40 9 transitional service from the incumbent provider for a period
40 10 not to exceed one year and under tariff provisions approved by
40 11 the board. On or before January 1, 2001, an incumbent
40 12 provider shall file its initial rates, charges, terms, and
40 13 conditions applicable to this transitional service and shall
40 14 specify the duration for which the service will be available.
40 15 The board shall approve transitional service rates, charges,
40 16 terms, and conditions to the extent it determines them to be
40 17 just and reasonable. The filing shall be subject to section
40 18 476B.9, subsection 5. The rates, charges, terms, conditions,
40 19 and duration of transitional service approved by the board
40 20 shall be posted on the board's website for informational
40 21 purposes by no later than November 1, 2001, and shall become
40 22 effective May 1, 2002.

40 23 b. Nothing in this subsection shall preclude a qualifying
40 24 end-use consumer from exercising its option to choose
40 25 competitive electric services from a licensed competitive
40 26 electric service provider at any time, consistent with this
40 27 chapter and applicable board rules.

40 28 c. An end-use consumer receiving transitional service
40 29 under this subsection shall also be billed for applicable
40 30 charges under section 476B.13, subsection 1, section 476B.15,
40 31 subsection 3, and section 476B.16.

40 32 3. UNIVERSAL SERVICE.

40 33 a. The board shall adopt rules establishing the conditions
40 34 with which a residential end-use consumer located in the
40 35 assigned service area of a delivery service provider that is
41 1 an electric company must comply to qualify to receive service
41 2 under this subsection. The rules, at a minimum, shall address
41 3 the rights and remedies to avoid disconnection including, but
41 4 not limited to, use of prepaid meters, payment plans, deposit
41 5 requirements, load limiters, and other provisions deemed
41 6 appropriate by the board. The rules shall include a
41 7 requirement that electric service to a residential end-use
41 8 consumer who is the head of the household as defined by law
41 9 and who is eligible for assistance under the programs
41 10 established by section 476B.13, subsection 1, shall not be
41 11 discontinued from November 1 through April 1 except as
41 12 otherwise provided by the board. The initial rules shall be
41 13 proposed by March 1, 2001.

41 14 b. Residential end-use consumers who qualify to receive
41 15 service under the rules adopted pursuant to paragraph "a" and
41 16 who can demonstrate they have made an effort, as defined by
41 17 the board rules, to secure electric service from a competitive
41 18 electric service provider, but have been denied service, or
41 19 who have been determined to qualify for assistance under
41 20 section 476B.13, subsection 1, shall have the option to be
41 21 provided electric service under this subsection by their
41 22 delivery service provider.

41 23 c. At the time an electric company files its initial
41 24 unbundled rates with the board pursuant to section 476B.4, the
41 25 electric company shall also file its initial universal service
41 26 tariffs under this subsection, which shall be subject to
41 27 review and approval by the board. Through December 31, 2005,
41 28 the rates for universal service shall generally be the same as
41 29 the residential rates that would be available to the consumer
41 30 from its incumbent provider under subsection 1, including the
41 31 adjustments as specified in that subsection. However, an
41 32 electric company may propose to offer only one universal
41 33 service rate in each rate zone and may propose automatic
41 34 adjustment mechanisms applicable only to rates under this
41 35 subsection. The board shall approve universal service rates
42 1 and tariffs to the extent it determines those rates and
42 2 tariffs to be just and reasonable. The initial universal
42 3 service rates approved by the board shall be posted on the
42 4 board's website by no later than November 1, 2001, and shall
42 5 become effective May 1, 2002. Beginning January 1, 2006, the
42 6 rates for this service shall be based upon the market prices
42 7 applicable to the type of service received by the consumer,
42 8 adjusted for any state or federal subsidy of the rate paid to
42 9 the delivery service provider. The board may adopt rules, to
42 10 be effective January 1, 2006, that require the delivery
42 11 service provider to acquire competitive power supply services
42 12 for this service.

42 13 d. Section 476B.9, subsection 5, applies to changes in the
42 14 initial universal service tariffs proposed by an electric
42 15 company after the board's approval of the initial tariffs.

42 16 e. Rates, charges, terms, and conditions in effect under
42 17 this subsection shall be posted on the board's website within
42 18 twenty-four hours after becoming effective.

42 19 f. An end-use consumer receiving universal service under
42 20 this subsection shall also be billed for applicable charges
42 21 under section 476B.13, subsection 1, section 476B.15,
42 22 subsection 3, and section 476B.16.

42 23 4. CONSUMER-OWNED UTILITIES.

42 24 a. BASIC ENERGY SERVICE. Delivery service providers with
42 25 an assigned service area that are consumer-owned utilities
42 26 shall offer basic energy services to all end-use consumers
42 27 within their assigned service areas that have not specified a
42 28 competitive electric service provider or are otherwise without

42 29 a competitive electric service provider. Rates, charges,
42 30 terms, and conditions of basic energy services shall be
42 31 established by the local governing body and shall comply with
42 32 section 476B.9, subsection 6.

42 33 b. UNIVERSAL SERVICE. Delivery service providers with an
42 34 assigned service area that are consumer-owned utilities shall
42 35 offer universal service as a type of basic energy service to
43 1 eligible residential consumers determined in accordance with
43 2 the board's rules adopted pursuant to subsection 3, paragraphs
43 3 "a" and "b". This service will only be offered to eligible
43 4 consumers for the same period of time this service is offered
43 5 by electric company delivery service providers. Rates
43 6 associated with this service are subject to section 476B.9,
43 7 subsection 6.

43 8 Sec. 9. NEW SECTION. 476B.9 RESPONSIBILITIES AND RIGHTS
43 9 OF DELIVERY SERVICE PROVIDERS.

43 10 1. RESPONSIBILITIES FOR SAFE AND RELIABLE SERVICE.

43 11 a. A delivery service provider shall furnish safe and
43 12 reliable delivery services and facilities. A delivery service
43 13 provider with an assigned service area shall maintain within
43 14 the state those administrative, technical, and operating
43 15 personnel necessary for the provision of safe and reliable
43 16 delivery services and facilities. A delivery service provider
43 17 shall also maintain within the state an office for Iowa
43 18 operations that shall maintain those books, accounts, papers,
43 19 and records deemed necessary by the board to be maintained
43 20 within the state, unless otherwise authorized by the board.
43 21 Nothing in this paragraph requires a consumer-owned utility to
43 22 relocate any delivery service personnel or to change the
43 23 current location of its books, accounts, papers, or records.

43 24 b. The board shall have general oversight responsibility
43 25 for delivery service safety requirements and inspection and
43 26 maintenance activities for all delivery service providers.
43 27 The board shall adopt rules for delivery service providers
43 28 that it determines are required for reasonably safe and
43 29 reliable delivery service, including rules relating to credit
43 30 practices, collection practices, disconnection practices,
43 31 billing practices, public safety, service reliability, quality
43 32 of service, and power quality. The board shall adopt rules
43 33 regarding outages, outage duration, and delivery service
43 34 restoration, giving due consideration to factors including
43 35 weather, terrain, cost, and end-use consumer density. The
44 1 board shall also adopt rules regarding distribution service
44 2 extensions for delivery service providers that are electric
44 3 companies. The initial rules shall be proposed by March 1,
44 4 2001.

44 5 c. The board shall adopt rules requiring that delivery
44 6 service providers demonstrate that personnel who will be
44 7 installing, operating, and maintaining the delivery system
44 8 have the requisite skills, knowledge, experience, and training
44 9 to perform those work functions necessary to provide high
44 10 quality, safe, and reliable services. Such demonstration may
44 11 include a showing that applicable personnel have completed an
44 12 accredited or recognized apprenticeship training program for
44 13 the particular skill, trade, or craft. The initial rules
44 14 shall be proposed by June 1, 2001.

44 15 2. OPEN ACCESS AND COMPARABLE DELIVERY SERVICE.

44 16 a. Commencing May 1, 2002, for each delivery service
44 17 provider that is an electric company, and commencing on the
44 18 date that an end-use consumer has the option to choose
44 19 competitive electric services in the assigned service area of
44 20 each delivery service provider that is a consumer-owned
44 21 utility, unbundled distribution services, and other electric
44 22 services unbundled pursuant to section 476B.4, shall be made
44 23 available to end-use consumers and, if in the assigned service
44 24 area of an electric company, to licensed competitive electric
44 25 service providers, as provided in this chapter and the rules

44 26 adopted by the board to implement this section. Unbundled
44 27 delivery services shall be offered on a nondiscriminatory and
44 28 comparable service basis.

44 29 b. The board may adopt uniform rules for administering
44 30 open access and comparable delivery service including, but not
44 31 limited to, procedures for access to consumer information for
44 32 operational purposes, data transfers, and switching of
44 33 competitive electric service providers by end-use consumers.
44 34 However, the board shall not impose rates upon a consumer-
44 35 owned utility. The rules shall give due consideration to the
45 1 technology available, the administrative and financial burden
45 2 on delivery service providers and competitive electric service
45 3 providers, the objective of reasonable distribution service
45 4 rates, and the objective of nondiscriminatory and comparable
45 5 service. The initial rules shall be proposed by October 1,
45 6 2000.

45 7 c. Delivery service providers shall adopt and implement
45 8 procedures for restoring delivery service after outages on a
45 9 nondiscriminatory basis without regard to the competitive
45 10 electric service provider serving the end-use consumer.

45 11 d. If, after notice and opportunity for hearing, the board
45 12 determines that any delivery service provider or control area
45 13 operator is imposing unreasonable or artificial barriers to
45 14 access to any competitive electric service on the delivery
45 15 system, the board shall require the delivery service provider
45 16 or control area operator to take corrective measures, not
45 17 inconsistent with federal law, to the extent necessary and
45 18 feasible to eliminate the barriers to access. However, the
45 19 board shall not impose rates upon a consumer-owned utility.
45 20 The measures ordered by the board may include a requirement
45 21 that the delivery service provider participate in a regional
45 22 entity approved by the federal energy regulatory commission,
45 23 or its successor, that has authority over the portion of the
45 24 delivery system subject to federal regulation independently
45 25 from the wholesale electric sales function of the delivery
45 26 service provider. For the purposes of this paragraph,
45 27 artificial barriers shall not include legislative or
45 28 regulatory actions.

45 29 3. ELIMINATION OF OBLIGATION TO PROVIDE CERTAIN ELECTRIC
45 30 SERVICES.

45 31 a. Except as provided in subsection 7 and sections 476B.8,
45 32 476B.11, and 476B.12, an incumbent provider and a delivery
45 33 service provider shall not have any obligation to provide
45 34 competitive electric services to an end-use consumer that has
45 35 the option to choose competitive electric services.

46 1 b. A delivery service provider or a control area operator
46 2 shall not be liable for any damages to an end-use consumer if
46 3 a competitive electric service provider chosen by the consumer
46 4 fails to fulfill the terms of its contract with the end-use
46 5 consumer. This paragraph shall not be construed to limit the
46 6 liability of a delivery service provider or a control area
46 7 operator for damages caused by its own actions or failure to
46 8 act.

46 9 4. ASSIGNED SERVICE AREAS.

46 10 a. EXCLUSIVE ASSIGNED SERVICE AREAS ESTABLISHED. The
46 11 state has determined to displace competition in the provision
46 12 of electric service with a system of exclusive assigned
46 13 service areas as established pursuant to section 476.25 and in
46 14 effect on January 1, 1999. The service areas shall continue
46 15 to be assigned to the persons to whom such areas were assigned
46 16 on January 1, 1999, or their successors, who shall provide
46 17 bundled electric service to end-use consumers on an exclusive
46 18 basis until the dates when choice is available as specified in
46 19 section 476B.7. On or after the dates when choice is
46 20 available, a person assigned a service area immediately prior
46 21 to the dates when choice is available shall be the delivery
46 22 service provider for the assigned service area unless such

46 23 person designates to the board a different person. A delivery
46 24 service provider shall provide delivery services to end-use
46 25 consumers within its assigned area on an exclusive basis
46 26 pursuant to this chapter.

46 27 b. CLARIFICATION OR MODIFICATION OF BOUNDARIES.

46 28 (1) Consistent with this subsection, the board, on its own
46 29 motion or at the request of a delivery service provider or
46 30 municipal corporation, after notice and opportunity for
46 31 hearing, may clarify or modify the boundaries of an assigned
46 32 service area if it finds that the clarification or
46 33 modification will promote the public interest, preserve
46 34 existing assigned service areas and the delivery service
46 35 providers' right to serve existing end-use consumers, prevent
47 1 unnecessary duplication of facilities, provide adequate
47 2 delivery service to all assigned service areas and end-use
47 3 consumers affected, and promote the efficient and economical
47 4 use and development of the electric delivery system.

47 5 (2) An agreement between delivery service providers to
47 6 designate assigned service areas and end-use consumers or to
47 7 clarify or modify assigned service areas to be served by the
47 8 delivery service providers or for the exchange of end-use
47 9 consumers between delivery service providers shall be
47 10 submitted to the board for review. The agreement, when
47 11 approved by the board, is valid and enforceable and shall be
47 12 incorporated into the appropriate assigned service areas
47 13 established pursuant to this subsection. The board shall
47 14 approve an agreement if the board finds the agreement
47 15 satisfies the criteria set forth in subparagraph (1).

47 16 (3) If a delivery service provider declines to enter into
47 17 an agreement to designate an assigned service area or end-use
47 18 consumers, or to clarify or modify an assigned service area,
47 19 an aggrieved person may petition the board to order such a
47 20 designation, clarification, or modification on the grounds
47 21 that the proposed designation, clarification, or modification
47 22 will promote the public interest, preserve existing service
47 23 areas and the delivery service providers' right to serve
47 24 existing end-use consumers, prevent unnecessary duplication of
47 25 facilities, provide adequate delivery service to all assigned
47 26 service areas and end-use consumers affected, and promote the
47 27 efficient and economical use and development of the electric
47 28 delivery system. If the board finds that the petition meets
47 29 the foregoing standards, the board shall order the
47 30 designation, clarification, or modification on such terms and
47 31 conditions as it finds just and reasonable.

47 32 c. LIMIT ON BYPASS. Except with the written approval of
47 33 the affected delivery service provider and the board, a person
47 34 shall not provide or offer to provide delivery service to an
47 35 end-use consumer in an assigned service area assigned to
48 1 another delivery service provider, or construct delivery
48 2 service facilities in an assigned service area assigned to
48 3 another delivery service provider to serve an end-use consumer
48 4 in such assigned service area. This paragraph does not
48 5 preclude an end-use consumer from constructing, or having
48 6 constructed, on real estate which the end-use consumer owns or
48 7 leases, distribution service facilities for the exclusive
48 8 purpose of meeting the end-use consumer's own electric service
48 9 requirements, as long as such facilities are constructed
48 10 entirely within the boundaries of such real estate and, as a
48 11 consequence of constructing such facilities, will not allow
48 12 that end-use consumer to avoid nonbypassable charges or reduce
48 13 the value of facilities dedicated to that end-use consumer for
48 14 which the delivery service provider would not be compensated.
48 15 With respect to matters subject to the board's jurisdiction, a
48 16 person may file a complaint with the board regarding a
48 17 violation of this paragraph. Upon finding a violation, the
48 18 board shall order appropriate corrective action including
48 19 discontinuance of the unlawful service, removal of the

48 20 unlawful facility, compensation for lost margin, or other
48 21 disposition commensurate with the injury suffered. A petition
48 22 for franchise filed by a municipal utility pursuant to section
48 23 478.2 for facilities used to connect the utility to the
48 24 transmission grid shall not be limited by this paragraph.

48 25 d. CERTIFICATES OF AUTHORITY. A municipal corporation,
48 26 after being authorized by a vote of the people, or any
48 27 delivery service provider may file a petition with the board
48 28 requesting a certificate of authority to furnish delivery
48 29 service to the existing point of delivery of any end-use
48 30 consumer already receiving delivery service. If, after thirty
48 31 days have elapsed following notice by the board to the person
48 32 currently serving the end-use consumer, objection to the
48 33 petition is not filed and investigation is not deemed
48 34 necessary, the board shall issue a certificate. If an
48 35 objection is filed, and the board, after notice and
49 1 opportunity for hearing, determines that delivery service to
49 2 the end-use consumer by the petitioner should be granted, the
49 3 board shall grant a certificate in whole or in part, upon such
49 4 terms, conditions, and restrictions as may be justified. In
49 5 determining whether a proposal should be granted, the board
49 6 shall consider the factors set forth in paragraph "b",
49 7 subparagraph (1). Whether or not an objection is filed, a
49 8 certificate issued shall require that the petitioner pay to
49 9 the person presently serving the end-use consumer the
49 10 reasonable price for acquisition of the facilities serving the
49 11 end-use consumer as determined by the board. A price
49 12 determination by the board shall include due consideration of
49 13 all of the following:

- 49 14 (1) The value of the facilities being acquired.
- 49 15 (2) Any penalties, buyout costs, or other costs associated
49 16 with any commitments to generating and transmission capacity
49 17 on behalf of the departing consumers or to support the
49 18 delivery service facilities being acquired.
- 49 19 (3) Projected loss of revenue and its impact on remaining
49 20 end-use consumers of the affected provider.
- 49 21 (4) The cost of any facilities necessary to reintegrate
49 22 the system of the delivery service provider after detaching
49 23 the portion sold.

49 24 e. OBLIGATION TO EXTEND DELIVERY SERVICE FACILITIES. A
49 25 delivery service provider that has been assigned an exclusive
49 26 delivery service area pursuant to this subsection shall extend
49 27 delivery service facilities to all end-use consumers within
49 28 its assigned service area as provided in this chapter. The
49 29 board shall adopt rules for electric companies setting forth
49 30 the terms and conditions of delivery service facility
49 31 extensions for electric companies and shall issue proposed
49 32 rules by no later than October 1, 2001.

49 33 f. DELIVERY SERVICE AREA MAPS. Whenever requested by the
49 34 board, delivery service providers shall file with the board,
49 35 jointly or severally, detailed maps of their assigned service
50 1 areas drawn to a scale specified by the board showing all of
50 2 the following:

- 50 3 (1) The locations of franchised transmission lines,
50 4 distribution lines, and related facilities.
- 50 5 (2) All state and federal highways and other public roads
50 6 within the delivery service area.
- 50 7 (3) All section lines and numbers, and township and range
50 8 numbers within the delivery service area.
- 50 9 (4) The corporate boundaries of all cities within the
50 10 delivery service area.
- 50 11 (5) All lakes and rivers within the delivery service area.
- 50 12 (6) All railroads within the delivery service area.
- 50 13 (7) Any additional information requested by the board.

50 14 If deemed by the board to be necessary, the board shall
50 15 prepare or cause to have prepared a composite map of this
50 16 state showing the delivery service areas. The form and detail

50 17 of all maps shall be determined by the board.

50 18 g. EXCEPTION. Notwithstanding contrary provisions of this
50 19 section, a delivery service provider may extend delivery
50 20 service facilities and provide delivery service outside its
50 21 assigned service area to its own utility property and
50 22 facilities.

50 23 h. RIGHTS OF CITIES. If not inconsistent with this
50 24 chapter, the rights of cities under chapters 362 through 390
50 25 are preserved.

50 26 However, prior to the institution of condemnation
50 27 proceedings under chapter 6B, a city shall obtain a
50 28 certificate of authority from the board as provided in
50 29 paragraph "d" and the board's determination of price shall be
50 30 conclusive evidence of damages in these condemnation
50 31 proceedings.

50 32 i. EFFECT OF INCORPORATION, ANNEXATION, OR CONSOLIDATION.
50 33 The inclusion by incorporation, annexation, or consolidation
50 34 of any facilities or service area of a person with an
50 35 exclusive assigned service area within the boundaries of any
51 1 city shall not by such inclusion impair or affect in any
51 2 respect the rights of the delivery service provider to
51 3 continue to provide delivery services and to extend service to
51 4 prospective end-use consumers in accordance with this chapter.

51 5 5. DELIVERY SERVICE RATE REGULATION FOR ELECTRIC
51 6 COMPANIES. A delivery service provider that is also an
51 7 electric company shall file, post, and maintain applicable
51 8 unbundled rates in accordance with this subsection and section
51 9 476B.4. The board shall regulate the rates, charges,
51 10 schedules, and regulations for distribution services and other
51 11 services unbundled pursuant to section 476B.4, subsection 1,
51 12 and provided by delivery service providers that are electric
51 13 companies. The burden of establishing the reasonableness of
51 14 rates, charges, schedules, and regulations is upon the
51 15 delivery service provider.

51 16 a. FILING WITH BOARD. Except as provided in paragraphs
51 17 "g" and "i", a delivery service provider that is an electric
51 18 company shall not make effective a new or changed distribution
51 19 service rate, charge, schedule, or regulation or other
51 20 unbundled rate, charge, schedule, or regulation subject to the
51 21 jurisdiction of the board until the rate, charge, schedule, or
51 22 regulation has been approved by the board. Notwithstanding
51 23 anything in this chapter to the contrary, if an application
51 24 for a new or changed rate or charge is filed with the board
51 25 and posted on its website, and if affected competitive
51 26 electric service providers and end-use consumers have the
51 27 option to select or not select such rate or charge, the rate
51 28 or charge shall become effective within ten business days
51 29 after filing. The board, within ten business days after the
51 30 filing, may docket the filing and suspend the rate or charge,
51 31 either upon the filing of a written objection or on its own
51 32 motion, but the board shall not suspend the rate or charge for
51 33 more than ninety days from the date the tariff was filed.

51 34 b. LIMITATIONS ON FILING. A delivery service provider
51 35 that is an electric company shall not make a subsequent filing
52 1 of an application for a new or changed rate, charge, schedule,
52 2 or regulation which relates to the same rate, charge,
52 3 schedule, or regulation for which a filing is pending within
52 4 twelve months following the date the prior application was
52 5 filed or until the board has issued a final order on the prior
52 6 application, whichever date is earlier, unless the delivery
52 7 service provider applies to the board for authority to make a
52 8 subsequent filing at an earlier date and such application is
52 9 approved by the board.

52 10 c. WRITTEN NOTICE OF INCREASE. A delivery service
52 11 provider that is an electric company shall give written notice
52 12 of a proposed increase of a distribution service rate or
52 13 charge or other unbundled rate or charge subject to the

52 14 jurisdiction of the board to all affected competitive electric
52 15 service providers and end-use consumers receiving service
52 16 under board-approved tariffs or with whom the delivery service
52 17 provider has distribution service contracts, whether or not
52 18 written, prior to the time the application for the increase is
52 19 filed with the board. The notice shall state that the
52 20 competitive electric service provider or end-use consumer has
52 21 a right to file a written objection to the rate increase and
52 22 may request the board to hold a public hearing to determine if
52 23 the increase should be allowed. The board shall adopt rules
52 24 prescribing the timing, manner, and method of serving the
52 25 written notice. The board may adopt rules regarding
52 26 notification of other end-use consumers that may be affected
52 27 by a proposed increase. The initial rules shall be proposed
52 28 by March 1, 2001.

52 29 d. FACTS AND ARGUMENTS SUBMITTED. At the time an
52 30 application for any new or changed rate, charge, schedule, or
52 31 regulation is filed with the board, the delivery service
52 32 provider shall submit factual evidence and written argument
52 33 offered in support of the filing. If the application proposes
52 34 an increase in distribution service rates, the delivery
52 35 service provider shall also file testimonial evidence in
53 1 support of the filing.

53 2 e. HEARING SET. After the filing of an application by a
53 3 delivery service provider for a new or changed rate, charge,
53 4 schedule, or regulation subject to the jurisdiction of the
53 5 board, the board, prior to the expiration of thirty days after
53 6 the filing date, shall docket the case as a formal proceeding
53 7 and set the case for hearing unless the new or changed rate,
53 8 charge, schedule, or regulation is approved by the board. If
53 9 an application presents no material issue of fact subject to
53 10 dispute, and the board determines that the application
53 11 violates a relevant statute, or is not in substantial
53 12 compliance with a board rule, the application may be rejected
53 13 by the board without prejudice and without a hearing, provided
53 14 that the board issues a written order setting forth all of its
53 15 reasons for rejecting the application. The board shall give
53 16 notice of formal proceedings as it deems appropriate. Except
53 17 as provided in paragraphs "g" and "i", the docketing of a case
53 18 as a formal proceeding suspends the effective date of the new
53 19 or changed rate, charge, schedule, or regulation until the
53 20 rate, charge, schedule, or regulation is approved by the
53 21 board.

53 22 f. UTILITY HEARING EXPENSES REPORTED. If a case has been
53 23 docketed as a formal proceeding, the delivery service provider
53 24 shall file with the board a report outlining the expected
53 25 expenses for litigating the case through the period allowed by
53 26 the board in rendering a final decision. Within ten days
53 27 after the conclusion of the delivery service provider's
53 28 presentation of comments, testimony, or briefs, the delivery
53 29 service provider shall submit to the board a listing of the
53 30 delivery service provider's actual litigation expenses in the
53 31 proceeding, excluding costs to be billed by the board and the
53 32 consumer advocate. As part of the findings of the board, the
53 33 board shall allow recovery of all reasonable costs of the
53 34 litigation, including all costs billed by the board and the
53 35 consumer advocate, over a reasonable period of time.

54 1 g. DISTRIBUTION SERVICE RATES AND CHARGES. Distribution
54 2 service rates and charges and other unbundled rates and
54 3 charges shall be based upon a cost of service method,
54 4 performance-based incentives, or such other method of
54 5 ratemaking as the board deems just and reasonable. If cost of
54 6 service is used for establishing a component of unbundled
54 7 rates, the method used to determine class cost of service, to
54 8 the maximum extent practicable, should permit identification
54 9 of cost differences attributable to variations in demand,
54 10 energy, voltage delivery level, customer components of costs,

54 11 and other factors. This chapter does not prohibit a delivery
54 12 service provider from making provision for the automatic
54 13 adjustment of a distribution service rate or charge or other
54 14 rate or charge subject to the jurisdiction of the board,
54 15 provided that a tariff setting forth the mechanism for
54 16 automatic adjustment of a rate or charge is first filed with
54 17 and approved by the board. Notice of such filing to end-use
54 18 consumers and competitive electric service providers receiving
54 19 service under board-approved tariffs or with whom the delivery
54 20 service provider has distribution service contracts, whether
54 21 or not written, shall be required, but adjustments pursuant to
54 22 an approved mechanism shall not require further notice. The
54 23 board may adopt rules regarding notification of other end-use
54 24 consumers that may be affected by the automatic adjustment
54 25 mechanism.

54 26 The board, in determining the value of materials or
54 27 services to be included in valuations or costs of operations
54 28 for ratemaking purposes, may disallow any unreasonable profit
54 29 made in the sale of materials to or services supplied for any
54 30 delivery service provider by a firm or corporation owned or
54 31 controlled directly or indirectly by such delivery service
54 32 provider or any affiliate, subsidiary, parent company,
54 33 associate, or any corporation whose controlling stockholders
54 34 are also controlling stockholders of such delivery service
54 35 provider. The burden of proof is on the delivery service

55 1 provider to prove that no unreasonable profit is made.

55 2 h. FINDING BY BOARD. If, after hearing and decision on
55 3 all issues presented for determination in the rate proceeding,
55 4 the board finds the proposed rate, charge, schedule, or
55 5 regulation to be unlawful or not just and reasonable, the
55 6 board shall, by order, authorize and direct the delivery
55 7 service provider to file a new or changed rate, charge,
55 8 schedule, or regulation which, when approved by the board and
55 9 placed in effect, will satisfy the requirements of this
55 10 chapter. A rate, charge, schedule, or regulation so approved
55 11 is lawful and effective upon its approval.

55 12 i. TEMPORARY AUTHORITY. Upon the request of a delivery
55 13 service provider, the board, when required by this paragraph,
55 14 shall grant temporary authority to place in effect any or all
55 15 of a suspended rate, charge, schedule, or regulation. A
55 16 delivery service provider shall file with the board a bond or
55 17 other undertaking approved by the board conditioned upon the
55 18 refund in a manner to be prescribed by the board of any
55 19 amounts collected in excess of the amounts which would have
55 20 been collected under a rate, charge, schedule, or regulation
55 21 finally approved by the board. In determining that portion of
55 22 the new or changed rate, charge, schedule, or regulation to be
55 23 placed into effect prior to a final decision, the board shall
55 24 apply previously established regulatory principles and, at a
55 25 minimum, shall permit rates and charges which will allow the
55 26 delivery service provider the opportunity to earn a return on
55 27 common stock equity equal to that which the board held
55 28 reasonable and just in the most recent rate case involving
55 29 electric or distribution service. However, if the most recent
55 30 final decision of the board in an applicable rate case was
55 31 rendered more than twelve months prior to the date of filing
55 32 of the request for temporary rates, the board, in addition,
55 33 shall consider financial market data that is filed or that is
55 34 otherwise available to the board and shall adjust the rate of
55 35 return on common stock equity that was approved in that

56 1 decision upward or downward as necessary to reflect current
56 2 conditions. The board shall render a decision on a request
56 3 for temporary authority within ninety days after the date of
56 4 filing of the request. The decision shall be effective
56 5 immediately. If the board has not rendered a final decision
56 6 with respect to a suspended rate, charge, schedule, or
56 7 regulation upon the expiration of ten months after the filing

56 8 date, plus the length of any delay that necessarily results
56 9 either from the failure of the delivery service provider to
56 10 exercise due diligence in connection with the proceedings or
56 11 from intervening judicial proceedings, the portion of the
56 12 rate, charge, schedule, or regulation that was approved by the
56 13 board on a temporary basis shall be deemed finally approved by
56 14 the board and the delivery service provider may place that
56 15 portion of the rate, charge, schedule, or regulation into
56 16 effect on a permanent basis, and also may place into effect
56 17 subject to refund and until the final decision of the board
56 18 any portion of the suspended rate, charge, schedule, or
56 19 regulation not previously approved on a temporary basis by
56 20 filing with the board a bond or other undertaking approved by
56 21 the board.

56 22 The board shall determine the rate of interest to be paid
56 23 by a delivery service provider to persons receiving refunds.

56 24 j. INVESTIGATIONS. If a written request is filed with the
56 25 board by any person or body politic, or filed by the board
56 26 upon its own motion, requesting the board to determine the
56 27 reasonableness of a distribution service rate, charge,
56 28 schedule, or regulation or other unbundled rate, charge,
56 29 schedule, or regulation subject to the jurisdiction of the
56 30 board, or anything done or omitted to be done in contravention
56 31 of this chapter by a delivery service provider that is an
56 32 electric company, the written complaint shall be forwarded by
56 33 the board to the delivery service provider, which shall be
56 34 called upon to satisfy the complaint or to answer it in
56 35 writing within a reasonable time to be specified by the board.
57 1 Copies of the written complaint forwarded by the board to the
57 2 delivery service provider and copies of all correspondence
57 3 from the delivery service provider in response to the
57 4 complaint shall be provided by the board in an expeditious
57 5 manner to the consumer advocate. If the board determines the
57 6 delivery service provider's response is inadequate and there
57 7 appears to be any reasonable ground for investigating the
57 8 complaint, the board shall promptly initiate a formal
57 9 proceeding. If the consumer advocate determines the delivery
57 10 service provider's response to the complaint is inadequate,
57 11 the consumer advocate may file a petition with the board which
57 12 shall promptly initiate a formal proceeding if the board
57 13 determines that there is any reasonable ground for
57 14 investigating the complaint. The complainant or the delivery
57 15 service provider also may petition the board to initiate a
57 16 formal proceeding, which petition shall be granted if the
57 17 board determines that there is any reasonable ground for
57 18 investigating the complaint. A formal proceeding may be
57 19 initiated at any time by the board on its own motion. If a
57 20 formal proceeding is initiated, the board shall set the case
57 21 for hearing and give notice as it deems appropriate. If the
57 22 board, after a hearing held after reasonable notice, finds a
57 23 delivery service provider's rate, charge, schedule, or
57 24 regulation subject to the jurisdiction of the board is unjust,
57 25 unreasonable, discriminatory, or otherwise in violation of any
57 26 law, the board shall determine a just, reasonable, and
57 27 nondiscriminatory rate, charge, schedule, or regulation to be
57 28 observed and enforced.

57 29 k. RATE COMPLAINTS BY CONSUMER ADVOCATE. If the consumer
57 30 advocate files a complaint with the board alleging that a
57 31 delivery service provider's regulated rates are excessive, the
57 32 disputed amount shall be specified in the petition. The board
57 33 shall promptly initiate a formal proceeding if it determines
57 34 that there is any reasonable ground for investigating the
57 35 complaint. If the board determines to initiate a formal
58 1 proceeding, the delivery service provider, within the time
58 2 prescribed by the board, shall file a bond or undertaking
58 3 approved by the board conditioned upon the refund in a manner
58 4 prescribed by the board of amounts collected after the date of

58 5 filing of the petition in excess of a rate or charge finally
58 6 determined by the board to be lawful. If after hearing the
58 7 board finds that the delivery service provider's regulated
58 8 rates are unlawful or not just and reasonable, the board shall
58 9 order a refund, with interest, of amounts collected after the
58 10 date of filing of the petition that are determined to be in
58 11 excess of the amounts which would have been collected under
58 12 the rates finally approved. However, the board shall not
58 13 order a refund that is greater than the amount specified in
58 14 the petition, plus interest, and if the board fails to render
58 15 a decision within ten months following the date of filing of
58 16 the petition, the board shall not order a refund of any excess
58 17 amounts that are collected after the expiration of that ten-
58 18 month period and prior to the date the decision is rendered.

58 19 1. PROSPECTIVE EFFECT. A determination by the board of a
58 20 distribution service rate or charge or another unbundled rate,
58 21 charge, schedule, or regulation pursuant to paragraph "i" or
58 22 "j" that is based upon a variance from previously established
58 23 regulatory principles shall apply prospectively from the date
58 24 of the decision.

58 25 m. RULES GOVERNING HEARINGS. The board shall adopt rules
58 26 to provide for the completion of proceedings under this
58 27 subsection within ten months after the date of the filing of
58 28 the application or complaint. The rules shall include
58 29 reasonable time limitations for the submission or completion
58 30 of comments, testimony, exhibits, briefs, and hearings, which
58 31 the board may extend upon the request of a party to the
58 32 proceeding for good cause shown. Additional time granted to a
58 33 party shall not extend the amount of time for which a delivery
58 34 service provider is required to file a bond or other
58 35 undertaking. If additional time is granted, the board may
59 1 extend the ten-month period during which a delivery service
59 2 provider is prohibited from placing its entire rate increase
59 3 request into effect, but an extension shall not exceed the
59 4 aggregate amount of all additional time granted under this
59 5 paragraph. The initial rules shall be proposed by March 1,
59 6 2001.

59 7 n. CONSIDERATION OF CURRENT INFORMATION. The board shall
59 8 adopt rules that require the board in rate proceedings under
59 9 this subsection to consider the use of the most current test
59 10 period possible in determining reasonable and just rates,
59 11 subject only to the availability of existing and verifiable
59 12 data with respect to costs and revenues, and in addition to
59 13 consider verifiable data that exist as of the filing date of
59 14 the application or complaint with respect to known and
59 15 measurable changes in costs not associated with a different
59 16 level of revenue, and known and measurable revenues not
59 17 associated with a different level of costs, that are to occur
59 18 at any time within twelve months after the date of the filing.
59 19 This paragraph shall not limit the authority of the board to
59 20 consider other evidence in proceedings under this subsection.
59 21 The initial rules shall be proposed by March 1, 2001.

59 22 o. TARIFFS POSTED. A rate, charge, schedule, term,
59 23 condition, or regulation applicable to distribution service or
59 24 other unbundled service that has been approved by the board or
59 25 is otherwise in effect pursuant to this subsection shall be
59 26 posted on the board's website within twenty-four hours after
59 27 being placed into effect.

59 28 p. ACCOUNTS RENDERED TO THE BOARD.

59 29 (1) A delivery service provider that is an electric
59 30 company shall keep and render to the board, in the manner and
59 31 form prescribed by rules of the board, uniform accounts of all
59 32 business transacted.

59 33 (2) A delivery service provider that is an electric
59 34 company and that is engaged directly or indirectly in any
59 35 other business than that of the provision of delivery services
60 1 to the public, if required by rules adopted by the board,

60 2 shall keep and render separately to the board in like manner
60 3 and form the accounts of all such other business, in which
60 4 case this subsection shall apply to the books, accounts,
60 5 papers, and records of such other business and all profits and
60 6 losses may be taken into consideration by the board if deemed
60 7 relevant to the general fiscal condition of the delivery
60 8 service provider.

60 9 (3) A delivery service provider that is an electric
60 10 company is required to keep and render its books, accounts,
60 11 papers, and records accurately and faithfully in the manner
60 12 and form prescribed by rules of the board, and to comply with
60 13 all directions of the board relating to such books, accounts,
60 14 papers, and records.

60 15 (4) The board shall consult with other state and federal
60 16 regulatory bodies for the purpose of eliminating accounting
60 17 discrepancies with regard to the keeping of accounts before
60 18 prescribing any system of account to be kept by a delivery
60 19 service provider. The initial rules shall be proposed by
60 20 March 1, 2001.

60 21 q. JURISDICTION OVER DELIVERY SERVICE PROVIDERS. The
60 22 jurisdiction and powers of the board shall extend as provided
60 23 in this chapter to a delivery service business of an electric
60 24 company operating within this state to the full extent
60 25 permitted by the Constitution and laws of the United States.

60 26 r. AUDIT OF DELIVERY SERVICE OPERATIONS. The board shall
60 27 adopt rules to administer a program for the continuous review
60 28 of operations of a delivery service provider that is an
60 29 electric company with respect to all matters that affect rates
60 30 or charges for delivery service. The initial rules shall be
60 31 proposed by March 1, 2001.

60 32 s. LOBBYING COSTS. A delivery service provider that is an
60 33 electric company is prohibited from including either directly
60 34 or indirectly the costs of lobbying in the charges or rates
60 35 subject to the jurisdiction of the board.

61 1 t. LEGAL COSTS. Legal costs and attorney fees incurred by
61 2 a delivery service provider that is an electric company in a
61 3 judicial review proceeding in state or federal court involving
61 4 the validity of any action of the board shall not be included
61 5 either directly or indirectly in the charges or rates subject
61 6 to the jurisdiction of the board except to the extent that
61 7 recovery of legal costs and attorney fees is allowed by the
61 8 board. The board shall allow recovery of the reasonable legal
61 9 costs and attorney fees incurred in judicial review. The
61 10 board may consider the degree of success of the legal
61 11 arguments of the delivery service provider in determining the
61 12 reasonable legal costs and attorney fees to be allowed.

61 13 u. ADVERTISING. Except as provided in this paragraph, a
61 14 delivery service provider that is an electric company shall
61 15 not include either directly or indirectly in the charges or
61 16 rates subject to the jurisdiction of the board the costs of
61 17 advertising other than advertising regarding public safety or
61 18 advertising that is required by the board or by any other
61 19 state or federal regulation. However, this restriction does
61 20 not apply to advertising which is deemed by the board to be in
61 21 the public interest and which is approved by the board.

61 22 An advertisement which is published, broadcast, or
61 23 otherwise displayed or disseminated to the public by a
61 24 delivery service provider that is an electric company, the
61 25 costs of which will be included in the rates or charges
61 26 subject to the jurisdiction of the board and which is not
61 27 public safety advertising or advertising required by the board
61 28 or by other state or federal regulation, shall include a
61 29 statement in the advertisement that the costs of the
61 30 advertisement are being charged to the users of delivery
61 31 service. This paragraph does not apply to a delivery service
61 32 provider's product or service that is or becomes subject to
61 33 competition as determined by the board.

61 34 v. ANNUAL REPORTS OF DELIVERY SERVICE PROVIDERS. The
61 35 board shall adopt rules prescribing the form and content of an
62 1 annual report to be filed with the board by a delivery service
62 2 provider, other than a consumer-owned utility. The board
62 3 shall review annual reports submitted pursuant to the rules.
62 4 The board may commence rate-review proceedings under this
62 5 chapter for an electric company if an annual report indicates
62 6 that its earnings are excessive. The initial rules shall be
62 7 proposed by March 1, 2001.

62 8 6. DELIVERY SERVICE RATE REGULATION FOR CONSUMER-OWNED
62 9 UTILITIES.

62 10 a. LOCAL REGULATION. The rates for delivery service and
62 11 other unbundled services provided by a consumer-owned utility
62 12 and all other matters not specifically reserved to the board
62 13 by statute shall be regulated by the consumer-owned utility's
62 14 local governing body. An election made pursuant to section
62 15 476.1A by the board of directors or the membership of an
62 16 electric cooperative corporation or association to have the
62 17 cooperative's rates regulated by the board is rescinded
62 18 effective June 1, 1999.

62 19 b. POSTING. Rates, terms, and conditions of applicable
62 20 distribution services and other unbundled services provided by
62 21 a consumer-owned utility shall be posted on the board's
62 22 website. Any change in rates, terms, or conditions shall be
62 23 posted no less than twenty-four hours prior to becoming
62 24 effective.

62 25 c. NOTICE OF CHANGES. A consumer-owned utility shall give
62 26 written notice of any proposed increase in delivery service
62 27 rates or charges or other unbundled rates or charges to all
62 28 applicable and directly affected end-use consumers and
62 29 competitive electric service providers at least thirty days
62 30 prior to the effective date of the increase.

62 31 d. DISCRIMINATION PROHIBITED. A consumer-owned utility
62 32 shall not make or grant to any person any unreasonable
62 33 preference or advantage as to delivery service rates,
62 34 services, terms, or conditions or subject any person to
62 35 unreasonable prejudice or disadvantage. This paragraph shall
63 1 not be construed to prohibit a municipal utility from
63 2 providing preferential rates, terms, or conditions of services
63 3 to any department or function of municipal government pursuant
63 4 to section 384.91.

63 5 e. DISPUTES. The district court has original jurisdiction
63 6 concerning disputes with respect to the distribution service
63 7 rates and charges and other unbundled service rates of a
63 8 consumer-owned utility and all other matters concerning a
63 9 consumer-owned utility not specifically reserved to the board
63 10 by this chapter or another statute.

63 11 f. ANNUAL REPORTS OF CONSUMER-OWNED DELIVERY SERVICE
63 12 PROVIDERS. The board shall adopt rules prescribing the form
63 13 and content of an annual report to be filed with the board by
63 14 a consumer-owned delivery service provider. The initial rules
63 15 shall be proposed by March 1, 2001.

63 16 7. CONTROL AREA OPERATIONS.

63 17 a. REGULATORY JURISDICTION. A rate, charge, term, and
63 18 condition of distribution services provided within the state
63 19 by a control area operator that is an electric company is
63 20 subject to subsection 5 and to regulation by the board except
63 21 to the extent such rate, charge, term, or condition is subject
63 22 to the exclusive jurisdiction of the federal energy regulatory
63 23 commission or another federal agency. Distribution services
63 24 may include load profiling, financial settlement, distribution
63 25 system scheduling, and ancillary services to the extent not
63 26 subject to exclusive federal jurisdiction. The board shall
63 27 approve rates, charges, terms, conditions, and processes for
63 28 load profiling and financial settlement that are just,
63 29 reasonable, and nondiscriminatory. The board shall adopt
63 30 rules governing the filing and posting of control area

63 31 operator's services, rates, charges, terms, conditions, and
63 32 processes subject to its jurisdiction and changes in such
63 33 services, rates, charges, terms, conditions, and processes.
63 34 The initial rules shall be proposed by October 1, 1999.

63 35 b. NOTICE TO BOARD OF DEFAULT. If a control area operator
64 1 becomes aware that a competitive electric service provider has
64 2 substantially failed to schedule energy for two consecutive
64 3 twenty-four-hour periods, failed to deliver energy scheduled
64 4 with or committed to the control area operator for two
64 5 consecutive twenty-four-hour periods, or has otherwise
64 6 substantially defaulted upon its obligations to or agreements
64 7 with the control area operator, the control area operator
64 8 shall notify the board and the affected delivery service
64 9 provider of such occurrence as soon as practicable. A control
64 10 area operator shall use reasonable commercial efforts to
64 11 provide power supply services on an emergency basis to end-use
64 12 consumers if a competitive electric service provider defaults.
64 13 However, a control area operator shall not be liable to an
64 14 end-use consumer for failure to provide emergency power supply
64 15 services.

64 16 The board shall adopt rules addressing the failure of a
64 17 competitive electric service provider to comply with the
64 18 terms, conditions, and obligations of control area services.
64 19 The rules shall provide for finding a replacement competitive
64 20 electric service provider or competitive electric service
64 21 providers to serve the end-use consumers of the defaulting
64 22 competitive electric service provider as soon as feasible in
64 23 order to eliminate the burden on the control area operator to
64 24 provide power supply services for such consumers. The rules
64 25 shall include a provision for the board or an entity
64 26 designated by the board to notify affected end-use consumers
64 27 if a need exists for the end-use consumers to select a new
64 28 competitive electric service provider. The rules shall also
64 29 include a provision that permits a control area operator to
64 30 recover all reasonable costs incurred by the control area
64 31 operator in remedying the competitive electric service
64 32 provider's failure and providing service to the end-use
64 33 consumers of the competitive electric service provider to the
64 34 extent the competitive electric service provider fails to pay
64 35 such costs. The initial rules shall be proposed by October 1,
65 1 2000.

65 2 8. STANDARDS OF CONDUCT.

65 3 a. DELIVERY SERVICE PROVIDERS. No later than November 1,
65 4 2001, each delivery service provider shall post on the board's
65 5 website standards of conduct, to be effective May 1, 2002,
65 6 that require the delivery service provider to do all of the
65 7 following:

65 8 (1) Apply all tariff provisions in a nondiscriminatory and
65 9 comparable service manner to similarly situated persons.

65 10 (2) Process requests for delivery service in a
65 11 nondiscriminatory manner.

65 12 (3) Make available any distribution service discounts,
65 13 rebates, or waiver of fees on a nondiscriminatory basis to all
65 14 similarly situated persons.

65 15 (4) Comply with section 476B.6, subsection 4, paragraph
65 16 "k".

65 17 (5) Deny to any competitive electric service provider
65 18 preferential access to information related to the distribution
65 19 of electricity which is not otherwise made publicly available,
65 20 except information regarding the competitive electric service
65 21 provider's own end-use consumers.

65 22 (6) Not represent that any advantages accrue to end-use
65 23 consumers or others in the use of the delivery service
65 24 provider's services as a result of that end-use consumer or
65 25 others dealing with any particular competitive electric
65 26 service provider.

65 27 (7) Establish a complaint procedure applicable to the

65 28 standards of conduct, and process and resolve complaints in
65 29 accordance with such procedure.

65 30 (8) Develop written agreements with generating plant
65 31 operators as needed to maintain distribution system
65 32 reliability.

65 33 (9) Abide by the applicable federal energy regulatory
65 34 commission standards of conduct when providing delivery
65 35 service subject to the jurisdiction of the federal energy
66 1 regulatory commission.

66 2 (10) Take reasonable steps to keep its delivery system in
66 3 operation in emergency circumstances affecting system
66 4 reliability.

66 5 (11) Prohibit discrimination in the extension or repair of
66 6 the delivery system facilities.

66 7 (12) If the delivery service provider is an electric
66 8 company, maintain separate books, records, and accounts for
66 9 distribution service operations. If the delivery service
66 10 provider is a consumer-owned utility, maintain records in such
66 11 a manner as to enable delivery service data to reasonably be
66 12 separated from data that do not pertain to delivery services.

66 13 (13) With respect to distribution service and control area
66 14 operator employees engaged in receiving requests from a
66 15 competitive electric service provider for reservation or
66 16 scheduling of energy over the distribution system, prohibit
66 17 the sharing of such employees with a competitive electric
66 18 service provider and physically separate such employees from a
66 19 competitive electric service provider.

66 20 A consumer-owned utility shall not be required to comply
66 21 with subparagraph (13), but shall be required to comply with
66 22 paragraph "b", subparagraph (7), with respect to employees
66 23 engaged in receiving requests from a competitive electric
66 24 service provider for reservation or scheduling of energy over
66 25 the delivery system.

66 26 The board shall review any posting of an electric company
66 27 and, if it concludes there are reasonable grounds to do so,
66 28 may hold a hearing to determine if the standards comply with
66 29 this subsection.

66 30 b. CONTROL AREA OPERATORS. No later than November 1,
66 31 2001, each control area operator that engages in retail
66 32 electric sales within a control area, either directly or
66 33 through its own corporate structure or an affiliate, shall
66 34 post on the board's website standards of conduct, to be
66 35 effective May 1, 2002, that require the control area operator
67 1 to do all of the following:

67 2 (1) Disclose tariff information to users of the control
67 3 area and apply all tariff provisions on a nondiscriminatory
67 4 basis to similarly situated persons.

67 5 (2) If the control area operator is an electric company,
67 6 maintain separate books of accounts and financial records from
67 7 any competitive electric service provider. If the control
67 8 area operator is a consumer-owned utility, maintain records in
67 9 such a manner as to enable control area service data to
67 10 reasonably be separated from other data.

67 11 (3) Prohibit the tying of the provision of any control
67 12 area services to the selection of any particular competitive
67 13 electric service provider or the selection of a product or
67 14 service from any particular competitive electric service
67 15 provider.

67 16 (4) Deny a competitive electric service provider
67 17 preferential access to information related to control area
67 18 operations which is not otherwise made publicly available,
67 19 except with respect to information regarding the competitive
67 20 electric service provider's own end-use consumers.

67 21 (5) Solicit, from time to time, competitive bids for
67 22 ancillary services, to the extent not inconsistent with any
67 23 applicable federal requirements.

67 24 (6) Administer energy balancing and financial settlement

67 25 performed by the control area in a nondiscriminatory manner.
67 26 (7) Develop and administer a method for maintaining the
67 27 integrity of proprietary and confidential information.

67 28 (8) Develop and post on the board's website a system for
67 29 reporting declared emergencies. However, a control area
67 30 operator shall not declare an emergency situation for the
67 31 purpose of unreasonably discriminating against any other
67 32 person.

67 33 The board shall review the posting of standards of conduct
67 34 of an electric company and, if it concludes there are
67 35 reasonable grounds to do so, may hold a hearing to determine
68 1 if the standards comply with the provisions of this
68 2 subsection.

68 3 c. INFORMATIONAL FILING AND ADDITIONAL STANDARDS FOR
68 4 ELECTRIC COMPANIES. A delivery service provider or control
68 5 area operator that is an electric company shall submit to the
68 6 board such information as the board may require in order to
68 7 evaluate the actual effectiveness of the standards of conduct
68 8 in fulfilling the purposes of this chapter. The board, upon
68 9 its own motion or upon receipt of a complaint from any person
68 10 alleging a violation of the standards of conduct, may
68 11 investigate a delivery service provider's or control area
68 12 operator's compliance with the standards of conduct. In
68 13 addition, the board may add new standards of conduct by rule,
68 14 if it determines the existing standards are not sufficient to
68 15 ensure open access and comparable and nondiscriminatory
68 16 service.

68 17 9. ADHERENCE TO SCHEDULES. A delivery service provider
68 18 shall not directly or indirectly charge a greater compensation
68 19 for its services than that prescribed in its tariffs, and a
68 20 delivery service provider shall not make or grant any
68 21 unreasonable preferences or advantages as to rates, charges,
68 22 or services to any person, or subject any person to any
68 23 unreasonable prejudice or disadvantage.

68 24 10. AFFILIATES OF DELIVERY SERVICE PROVIDERS.

68 25 a. Except as provided in this section or as otherwise
68 26 approved by the board, a delivery service provider that is an
68 27 electric company shall not directly or indirectly include in
68 28 regulated rates or charges any costs or expenses of an
68 29 affiliate engaged in any business other than delivery service
68 30 unless the affiliate provides goods or services to the
68 31 delivery service provider in accordance with rules adopted
68 32 pursuant to this subsection. Any costs included in regulated
68 33 rates or charges shall be reasonably necessary and appropriate
68 34 for the delivery service business.

68 35 b. A delivery service provider that is an electric company
69 1 shall provide services as described in subsection 11 only in a
69 2 manner that minimizes the possibility of cross-subsidization
69 3 or unfair competitive advantage.

69 4 c. A delivery service provider that is an electric company
69 5 shall keep and render to the board upon request delivery
69 6 service records and records pertaining to services as
69 7 described in subsection 11 separate from affiliates or
69 8 operations that do not provide delivery service.

69 9 d. For a delivery service provider that is an electric
69 10 company, the board, for delivery service ratemaking purposes,
69 11 may inquire as to and prescribe the allocation of
69 12 capitalization, earnings, debts, shared corporate services,
69 13 and expenses related to ownership, operation, or management of
69 14 affiliates.

69 15 e. Not later than October 1, 2000, the board shall propose
69 16 rules identifying those services that may be shared between a
69 17 delivery service provider or control area operator that is an
69 18 electric company and an affiliated competitive electric
69 19 service provider. Such rules shall not prevent a delivery
69 20 service provider or control area operator from using the
69 21 following shared corporate services, even when shared with an

69 22 affiliated competitive electric service provider: corporate
69 23 oversight; governance; administrative services, including
69 24 travel administration, security, printing, graphics, custodial
69 25 services, secretarial support, mail services and records
69 26 management; financial management services, including
69 27 accounting, treasury, internal audit, tax and financial
69 28 reporting and planning; data processing; shareholder services;
69 29 strategic corporate planning; human resources; employee
69 30 benefits; regulatory services; legal services; lobbying; and
69 31 nonmarket research and development activities. Such rules
69 32 shall not prevent a delivery service provider or control area
69 33 operator from using such shared corporate services even when
69 34 shared with an affiliated competitive electric service
69 35 provider. This paragraph shall not be construed to limit the
70 1 authority of the board to determine the amount of shared
70 2 corporate service costs, if any, to be included in regulated
70 3 rates for distribution service and other unbundled services
70 4 under section 476B.4 and this section.

70 5 f. A contract or arrangement providing for the furnishing
70 6 or receiving of goods and services between a delivery service
70 7 provider that is an electric company and an affiliate shall be
70 8 filed with the board in a time frame established by rule of
70 9 the board. The initial rules shall be proposed by March 1,
70 10 2001.

70 11 g. A contract or arrangement for the purchase, sale,
70 12 lease, or exchange of any property, right, or thing between a
70 13 delivery service provider that is an electric company and any
70 14 affiliate shall be filed with the board in a time frame
70 15 established by rule by the board. The initial rules shall be
70 16 proposed by March 1, 2001.

70 17 h. A contract or arrangement providing for a loan of money
70 18 or an extension or renewal of a loan of money or any similar
70 19 transaction between a delivery service provider that is an
70 20 electric company and an affiliate, whether as guarantor,
70 21 endorser, surety, or otherwise, shall be filed with the board
70 22 in a time frame established by rule of the board. The initial
70 23 rules shall be proposed by March 1, 2001.

70 24 i. A contract or agreement filed pursuant to paragraph
70 25 "f", "g", or "h" and determined by the board to be a
70 26 confidential record pursuant to section 22.7 shall be returned
70 27 to the delivery service provider filing the confidential
70 28 record within sixty days after the contract or agreement is
70 29 filed.

70 30 j. The board shall adopt rules excluding from the filing
70 31 requirements of paragraphs "f", "g", and "h", the filing of a
70 32 contract or agreement for a transaction with an affiliate
70 33 where the amount of consideration involved does not exceed a
70 34 threshold level of annual distribution and transmission
70 35 revenues of the delivery service provider. The initial rules
71 1 to be adopted pursuant to this paragraph shall be proposed by
71 2 March 1, 2001.

71 3 k. In a proceeding involving the rates, charges, or
71 4 practices of a delivery service provider that is an electric
71 5 company, the board may exclude from rates or charges any
71 6 unreasonable payment or compensation to an affiliate made
71 7 pursuant to a contract or arrangement whether or not filed
71 8 under this subsection. For ratemaking purposes, the board may
71 9 exclude the payment of compensation to an affiliate or adjust
71 10 the revenue received from an affiliate associated with any
71 11 contract or arrangement required to be filed with the board if
71 12 the contract or arrangement is not so filed.

71 13 l. The board has the same jurisdiction over modification
71 14 of or amendment to a contract or arrangement filed under this
71 15 subsection as it has over the original contracts or
71 16 arrangements. A modification of or amendment to a contract or
71 17 arrangement shall also be filed in a time frame as determined
71 18 by the board.

71 19 m. The board shall consult with other state and federal
71 20 regulatory agencies for the purpose of eliminating duplicate
71 21 or conflicting filing requirements and may adopt rules which
71 22 provide that comparable information required to be filed with
71 23 other state or federal regulatory agencies may be accepted by
71 24 the board in lieu of information required by this subsection.

71 25 n. The board may adopt rules or issue orders which exempt
71 26 a class of contracts or arrangements from this subsection, or
71 27 waive the requirements of this subsection if the board finds
71 28 that the exemption or waiver is in the public interest.

71 29 o. The board may periodically retain a nationally or
71 30 regionally recognized independent auditing firm to conduct an
71 31 audit of the transactions between a delivery service provider
71 32 that is an electric company and its affiliates to investigate
71 33 compliance with this subsection. An affiliate transaction
71 34 audit shall not be conducted more frequently than twelve
71 35 months after the conclusion of the most recently completed
72 1 audit, unless ordered by the board for good cause after notice
72 2 and opportunity for hearing. The cost of the audit shall be
72 3 paid by the delivery service provider to the independent
72 4 auditing firm and shall be included in its regulated rates and
72 5 charges, unless otherwise ordered by the board for good cause
72 6 after providing the delivery service provider the opportunity
72 7 for a hearing.

72 8 p. A delivery service provider that is a consumer-owned
72 9 utility shall keep and render to the board upon request
72 10 delivery service records in a manner as to enable delivery
72 11 service data to reasonably be separated from affiliates' data.
72 12 This subsection shall not be construed to authorize the board
72 13 to impose rates on a consumer-owned utility. Information
72 14 rendered to the board pursuant to this paragraph and
72 15 determined by the board to be a confidential record pursuant
72 16 to section 22.7 shall be returned to the delivery service
72 17 provider rendering the confidential record within sixty days
72 18 after rendering the confidential record or at the end of the
72 19 investigation or proceeding. Except as provided in this
72 20 subsection, a consumer-owned delivery service provider shall
72 21 not directly or indirectly include in delivery service rates
72 22 or charges any costs or expenses of an affiliate engaged in
72 23 any business other than delivery service unless the affiliate
72 24 provides goods and services to the delivery service provider.
72 25 Any costs included in rates or charges shall be reasonably
72 26 necessary and appropriate for the delivery service business,
72 27 and shall be market priced and directly related to such goods
72 28 or services in a manner that avoids cross-subsidization or
72 29 unfair competitive advantage.

72 30 11. CROSS-SUBSIDIZATION PROHIBITED. A delivery service
72 31 provider that is an electric company shall not directly or
72 32 indirectly include in distribution service rates or charges
72 33 any costs or expenses attributable to the sale, lease, or
72 34 other conveyance of commercial and residential electric
72 35 appliances, interior lighting systems or fixtures, or electric
73 1 heating, ventilating, or air conditioning systems and
73 2 component parts, or the servicing, repair, or maintenance of
73 3 such equipment. Except for contracts existing as of July 1,
73 4 1996, a delivery service provider that is an electric company,
73 5 or its affiliate, shall not use the delivery service
73 6 provider's vehicles, service tools and instruments, or
73 7 employees, the costs, salaries, or benefits of which are
73 8 recoverable in regulated rates for distribution service, to do
73 9 either of the following:

73 10 a. Install, service, or repair residential or commercial
73 11 electric heating, ventilating, or air conditioning systems, or
73 12 interior lighting systems and fixtures.

73 13 b. Sell at retail electric heating, ventilating, air
73 14 conditioning, or interior lighting equipment.

73 15 For purposes of this subsection, "commercial" means a place

73 16 of business primarily used for the storage or sale, at
73 17 wholesale or retail, of goods, wares, services, or
73 18 merchandise. This subsection shall not be construed to
73 19 prohibit a delivery service provider from using its vehicles,
73 20 service tools and instruments, and employees to market its
73 21 systems, services, and equipment or to eliminate an emergency
73 22 or threat to public safety.

73 23 12. REORGANIZATION OF DELIVERY SERVICE PROVIDERS THAT ARE
73 24 ELECTRIC COMPANIES.

73 25 a. For purposes of this subsection, "reorganization" means
73 26 any of the following:

73 27 (1) The acquisition, sale, lease, or any other
73 28 disposition, directly or indirectly, including by merger or
73 29 consolidation, of the whole or any substantial part of the
73 30 regulated delivery service assets of an electric company.

73 31 (2) Until the cessation of standard offer service under
73 32 section 476B.8, subsection 1, the sale by an electric company
73 33 to any person, or the transfer by an electric company to any
73 34 of its unregulated affiliates, of any interest in a generation
73 35 unit located in this state, the costs of which have been
74 1 included in the standard offer service rates.

74 2 (3) The purchase or other acquisition or sale or other
74 3 disposition of the controlling capital stock of any delivery
74 4 service provider that is an electric company, either directly
74 5 or indirectly.

74 6 b. A reorganization shall not take place unless the board
74 7 approves. Prior to reorganization, an applicant shall file
74 8 with the board a proposal for reorganization with supporting
74 9 testimony and evidence addressing the items specified in
74 10 paragraph "d".

74 11 c. A proposal for reorganization shall be approved or
74 12 disapproved within ninety days after its filing. However, the
74 13 board may extend the time for its decision by no more than an
74 14 additional ninety-day period for good cause. The board shall
74 15 provide for notice and opportunity for hearing on the
74 16 proposal. The notice of hearing shall be provided no later
74 17 than fifty days after the proposal for reorganization has been
74 18 filed.

74 19 d. In its review of a proposal for reorganization, the
74 20 board shall consider all of the following:

74 21 (1) Whether the board will have reasonable access to
74 22 books, records, documents, and other information relating to
74 23 the delivery service provider or any affiliates with which the
74 24 delivery service provider has contracts.

74 25 (2) Whether the delivery service provider's ability to
74 26 attract capital on reasonable terms, including the maintenance
74 27 of a reasonable capital structure, is impaired.

74 28 (3) Whether the ability of the delivery service provider
74 29 to provide safe, reasonable, and adequate delivery service is
74 30 impaired.

74 31 (4) Whether users of the delivery service are
74 32 detrimentally affected.

74 33 (5) Whether the public interest is detrimentally affected,
74 34 including, but not limited to, whether the proposed
74 35 reorganization is likely to have a significant adverse effect
75 1 on competition in this state.

75 2 e. The board may adopt rules or issue orders which exempt
75 3 a class of reorganization from this subsection if the board
75 4 finds, with respect to the class of reorganization, that
75 5 review is not necessary in the public interest. The board may
75 6 waive any or all of the requirements of this subsection, if
75 7 the board finds that board review is not necessary in the
75 8 public interest.

75 9 f. In approving any proposed reorganization pursuant to
75 10 this subsection, the board may impose such terms, conditions,
75 11 or requirements as in its judgment are necessary to protect
75 12 the financial and operational integrity of the delivery

75 13 service provider.

75 14 13. JOINT ADVERTISING PROHIBITED.

75 15 a. No later than May 1, 2002, a delivery service provider
75 16 that is an electric company shall use a name that is distinct
75 17 from any affiliated competitive electric service provider. An
75 18 affiliated competitive electric service provider may use any
75 19 name and logo of its choosing, including that of the incumbent
75 20 provider or parent company. The board shall determine whether
75 21 the name of the delivery service provider is distinct from any
75 22 affiliated competitive electric service provider. Except as
75 23 provided in rules adopted by the board, the delivery service
75 24 provider shall not identify its affiliation with a competitive
75 25 electric service provider or the parent of a competitive
75 26 electric service provider either through a tag line or other
75 27 means, except that a common logo may be used.

75 28 b. A delivery service provider or a control area operator
75 29 of an electric company shall neither jointly advertise nor
75 30 jointly market its services or products with an affiliated
75 31 competitive electric service provider. However, this
75 32 subsection does not preclude a delivery service provider from
75 33 having joint meetings and contacts with end-use consumers and
75 34 competitive electric service providers, including affiliated
75 35 competitive electric service providers, for legitimate
76 1 business purposes. The board shall adopt rules regarding such
76 2 meetings and purposes. The initial rules shall be proposed by
76 3 October 1, 2000.

76 4 Sec. 10. NEW SECTION. 476B.10 RESPONSIBILITIES AND
76 5 RIGHTS OF COMPETITIVE ELECTRIC SERVICE PROVIDERS.

76 6 1. GENERAL. The responsibilities and rights of a licensed
76 7 competitive electric service provider include those specified
76 8 in this section and elsewhere in this chapter.

76 9 2. RESPONSIBILITIES AND RIGHTS.

76 10 a. A competitive electric service provider may do any of
76 11 the following:

76 12 (1) To the extent permitted by its license, offer and
76 13 enter into contracts to provide competitive electric services
76 14 to end-use consumers.

76 15 (2) Purchase delivery services from a delivery service
76 16 provider that is an electric company to sell to end-use
76 17 consumers, subject to this chapter and any applicable delivery
76 18 service tariffs and board rules.

76 19 (3) Purchase delivery services from a delivery service
76 20 provider that is a consumer-owned utility at the discretion of
76 21 the consumer-owned utility and subject to the terms and
76 22 conditions of the consumer-owned utility.

76 23 (4) Consistent with the rules adopted pursuant to section
76 24 476B.6, subsection 4, require a money deposit from an end-use
76 25 consumer as a condition of service, with any deposit so
76 26 required becoming part of the contract between the end-use
76 27 consumer and the competitive electric service provider.

76 28 (5) Contract to sell competitive electric services to
76 29 other licensed competitive electric service providers.

76 30 (6) Bill for services in accordance with section 476B.12.

76 31 (7) With the agreement of an end-use consumer, install,
76 32 own, maintain, and read a meter in accordance with section
76 33 476B.11.

76 34 b. A competitive electric service provider shall do all of
76 35 the following:

77 1 (1) Comply with all applicable environmental, safety, and
77 2 service standards.

77 3 (2) Be able to demonstrate the truth of any claim that it
77 4 makes to end-use consumers regarding types of fuel used to
77 5 produce energy.

77 6 (3) Pay a delivery service provider for services provided
77 7 and charges assessed to a competitive electric service
77 8 provider or to an end-use consumer for whom the competitive
77 9 electric service provider has agreed to assume payment

77 10 responsibility, without regard to whether the competitive
77 11 electric service provider receives payment from the end-use
77 12 consumer.
77 13 (4) Pay a delivery service provider for services provided
77 14 to an end-use consumer and charges assessed to an end-use
77 15 consumer for which the delivery service provider has
77 16 authorized the competitive electric service provider to bill
77 17 and collect, without regard to whether the competitive
77 18 electric service provider receives payment from the end-use
77 19 consumer.

77 20 (5) If requested, provide to each delivery service
77 21 provider, schedules and schedule changes submitted for
77 22 deliveries to the delivery service provider at the same time
77 23 that they are submitted to the control area operator.

77 24 c. A competitive electric service provider shall not be
77 25 required to provide individual end-use consumer information,
77 26 including metering information, to other competitive electric
77 27 service providers.

77 28 d. This chapter is not intended to affect the activities
77 29 of a licensed competitive electric service provider in the
77 30 provision of goods and services other than the sale of
77 31 competitive electric services at retail in this state.

77 32 e. The board shall not regulate the rates or charges of
77 33 competitive electric services of or a competitive electric
77 34 service provider with the exception of the rates or charges
77 35 for standard offer service under section 476B.8, subsection 1.

78 1 Sec. 11. NEW SECTION. 476B.11 METERING AND METER
78 2 INFORMATION.

78 3 1. An existing meter owned by an incumbent provider shall
78 4 remain the property of the delivery service provider.

78 5 2. A delivery service provider may install, own, and
78 6 maintain metering as deemed necessary. However, this chapter
78 7 shall not be construed to require a delivery service provider
78 8 to provide, install, own, or maintain meters that are not
78 9 necessary for the purpose of providing delivery service.

78 10 3. A delivery service provider or a control area operator
78 11 shall not require interval metering as a condition for
78 12 residential end-use consumers and nonresidential end-use
78 13 consumers using fewer than twenty-five thousand kilowatt-hours
78 14 annually to exercise the option to choose competitive
78 15 services.

78 16 4. A meter owned by the delivery service provider shall be
78 17 installed by that delivery service provider regardless of the
78 18 location of the meter.

78 19 5. An end-use consumer may install metering not owned by
78 20 the delivery service provider on the consumer's side of the
78 21 main disconnect, subject to the reasonable connection
78 22 requirements of the delivery service provider and the rules of
78 23 the board. The end-use consumer is subject to the board's
78 24 rules regarding standards, installation, maintenance, and
78 25 testing of meters used for billing if the end-use consumer
78 26 chooses to own the meter. The delivery service provider may
78 27 disconnect electric service at such meter subject to board
78 28 rules.

78 29 6. An end-use consumer or such consumer's competitive
78 30 electric service provider may request that metering and
78 31 associated hardware be installed on the electric facilities of
78 32 the delivery service provider or on the delivery service
78 33 provider's side of the main disconnect, to enable the consumer
78 34 to take advantage of competitive service offerings. The meter
78 35 and associated hardware shall comply with applicable board
79 1 rules, and the costs of the meter shall be borne by the end-
79 2 use consumer or the competitive electric service provider.
79 3 The installation of the meter and associated hardware shall be
79 4 performed by the delivery service provider in accordance with
79 5 its requirements and the rules of the board. The delivery
79 6 service provider may charge a reasonable, cost-based fee for

79 7 the installation. The delivery service provider shall have
79 8 reasonable discretion in prescribing the location and
79 9 necessary connection equipment for the installation of meters
79 10 and associated hardware under this subsection.

79 11 7. If the meter will be owned by the end-use consumer or
79 12 the competitive electric service provider and will be
79 13 installed on the end-use consumer's side of the main
79 14 disconnect, the delivery service provider may offer to, but is
79 15 not required to, install the meter.

79 16 8. The board shall adopt rules relating to installation of
79 17 meters, uniform metering standards and practices, inspection
79 18 and testing programs, accuracy requirements, data transmission
79 19 protocols, load profiling, and maintenance of meter reading
79 20 records. The board shall not preclude the use of accurate
79 21 prepaid meters by a competitive electric service provider. In
79 22 addition, the board shall require a competitive electric
79 23 service provider and an end-use consumer owning a meter to
79 24 provide meter access to the delivery service provider for
79 25 disconnections, and may require a presence for meter testing.
79 26 The initial rules shall be proposed by October 1, 2000.

79 27 9. A person is entitled to read meters that the person
79 28 owns. A delivery service provider is entitled to reasonable
79 29 access to any meters connected to the delivery service
79 30 provider's system without regard to ownership. A competitive
79 31 electric service provider is responsible for obtaining the
79 32 meter information necessary to bill such provider's end-use
79 33 consumers. With the consent of the end-use consumer, a
79 34 competitive electric service provider serving the end-use
79 35 consumer is entitled to reasonable access to read any meters
80 1 owned by the delivery service provider on the end-use
80 2 consumer's premises for this purpose.

80 3 10. A delivery service provider is not required to read
80 4 meters but, to the extent such provider does so, the delivery
80 5 service provider shall make the meter information needed for
80 6 billing available to a competitive electric service provider
80 7 serving the metered premises. A delivery service provider may
80 8 assess the competitive electric service provider a reasonable
80 9 charge for making such information available to the
80 10 competitive electric service provider.

80 11 11. To avoid unnecessary reading of an end-use consumer's
80 12 meter, a competitive electric service provider responsible for
80 13 meter information gathering shall make end-use consumer usage
80 14 information needed for billing and financial settlement
80 15 available to the delivery service provider at a charge if the
80 16 competitive electric service provider so chooses. It shall
80 17 also make necessary information available to the control area
80 18 operator serving the metered premises.

80 19 Sec. 12. NEW SECTION. 476B.12 BILLING.

80 20 1. Subject to subsections 3 and 4, a delivery service
80 21 provider and a control area operator may bill an end-use
80 22 consumer and a competitive electric service provider for the
80 23 services each provides. A delivery service provider or a
80 24 control area operator shall not be required to bill for
80 25 services provided by a competitive electric service provider
80 26 except as provided in subsection 3, but either may do so at
80 27 its option for a cost-based charge.

80 28 2. A competitive electric service provider may bill an
80 29 end-use consumer for services it provides, subject to section
80 30 476B.6, subsection 2, and other applicable provisions of this
80 31 chapter and board rules.

80 32 3. An end-use consumer receiving delivery service from an
80 33 electric company is entitled to request a single consolidated
80 34 bill for competitive electric services, delivery services, and
80 35 control area services. Unless otherwise agreed by the
81 1 affected service providers, such consolidated billing is the
81 2 responsibility of the competitive electric service provider
81 3 selling competitive billing services.

81 4 4. An end-use consumer receiving delivery service from a
81 5 consumer-owned utility shall receive a bill from the consumer-
81 6 owned utility for services rendered and a bill from the
81 7 competitive electric service provider for competitive electric
81 8 services, unless otherwise agreed to by the affected service
81 9 providers. Any consolidated billing for an end-use consumer
81 10 receiving delivery service from a consumer-owned utility shall
81 11 be the responsibility of the consumer-owned utility, unless
81 12 otherwise agreed to by the consumer-owned utility and affected
81 13 competitive electric service providers. If a delivery service
81 14 provider that is a consumer-owned utility provides all billing
81 15 services for its associated licensed competitive electric
81 16 service provider function within its assigned service area,
81 17 such consumer-owned utility shall provide comparable service
81 18 within its assigned service area for all other competitive
81 19 electric service providers.

81 20 5. Not later than March 1, 2000, the board shall propose
81 21 rules related to billing services consistent with this
81 22 chapter. Except as provided in this chapter, the board shall
81 23 not restrict a delivery service provider or a control area
81 24 operator from contracting with a competitive electric service
81 25 provider to provide or receive billing services.

81 26 Sec. 13. NEW SECTION. 476B.13 SYSTEM BENEFIT PROGRAMS.

81 27 1. LOW-INCOME AFFORDABILITY AND ENERGY EFFICIENCY
81 28 PROGRAMS.

81 29 a. PURPOSE. For purposes of this subsection, "division"
81 30 means the division of community action agencies within the
81 31 department of human rights or its successor. A low-income
81 32 affordability program and a low-income energy efficiency
81 33 program are created to be administered by the division. The
81 34 purpose of the low-income affordability program is to
81 35 encourage the competitive market to serve the electric needs
82 1 of low-income, end-use consumers. The purpose of the low-
82 2 income energy efficiency program is to reduce the consumption
82 3 of electricity by low-income, end-use consumers through energy
82 4 efficiency improvements.

82 5 b. APPORTIONMENT. Low-income affordability and low-income
82 6 energy efficiency assistance shall be distributed statewide.
82 7 However, an electric company or consumer-owned utility shall
82 8 not receive in the first two years of the program an
82 9 apportionment of funding that is less than eighty percent of
82 10 the total amount of funding paid by end-use consumers in such
82 11 company's or utility's assigned service area under this
82 12 subsection, as determined by the division. Commencing in the
82 13 third year of the program and biannually after that year, if
82 14 the apportionment of funding to low-income, end-use consumers
82 15 in an assigned service area would be less than eighty percent
82 16 of the funds collected pursuant to paragraph "f" in that
82 17 assigned service area, the division shall return or direct the
82 18 return of the difference between the amount apportioned and
82 19 eighty percent of the amount collected to the appropriate
82 20 delivery service provider. The delivery service provider
82 21 shall return to end-use consumers in its assigned service area
82 22 the above amount in a manner that reflects the proportion of
82 23 collections. The board shall approve the mechanism for return
82 24 for electric companies. Consumer-owned utilities shall
82 25 determine the return mechanism.

82 26 c. ELIGIBILITY. Eligibility for the low-income
82 27 affordability and low-income energy efficiency programs shall
82 28 be determined as follows:

82 29 (1) A residential end-use consumer with a household income
82 30 at or below one hundred fifty percent of the federal poverty
82 31 level, as determined annually by the United States department
82 32 of health and human services, is eligible to receive low-
82 33 income affordability assistance.

82 34 (2) A residential end-use consumer with a household income
82 35 at or below one hundred fifty percent of the federal poverty

83 1 level, as determined annually by the United States department
83 2 of health and human services, is eligible to receive low-
83 3 income energy efficiency program assistance, regardless of
83 4 their eligibility to receive low-income affordability
83 5 assistance.

83 6 d. LOW-INCOME AFFORDABILITY PROGRAM. The community action
83 7 agencies shall qualify a consumer for participation in the
83 8 low-income affordability program and shall notify a person
83 9 billing the end-use consumer of the consumer's monthly fixed
83 10 credit and the duration for which the monthly fixed credit is
83 11 authorized. The monthly fixed credit is the amount necessary
83 12 to reduce the consumer's total electric bill to an affordable
83 13 percentage of income in accordance with rules adopted by the
83 14 division. The affordable percentage of income shall be tiered
83 15 to reflect the ratio of the consumer's household income to the
83 16 federal poverty level, with greater assistance provided to
83 17 those at lower poverty levels, as determined by rules of the
83 18 division.

83 19 Program benefits shall be distributed as a monthly fixed
83 20 credit applied toward a consumer's delivery service bill for
83 21 provision of electricity. A person billing an end-use
83 22 consumer shall subtract the amount of the credit from the
83 23 amount of the consumer's bill each month, or an equivalent
83 24 amount if a different billing cycle is utilized. If the
83 25 monthly fixed credit exceeds the portion of the bill related
83 26 to delivery service, the excess shall be applied toward the
83 27 cost of the consumer's competitive power supply services. A
83 28 person billing the end-use consumer shall bill the appropriate
83 29 community action agency for the sum of the total amount of
83 30 fixed credits provided to the consumer and the division shall
83 31 be timely reimburse the person for all credited amounts. Only
83 32 those credits that are authorized in accordance with this
83 33 subsection shall be reimbursed.

83 34 e. LOW-INCOME ENERGY EFFICIENCY PROGRAM. Energy
83 35 efficiency assistance shall be prioritized based on the end-
84 1 use consumers with the largest kilowatt-hours of annual use.
84 2 Moneys allocated to the low-income energy efficiency program
84 3 may be used for space heating as allowed pursuant to the
84 4 federal weatherization assistance program or nonspace heating
84 5 as determined by the weatherization assistance program as
84 6 necessary and appropriate to provide maximum comprehensive
84 7 cost-effective energy efficiency treatment to low-income
84 8 households.

84 9 f. FUNDING. For the first three years the low-income
84 10 affordability program and the low-income energy efficiency
84 11 program are in effect, funds for the programs shall be
84 12 provided by all end-use consumers through a nonbypassable
84 13 surcharge on distribution service to be collected by the
84 14 person billing the end-use consumer for such distribution
84 15 service. The monthly charge shall commence with bills issued
84 16 on February 1, 2002, and shall be as follows:

84 17 (1) Seventy cents for all residential electric accounts.

84 18 (2) Seventy cents for nonresidential electric accounts
84 19 with an annual usage of less than twenty-five thousand
84 20 kilowatt-hours in the prior calendar year.

84 21 (3) Two dollars and fifty cents for nonresidential
84 22 electric accounts with an annual usage of twenty-five thousand
84 23 kilowatt-hours to one hundred thousand kilowatt-hours in the
84 24 prior calendar year.

84 25 (4) Ten dollars for nonresidential electric accounts with
84 26 annual usage of more than one hundred thousand kilowatt-hours
84 27 to four hundred thousand kilowatt-hours in the prior calendar
84 28 year.

84 29 (5) Forty dollars for nonresidential electric accounts
84 30 with annual usage of more than four hundred thousand kilowatt-
84 31 hours to one million five hundred thousand kilowatt-hours in
84 32 the prior calendar year.

84 33 (6) One hundred fifty dollars for nonresidential electric
84 34 accounts with annual usage of more than one million five
84 35 hundred thousand kilowatt-hours to six million kilowatt-hours
85 1 in the prior calendar year.

85 2 (7) Six hundred dollars for nonresidential electric
85 3 accounts with annual usage of more than six million kilowatt-
85 4 hours in the prior calendar year.

85 5 For the purpose of determining the monthly charge, the term
85 6 "accounts" may be interpreted by the board in appropriate
85 7 circumstances to mean end-use consumers. During the second
85 8 and third twelve-month periods that the program is in effect,
85 9 the monthly charges shall be adjusted as necessary to yield no
85 10 less than twenty-three million dollars annually. For
85 11 nonresidential consumers with no prior calendar-year usage the
85 12 delivery service provider may use a reasonable estimate of the
85 13 consumer's usage.

85 14 All moneys collected pursuant to this subsection shall be
85 15 remitted to the treasurer of state. The treasurer shall make
85 16 disbursements from this fund as appropriate. The unencumbered
85 17 or unobligated moneys remaining at the end of any fiscal year
85 18 from the appropriations made in this subsection shall not
85 19 revert but shall be available for expenditure during
85 20 subsequent fiscal years until expended for the purposes for
85 21 which originally appropriated. Interest or earnings on
85 22 investments or time deposits of the moneys remitted under this
85 23 section shall be retained for the purposes designated in this
85 24 section.

85 25 After the third year of the program, the board shall
85 26 annually establish levels of charges on electric accounts
85 27 based on the total program budget developed by the division.
85 28 When determining the per account charge, the board shall not
85 29 substantially deviate from the cost allocation among consumer
85 30 groups reflected in the initial funding charges. Any increase
85 31 in monthly charges as provided in this paragraph shall not go
85 32 into effect without prior approval by joint resolution as
85 33 adopted by the general assembly.

85 34 g. PROGRAM ALLOCATIONS, ADMINISTRATION, AND BUDGETS.

85 35 (1) Amounts allocated to the low-income affordability
86 1 program shall be based on participation rates from prior years
86 2 and the level of credits necessary to maintain affordable
86 3 energy burdens. Low-income energy efficiency program
86 4 allocations shall be based on the level of funding necessary
86 5 to deliver adequate energy efficiency to participating
86 6 households, as determined by the weatherization assistance
86 7 program. The level of funding allocated for the low-income
86 8 energy efficiency program shall not exceed twenty percent of
86 9 total low-income affordability program funding. The level of
86 10 funding allocated for administration shall not exceed ten
86 11 percent of the amounts allocated for the sum of the low-income
86 12 affordability program and the low-income energy efficiency
86 13 program.

86 14 (2) The division shall administer the program.
86 15 Administration of the program shall include contracting with
86 16 community action agencies, enrolling low-income, end-use
86 17 consumers in the program, providing outreach and consumer
86 18 education, notifying consumers and answering consumer
86 19 inquiries, and keeping records relating to the numbers of
86 20 program participants and program expenditures.

86 21 (3) The division shall develop a budget for the low-income
86 22 affordability program and the low-income energy efficiency
86 23 program on an annual basis.

86 24 h. IMPLEMENTATION PLAN. Within ninety days after the
86 25 effective date of this chapter, the division shall convene an
86 26 initial meeting of persons interested in participating in the
86 27 development of an implementation plan. Additional meetings
86 28 shall be scheduled by the division as necessary. The plan, at
86 29 a minimum, shall include the requirements identified in this

86 30 subsection.

86 31 i. DELIVERY SERVICE PROVIDER REPORT. A delivery service
86 32 provider shall report to the board annually the number of end-
86 33 use consumer accounts in its assigned service area eligible
86 34 for each program under paragraph "c".

86 35 j. BOARD RULES. The board shall propose rules by October
87 1 1, 2000, applicable to a delivery service provider and
87 2 competitive electric service provider concerning the
87 3 collection of funds pursuant to paragraph "f".

87 4 k. EVALUATION AND PLAN. Every other year, the division,
87 5 in consultation with the board, shall evaluate the performance
87 6 and effectiveness of the low-income affordability program
87 7 through use of an independent third party and develop a low-
87 8 income needs and resources plan for the state which shall
87 9 include a statewide assessment of the need for low-income
87 10 affordability assistance and low-income energy efficiency
87 11 assistance; an identification of the public and private
87 12 resources available to meet the identified needs; and
87 13 recommendations on how to coordinate the available resources
87 14 to most effectively address the identified needs, taking into
87 15 account the difference between short-term and long-term
87 16 effectiveness.

87 17 Upon completion, the evaluation and the plan shall be
87 18 submitted to the general assembly.

87 19 2. CONTRIBUTION FUND.

87 20 a. A delivery service provider and a licensed competitive
87 21 electric service provider may establish a fund whose purposes
87 22 shall include receiving contributions to assist consumers with
87 23 weatherization measures to improve energy efficiency related
87 24 to winter heating and summer cooling and to supplement other
87 25 energy assistance sources for the payment of electric bills.

87 26 b. The delivery service provider or competitive electric
87 27 service provider establishing the fund may be reimbursed by
87 28 the fund for the reasonable administrative costs of the
87 29 billings, disbursements, notices to potential contributors,
87 30 and financial recordkeeping. However, such reimbursement
87 31 shall not exceed five percent of the total contributions
87 32 collected.

87 33 3. ENVIRONMENTAL ASSESSMENT.

87 34 a. On and after May 1, 2002, the board shall direct all
87 35 delivery service providers with an assigned service area to
88 1 collect from each end-use consumer in the assigned service
88 2 area, directly or through the competitive electric service
88 3 provider billing the end-use consumer, the following
88 4 nonbypassable monthly charge, with the proceeds to be remitted
88 5 to the treasurer of state as follows:

88 6 (1) Six cents for all residential electric accounts.

88 7 (2) Six cents for a nonresidential electric account with
88 8 an annual usage of less than twenty-five thousand kilowatt-
88 9 hours in the prior calendar year.

88 10 (3) Twenty cents for a nonresidential electric account
88 11 with an annual usage of twenty-five thousand kilowatt-hours to
88 12 one hundred thousand kilowatt-hours in the prior calendar
88 13 year.

88 14 (4) Eighty cents for a nonresidential electric account
88 15 with annual usage of more than one hundred thousand kilowatt-
88 16 hours to four hundred thousand kilowatt-hours in the prior
88 17 calendar year.

88 18 (5) Three dollars and twenty cents for a nonresidential
88 19 electric account with annual usage of more than four hundred
88 20 thousand kilowatt-hours to one million five hundred thousand
88 21 kilowatt-hours in the prior calendar year.

88 22 (6) Twelve dollars for a nonresidential electric account
88 23 with annual usage of more than one million five hundred
88 24 thousand kilowatt-hours to six million kilowatt-hours in the
88 25 prior calendar year.

88 26 (7) Forty-eight dollars for a nonresidential electric

88 27 account with annual usage of more than six million kilowatt-
88 28 hours in the prior calendar year.

88 29 For the purpose of determining the monthly charge, the term
88 30 "accounts" may be interpreted by the board in appropriate
88 31 circumstances to mean end-use consumers. The board shall, by
88 32 rule, provide a schedule for remittances. The initial rules
88 33 shall be proposed by March 1, 2001. The board shall allow
88 34 inclusion of the remittance amounts in unbundled distribution
88 35 service rates. Eighty-five percent of the remittances
89 1 collected pursuant to this subsection is appropriated to the
89 2 Iowa energy center created in section 266.39C. Fifteen
89 3 percent of the remittances collected pursuant to this
89 4 subsection is appropriated to the center for global and
89 5 regional environmental research established by the state board
89 6 of regents.

89 7 Notwithstanding section 8.33, any unexpended moneys
89 8 remitted to the treasurer of state under this subsection shall
89 9 not revert and shall be retained by the centers for the
89 10 purposes designated. Notwithstanding section 12C.7,
89 11 subsection 2, interest or earnings on investments or time
89 12 deposits of the moneys remitted under this subsection shall be
89 13 retained and used for the purposes designated.

89 14 The Iowa energy center and the center for global and
89 15 regional environmental research shall each provide a written
89 16 annual report to the board which describes each center's
89 17 activities and the results that each center has accomplished.
89 18 Each report shall include an explanation of initiatives and
89 19 projects of importance to the state.

89 20 4. ENERGY EFFICIENCY PROGRAMS. This chapter shall not be
89 21 interpreted to preclude a delivery service provider from
89 22 offering energy efficiency programs and tree planting
89 23 programs. Such tree planting programs need not be cost
89 24 effective.

89 25 Sec. 14. NEW SECTION. 476B.14 COMPLAINTS.

89 26 1. A competitive electric service provider, a delivery
89 27 service provider, and a control area operator shall develop
89 28 and post on the board's website the procedures for filing and
89 29 resolving complaints regarding their services and operations.

89 30 2. The board is authorized to hear all complaints subject
89 31 to its jurisdiction by and against an end-use consumer, a
89 32 competitive electric service provider, a delivery service
89 33 provider, and a control area operator. This subsection does
89 34 not confer exclusive jurisdiction in collection matters upon
89 35 the board.

90 1 3. The district court has original jurisdiction concerning
90 2 disputes with respect to all rates and charges of a consumer-
90 3 owned utility and all other matters concerning a consumer-
90 4 owned utility not specifically reserved to the board by this
90 5 chapter or another statute. A complaint shall be filed in the
90 6 district court for the county in which the complainant resides
90 7 or if the complainant is a nonresident in the district court.

90 8 4. The board shall render a decision upon a complaint as
90 9 soon as practicable. A person aggrieved by the board's
90 10 decision may seek judicial review pursuant to chapter 17A.

90 11 Sec. 15. NEW SECTION. 476B.15 TRANSITION CHARGES.

90 12 1. COSTS OF GENERATION AND CONTRACTS FOR POWER AND ENERGY.
90 13 An electric company is entitled, but not required, to
90 14 implement transition charges under this subsection. If an
90 15 electric company elects to implement transition charges, such
90 16 charges shall be nonbypassable charges collected from each
90 17 end-use consumer within the incumbent provider's assigned
90 18 service area. However, transition charges shall not increase
90 19 the rates for electric service provided under section 476B.8.
90 20 Transition charges under this subsection shall be billed by an
90 21 electric company to end-use consumers, directly or through a
90 22 competitive electric service provider, commencing with service
90 23 rendered on May 1, 2002, and concluding with service rendered

90 24 on December 31, 2005.

90 25 Transition charges shall be calculated for each bundled
90 26 retail rate group or code existing on the date the electric
90 27 company files its unbundled rates pursuant to section 476B.4.
90 28 Transition charges shall be calculated each year in which the
90 29 electric company is entitled to implement such charges.
90 30 Transition charges in cents per kilowatt-hour shall be
90 31 calculated by rate group or code by first subtracting the
90 32 market price from the cost of generation, and then multiplying
90 33 that result times a mitigation factor, the percentage of which
90 34 varies by calendar year as follows:

90 35 a. Eighty percent applicable to 2002.

91 1 b. Seventy percent applicable to 2003.

91 2 c. Sixty percent applicable to 2004.

91 3 d. Fifty percent applicable to 2005.

91 4 Under no circumstance shall a charge under this subsection
91 5 be less than zero.

91 6 For purposes of this subsection, the cost of generation
91 7 shall be stated in cents per kilowatt-hour included in a
91 8 bundled rate group or code on the effective date of this
91 9 chapter. The cost of generation shall include the return on
91 10 plant investment allowed in the most recent rate proceeding,
91 11 but shall exclude that portion of regulatory assets to be
91 12 recovered under subsection 3 that are attributable to
91 13 generation costs, and the amount of nuclear decommissioning
91 14 expenses included in the rate group or code.

91 15 For purposes of this subsection, the market price shall be
91 16 stated in cents per kilowatt-hour an electric company should
91 17 reasonably be expected to receive for demand and energy from a
91 18 rate group or code when sold in a competitive power market.
91 19 At a minimum, separate values shall be determined by the board
91 20 for firm and interruptible sales. The market price shall be
91 21 determined by the board by no later than January 1, 2002, and
91 22 shall be updated annually. In determining the market price,
91 23 the board shall consider relevant wholesale and retail
91 24 contracts for demand and energy sales and purchases,
91 25 recognizing such factors as the time differentiation of price
91 26 levels in the contracts and whether the prices in the
91 27 contracts are for firm or interruptible service. The board
91 28 shall also consider other relevant information from power
91 29 exchanges, trading hubs, and similar sources.

91 30 An electric company that elects to implement transition
91 31 charges under this subsection shall file tariffs with the
91 32 board that identify the cost of generation to be included in
91 33 the calculation of transition charges to be paid by end-use
91 34 consumers in each bundled rate group or code at the time it
91 35 files its initial unbundled rates under section 476B.4. Rate
92 1 groups or codes, for purposes of calculating transition
92 2 charges, shall be defined in tariffs included in the electric
92 3 company's filing under section 476B.4, subsection 1. The
92 4 board shall issue its decision regarding the transition charge
92 5 tariffs at the same time it issues its order regarding the
92 6 initial unbundled rates filed under section 476B.4. Charges
92 7 approved by the board shall be posted on its website starting
92 8 no later than November 1, 2001.

92 9 2. DIVESTITURE OPTION. The board may permit, but shall
92 10 not require, an incumbent provider that is an electric company
92 11 to divest itself of its generation assets and contracts for
92 12 power and energy.

92 13 No later than January 1, 2000, an incumbent provider,
92 14 including, for the purposes of this subsection, any affiliated
92 15 incumbent provider, may submit an election to divest to the
92 16 board. The election shall be accompanied by the submittal of
92 17 a divestiture plan to the board, which shall review the plan.
92 18 By July 1, 2000, the board shall issue an order approving or
92 19 modifying the plan. The incumbent provider may revoke its
92 20 election within ninety days of the board's order approving or

92 21 modifying the plan. If the incumbent provider does not revoke
92 22 its election, the incumbent provider shall divest its
92 23 generation assets and contracts for power and energy in
92 24 accordance with the board's order. Such divestiture must be
92 25 completed by December 31, 2001, unless such time is extended
92 26 for good cause as determined by the board.

92 27 If an incumbent provider makes an election to divest, the
92 28 incumbent provider shall divest of all generation assets and
92 29 contracts for power and energy that are included in the
92 30 incumbent provider's most recent board-determined Iowa revenue
92 31 requirement except to the extent such divestiture is found by
92 32 a court of proper jurisdiction to be impermissible. All
92 33 generation assets and contracts for power and energy not
92 34 included in the incumbent provider's most recent board-
92 35 determined Iowa revenue requirement shall be subject to a
93 1 determination by the board as to whether divestiture is in the
93 2 public interest, except to the extent such divestiture is
93 3 found by a court of proper jurisdiction to be impermissible.

93 4 The board shall not allow any supply contracts, for which
93 5 bids are sought as part of the divestiture plan to satisfy an
93 6 incumbent provider's standard offer service obligation
93 7 pursuant to section 476B.8, to extend beyond December 31,
93 8 2005.

93 9 The board may allow the divestiture plan to include
93 10 transfer of the decommissioning responsibility for any nuclear
93 11 generation asset to the purchaser if such transfer of
93 12 responsibility is deemed by the board to be in the public
93 13 interest.

93 14 For each incumbent provider electing divestiture under this
93 15 subsection, the board shall determine the sum of the following
93 16 amounts:

93 17 a. The net of an incumbent provider's generation-related
93 18 regulatory assets and liabilities.

93 19 b. The difference between net plant investment associated
93 20 with an incumbent provider's generation assets and the market
93 21 value of the generation assets.

93 22 c. The difference between future contract payments and the
93 23 market value of an incumbent provider's purchased power
93 24 contracts.

93 25 When determining the market value of generation assets and
93 26 existing purchase power contracts, the board shall rely solely
93 27 on the market information resulting from the sale of the
93 28 generation assets and the rights to energy and demand under
93 29 contracts held by the incumbent provider including the supply
93 30 contracts to meet the incumbent provider's standard offer
93 31 service obligation.

93 32 To the extent that the divestiture realizes an amount less
93 33 than the sum of the amounts determined in paragraphs "a", "b",
93 34 and "c," beginning no later than May 1, 2002, the board shall
93 35 provide an incumbent provider a reasonable opportunity to
94 1 recover all costs not recovered through the sale of generation
94 2 assets and the contracts for energy and demand through
94 3 nonbypassable charges. This cost recovery opportunity must be
94 4 equal to the incumbent provider's opportunity to recover costs
94 5 before the effective date of this chapter.

94 6 To the extent that the divestiture realizes an amount
94 7 greater than the sum of the amounts determined in paragraphs
94 8 "a", "b", and "c", such difference shall be applied to reduce
94 9 end-use consumers' responsibility for nuclear decommissioning
94 10 costs held by the incumbent provider after divestiture. To
94 11 the extent that the divestiture realizes an amount greater
94 12 than the sum of the amounts determined in paragraphs "a", "b",
94 13 and "c", and no responsibility for nuclear decommissioning
94 14 costs remains with the incumbent provider, the incumbent
94 15 provider shall be entitled to retain the remaining amounts.

94 16 Nothing in this chapter shall be construed to give an
94 17 incumbent provider a greater or lesser opportunity to recover

94 18 all costs than existed prior to the effective date of this
94 19 chapter.

94 20 This subsection, including the treatment of proceeds from
94 21 divestiture, shall not be construed to apply to any other
94 22 provision of this chapter or to any regulatory or legal
94 23 proceeding not pertaining to this specific subsection.

94 24 All costs that are afforded recovery as a result of
94 25 generation asset divestiture pursuant to this subsection shall
94 26 qualify for securitization as set forth in section 476B.17.
94 27 All savings from this securitization shall flow back to end-
94 28 use consumers through a reduction in the nonbypassable charge
94 29 required under this subsection.

94 30 3. REGULATORY ASSETS AND LIABILITIES.

94 31 a. Regulatory assets and regulatory liabilities exist
94 32 because regulators have allowed recovery of certain costs in
94 33 different time periods than normally recognized under
94 34 generally accepted accounting principles, with assurances to
94 35 an incumbent provider that is an electric company of ultimate
95 1 recovery. An incumbent provider that is an electric company
95 2 shall be permitted, but not required, to recover all of its
95 3 net regulatory assets attributable to electric operations in
95 4 this state. For purposes of this subsection, net regulatory
95 5 assets equals regulatory assets less regulatory liabilities.
95 6 For the purpose of this paragraph, regulatory assets shall
95 7 include but not be limited to the costs of programs offered
95 8 under section 476.6, subsections 17 and 19, and the costs of
95 9 contracts or arrangements entered into under section 476.43.

95 10 b. Recovery of net regulatory assets shall be accomplished
95 11 through charges on all delivery services within the electric
95 12 company's assigned service area, including electricity
95 13 delivered under rates or charges charged pursuant to section
95 14 476B.8. The rates or charges may vary by type of delivery
95 15 service to the extent such variation is just, reasonable, and
95 16 based upon relevant cost factors. The board may require that
95 17 such charges be nonbypassable. Collection of the net
95 18 regulatory asset charges shall commence on May 1, 2002.

95 19 c. An electric company electing to recover net regulatory
95 20 assets shall annually file with the board its estimates of the
95 21 unamortized amount of regulatory assets and liabilities. The
95 22 initial estimates shall be filed with the initial unbundled
95 23 rate filing pursuant to section 476B.4, followed by annual
95 24 filings until the amortization of these net assets is
95 25 completed. Such filing shall include a proposed amortization
95 26 period or periods over which the net assets are to be
95 27 recovered, estimated sales in kilowatt-hours in its assigned
95 28 service area during the first year of the proposed
95 29 amortization period, and any proposed variation in charges by
95 30 type of delivery service. The electric company shall also
95 31 file supporting documentation for its proposals. If it does
95 32 not approve the electric company's filing, the board after
95 33 notice and opportunity for hearing shall determine the
95 34 regulatory assets and regulatory liabilities of the electric
95 35 company eligible for recovery; the appropriate periods over
96 1 which net regulatory assets shall be recovered, which shall
96 2 not exceed fifteen years; and the charges applicable to each
96 3 type of delivery service. In determining net regulatory
96 4 assets, the board shall not combine or net assets or
96 5 liabilities that would be recorded on the electric company's
96 6 books absent regulation or that would cause violation of the
96 7 normalization provisions of the Internal Revenue Code. The
96 8 board shall issue its decision regarding the regulatory asset
96 9 filing at the time it issues its order regarding the initial
96 10 unbundled rates filed under section 476B.4. Charges approved
96 11 by the board shall be posted on its website starting on
96 12 November 1, 2001.

96 13 4. START-UP COSTS OF DELIVERY SERVICE PROVIDERS. The
96 14 board shall permit a delivery service provider that is an

96 15 electric company to recover one hundred percent of its
96 16 reasonable start-up costs caused by the transition to
96 17 competition, including the reasonable costs associated with
96 18 implementing the requirements of this chapter and the board
96 19 orders issued and rules adopted pursuant to this chapter.
96 20 Start-up costs to be considered by the board shall include,
96 21 but are not limited to, costs associated with new computer
96 22 information systems, changes in computer information systems,
96 23 new and existing metering, and costs incurred pursuant to
96 24 section 476B.24. The board may require that recoverable
96 25 start-up costs be amortized over a period not to exceed ten
96 26 years. Start-up cost charges under this subsection shall not
96 27 be applicable to the rates for electric service provided under
96 28 section 476B.8.

96 29 An electric company electing to recover start-up costs
96 30 shall file estimates of the start-up costs and a tariff for
96 31 recovery of the costs with the board at the time it files its
96 32 initial unbundled rates pursuant to section 476B.4. The board
96 33 shall issue its decision regarding the start-up cost filing at
96 34 the time it issues its order regarding the initial unbundled
96 35 rate filing. Charges approved by the board shall be posted on
97 1 its website starting on November 1, 2001. Collection of
97 2 start-up cost charges shall commence on May 1, 2002. Electric
97 3 companies shall file annually with the board a reconciliation
97 4 of start-up costs actually collected versus estimated start-up
97 5 costs. The first reconciliation filing shall be made no later
97 6 than March 31, 2003, reflecting costs and revenues for the
97 7 period ending December 31, 2002. The board shall allow the
97 8 electric company to adjust its cost recovery factors to
97 9 reflect any differences, with the intent of allowing one
97 10 hundred percent recovery of reasonable costs incurred. The
97 11 board shall have ninety days to issue its decision on the
97 12 reconciliation factors.

97 13 5. CONSUMER-OWNED UTILITY TRANSITION COSTS.

97 14 a. ELECTRIC COOPERATIVES. The local governing body of an
97 15 electric cooperative shall determine the nature and amount of
97 16 transition costs which shall be paid by its respective
97 17 members. The local governing body shall have the sole
97 18 authority to determine the manner, rates, charges, terms, and
97 19 conditions of recovery. A member electric cooperative is
97 20 authorized, but not required, to collect the transition costs
97 21 through nonbypassable charges on all end-use consumers in its
97 22 assigned service area. The calculation of transition costs by
97 23 an electric cooperative shall consider the market value of
97 24 capacity and energy. The transition cost recovery shall be
97 25 reconciled periodically.

97 26 b. MUNICIPAL UTILITIES. The local governing body of a
97 27 municipal utility shall determine the nature and amount of
97 28 transition costs which shall be paid through nonbypassable
97 29 charges by the end-use consumers in its assigned service area.
97 30 The local governing body shall have the sole authority to
97 31 determine the manner, rates, charges, terms, and conditions of
97 32 recovery. Each municipal utility is authorized, but not
97 33 required, to collect the transition costs on all end-use
97 34 consumers in its assigned service area. The calculation of
97 35 transition costs by a municipal utility shall consider the
98 1 market value of capacity and energy. The transition cost
98 2 recovery shall be reconciled periodically.

98 3 Sec. 16. NEW SECTION. 476B.16 NUCLEAR DECOMMISSIONING.

98 4 1. RECOVERY OF NUCLEAR DECOMMISSIONING CHARGES. An
98 5 incumbent provider or electric cooperative, and its successors
98 6 or assigns, owning an interest in or having responsibility as
98 7 a matter of contract, statute, or energy purchase agreement
98 8 for the nuclear decommissioning costs of the Duane Arnold
98 9 energy center, quad-cities nuclear power station, Cooper
98 10 nuclear station, or La Crosse boiling water reactor shall be
98 11 allowed to recover nuclear decommissioning costs. An electric

98 12 company shall be allowed to recover nuclear decommissioning
98 13 costs allocated to Iowa through nonbypassable charges,
98 14 including charges on service provided pursuant to section
98 15 476B.8. The tariffs of an electric company for the nuclear
98 16 decommissioning charges shall conform to subsection 2. An
98 17 electric company shall file its nuclear decommissioning
98 18 tariffs with the board as part of the filing of initial
98 19 unbundled rates under section 476B.4. The local governing
98 20 body of each consumer-owned utility shall determine the amount
98 21 of and method and timing for recovery of nuclear
98 22 decommissioning costs and shall post that information as
98 23 provided in section 476B.4. All nuclear decommissioning
98 24 tariffs of electric companies under this section and the
98 25 initial charges under such tariffs shall become effective May
98 26 1, 2002.

98 27 2. DESIGN OF NUCLEAR DECOMMISSIONING TARIFF FOR ELECTRIC
98 28 COMPANIES. The nuclear decommissioning tariffs of an
98 29 incumbent provider that is an electric company shall provide
98 30 for the nonbypassable charges to be collected from each end-
98 31 use consumer within the incumbent provider's assigned service
98 32 area and in each assigned service area in Iowa of any
98 33 affiliated incumbent provider. The decommissioning charges
98 34 shall be a surcharge upon unbundled distribution service rates
98 35 and rates charged pursuant to section 476B.8. Decommissioning
99 1 charges shall be billed to each end-use consumer, directly or
99 2 through a competitive electric service provider, commencing
99 3 with bills issued on and after May 1, 2002. The allocation of
99 4 decommissioning charges among end-use consumers shall be
99 5 subject to approval by the board. The decommissioning charges
99 6 in such tariffs shall be set at a level that will ensure the
99 7 incumbent provider recovery of its nuclear decommissioning
99 8 costs, with the objective of achieving full recovery as of the
99 9 date on which decommissioning is commenced for a unit or
99 10 units. The decommissioning charges shall be adjusted
99 11 periodically to reflect increases or decreases in the
99 12 estimated costs of decommissioning the nuclear unit or units,
99 13 irrespective of any increases or decreases in other costs or
99 14 revenues of the incumbent provider or delivery service
99 15 provider. The decommissioning charges shall cease when the
99 16 nuclear plant is fully decommissioned or the incumbent
99 17 provider no longer has a responsibility for nuclear
99 18 decommissioning costs. All revenues collected under the
99 19 tariff shall be contributed to appropriate decommissioning
99 20 trust funds to be used to decommission the nuclear unit or
99 21 units or to reduce the amounts to be charged under such
99 22 tariffs in the future. All material changes to the trust fund
99 23 agreements, including a change in the trustee, shall be filed
99 24 with the board for approval. Decommissioning charges in such
99 25 tariffs shall be considered the equivalent of "cost of
99 26 service" amounts for purposes of determining contributions
99 27 deductible by the incumbent provider pursuant to section 468A
99 28 of the Internal Revenue Code.

99 29 3. ADJUSTMENT OF CHARGES FOR ELECTRIC COMPANIES. Nuclear
99 30 decommissioning tariffs filed with the board under this
99 31 section by an electric company shall provide that no increase
99 32 in charges under the decommissioning tariffs may take effect
99 33 until approved by the board. Notice to end-use consumers and
99 34 competitive electric service providers served under delivery
99 35 service tariffs or with whom the delivery service provider has
100 1 delivery service contracts, whether or not written, shall not
100 2 be required. The board may suspend the filing and hold
100 3 hearings as provided in section 476B.9, subsection 5.

100 4 Sec. 17. NEW SECTION. 476B.17 SECURITIZATION.

100 5 1. FINDINGS. The general assembly finds and declares all
100 6 of the following:
100 7 a. Securitization is a common financing technique which
100 8 has been used by other states as an effective tool to mitigate

100 9 transition costs.

100 10 b. It is in the state's interest to allow securitization
100 11 because it will help incumbent providers manage their costs
100 12 without increasing rates paid by end-use consumers.

100 13 c. Securitization will not create obligations of the state
100 14 or any of its political subdivisions.

100 15 2. DEFINITION. For purposes of this section, "incumbent
100 16 provider" includes a delivery service provider who was an
100 17 incumbent provider prior to May 1, 2002.

100 18 3. ISSUANCE OF TRANSITIONAL FUNDING ORDERS.

100 19 a. Upon application of an incumbent provider, the board is
100 20 authorized to issue transitional funding orders to create,
100 21 establish, and grant rights in, to, and under intangible
100 22 transition property in and to any grantee, incumbent provider,
100 23 issuer, or assignee in accordance with the terms of such
100 24 application.

100 25 b. After the effective date of this chapter, an incumbent
100 26 provider may file any number of applications for transitional
100 27 funding orders. An application for a transitional funding
100 28 order shall contain the incumbent provider's detailed proposal
100 29 for all of the following:

100 30 (1) The assignment, sale, pledge, or other transfer of, or
100 31 the establishment, creation, and granting of rights in, to, or
100 32 under intangible transition property.

100 33 (2) The issuance of transitional funding instruments.

100 34 (3) The amount of transitional funding instruments to be
100 35 issued which amount shall not exceed four hundred million
101 1 dollars in the aggregate for any incumbent provider.

101 2 (4) The method for calculating the amount of instrument
101 3 funding charges to be collected.

101 4 (5) The method for allocating such instrument funding
101 5 charges among classes of responsible end-use consumers.

101 6 (6) The time to maturity for the transitional funding
101 7 instruments.

101 8 (7) The incumbent provider's planned use of the proceeds
101 9 from the issuance.

101 10 c. After notice, the board shall hold a hearing to
101 11 determine whether the application and requested transitional
101 12 funding order are in compliance with this section. The board
101 13 shall complete its review of the application and issue its
101 14 final transitional funding order no later than ninety days
101 15 after the filing of such application. The order shall create
101 16 and establish the proposed intangible transition property and
101 17 approve the proposed sale, pledge, assignment, or other
101 18 transfer of, or the establishment, creation, and granting of
101 19 rights in, to, or under intangible transition property; the
101 20 proposed issuance of transitional funding instruments; and the
101 21 proposed imposition and collection of the corresponding
101 22 instrument funding charges. Such transitional funding order
101 23 shall be issued if the board finds that each of the following
101 24 conditions are met:

101 25 (1) The application provides that the incumbent provider
101 26 will apply all savings not to exceed two million dollars
101 27 annually, from the issuance of the transitional funding
101 28 instruments during the term of the transitional funding
101 29 instruments to reduce the funding surcharges for the low-
101 30 income programs established under section 476B.13, subsection
101 31 1. If savings exceed two million dollars annually, the
101 32 incumbent provider shall use the amounts in excess of two
101 33 million dollars to compensate the incumbent provider for
101 34 transition costs associated with generation assets and
101 35 contracts for power and energy not recovered under section
102 1 476B.15, subsection 1, and if a savings remain during the
102 2 period ending December 31, 2005, to use the remaining savings
102 3 to reduce charges under section 476B.15, subsections 3 and 4.
102 4 Any remaining savings may be retained by the incumbent
102 5 provider and used for any lawful purpose. If the incumbent

102 6 provider issues transitional funding instruments prior to May
102 7 1, 2002, any savings associated with the period prior to May
102 8 1, 2002, shall be amortized in equal annual amounts in
102 9 accordance with the above purposes over the period from May 1,
102 10 2002, through the remaining term of the transitional funding
102 11 instruments. Incumbent providers choosing to divest their
102 12 generation assets under section 476B.15, subsection 2, shall
102 13 first use the savings from securitization to compensate
102 14 themselves for any losses which may result from divestiture.

102 15 (2) The expected maturity date for the transitional
102 16 funding instruments, and the final date on which the incumbent
102 17 provider, grantee, or assignee is entitled to charge and
102 18 collect instrument funding charges, shall each be set to occur
102 19 no later than December 31, 2011, subject to subsection 4,
102 20 paragraph "m".

102 21 (3) The instrument funding charges authorized in such
102 22 order will be deducted and stated separately from eligible
102 23 rates, all as provided in subsection 4, paragraph "d", and in
102 24 a manner conforming to the allocation of the instrument
102 25 funding charges implemented pursuant to subparagraph (4).

102 26 (4) The proposed method for allocating such instrument
102 27 funding charges among all classes of responsible end-use
102 28 consumers is just and reasonable.

102 29 (5) The issuance of the transitional funding instruments
102 30 will not cause eligible rates to increase over the rates which
102 31 would otherwise be chargeable from time to time in the absence
102 32 of such issuance.

102 33 (6) Use of transitional funding proceeds shall not result
102 34 in the common equity component of the incumbent provider's
102 35 capital structure, exclusive of the portion of its capital
103 1 structure that consists of obligations representing
103 2 transitional funding instruments, as measured by the most
103 3 recently available thirteen-month average when adjusted for
103 4 the use of proceeds, being reduced below the lesser of forty-
103 5 two and one-half percent or the common equity percentage as of
103 6 December 31, 1998. The incumbent provider shall not use the
103 7 proceeds from transitional funding instruments to repay or
103 8 retire obligations incurred by any affiliate of the incumbent
103 9 provider without the consent of the board. However, consent
103 10 is not required to repay or retire debt or equity securities
103 11 of the incumbent provider which are held by the parent company
103 12 of the incumbent provider. A disbursement out of retained
103 13 earnings from the incumbent provider to its parent will not be
103 14 treated as repayment or retirement of an obligation of an
103 15 affiliate for purposes of this section.

103 16 (7) The incumbent provider will use the net proceeds of
103 17 the sale and issuance of the transitional funding instruments
103 18 to repay or refinance debt and equity, or to replenish cash
103 19 used for such purposes.

103 20 d. A transitional funding order issued by the board shall
103 21 become effective in accordance with its terms only after the
103 22 incumbent provider files with the board its written consent to
103 23 all terms and conditions of such order. After the issuance of
103 24 a transitional funding order, the incumbent provider, grantee,
103 25 or assignee shall retain sole discretion regarding whether to
103 26 cause transitional funding instruments to be issued, including
103 27 the right to defer or postpone such issuance or to change the
103 28 terms of such instruments as allowed by such order.

103 29 4. TERMS AND PROVISIONS OF TRANSITIONAL FUNDING ORDERS.

103 30 a. CREATION OF INTANGIBLE TRANSITION PROPERTY. A
103 31 transitional funding order shall create intangible transition
103 32 property in favor of an incumbent provider or grantee
103 33 representing the right to impose and collect instrument
103 34 funding charges necessary to pay principal and interest on the
103 35 transitional funding instruments authorized in the order
104 1 together with premium, servicing fees and other fees, costs,
104 2 and charges related to such funding instruments, and to fund

104 3 or maintain any required reserves, after giving effect to
104 4 delays in bill collections and uncollectibles. The party in
104 5 whose favor such rights are granted and any assignee of such
104 6 rights shall be granted the power to levy general tariffs on
104 7 responsible end-use consumers of an incumbent provider or any
104 8 other person required to pay an instrument funding charge in
104 9 order to collect the instrument funding charges authorized in
104 10 such order and in order to facilitate the issuance of
104 11 transitional funding instruments authorized in such order.
104 12 The board may create, establish, and grant such rights under
104 13 this paragraph in and to such party with or without receiving
104 14 consideration from such party.

104 15 b. BASIC TERMS. The transitional funding order shall
104 16 authorize the establishment, creation, and granting of rights
104 17 in and to intangible transition property; any requested sale,
104 18 pledge, assignment, or other transfer of such rights; the
104 19 issuance of a specific dollar amount of transitional funding
104 20 instruments by or on behalf of an incumbent provider,
104 21 assignee, issuer, or grantee, as the case may be in an amount
104 22 not exceeding the limits set forth in subsection 3, paragraph
104 23 "b"; and the imposition and collection of instrument funding
104 24 charges projected to be sufficient to pay when due the
104 25 principal of and interest on the corresponding transitional
104 26 funding instruments, in each case, together with premium,
104 27 servicing fees and other fees, costs, and charges related to
104 28 such funding instruments, and to fund or maintain any required
104 29 reserves. The transitional funding order shall require that
104 30 the proceeds from the issuance of transitional funding
104 31 instruments be used for the purposes set forth in subsection
104 32 3, paragraph "c". Except where this section specifically
104 33 requires otherwise, the collection of instrument funding
104 34 charges and the allocation of any such collections as among
104 35 holders, assignees, issuers, grantees, and any other parties
105 1 entitled to receive portions of such collections, may be
105 2 accomplished according to the applicable transitional funding
105 3 order, or, if the order is silent on any such matters,
105 4 according to the documents relating to the pertinent
105 5 transitional funding instruments.

105 6 c. FLEXIBILITY CREDIT AND COLLECTION POLICIES. The
105 7 board, in a transitional funding order, shall afford
105 8 flexibility in establishing the terms and conditions of the
105 9 transitional funding instruments including repayment
105 10 schedules, collateral, required debt service and other
105 11 reserves, interest rates and other financing costs, and the
105 12 ability of the incumbent provider, at its option, to effect a
105 13 series of issuances of transitional funding instruments and
105 14 correlated assignments, sales, pledges, or other transfers of
105 15 intangible transition property. At the request of an
105 16 incumbent provider, the board in its transitional funding
105 17 order may establish such terms with respect to credit and
105 18 collection policies to be followed by persons collecting
105 19 instrument funding charges as the incumbent provider may
105 20 reasonably demonstrate are likely to be required for at least
105 21 two nationally recognized statistical rating agencies to rate
105 22 the transitional funding instruments in the highest rating
105 23 category assigned by such agencies to securities of comparable
105 24 maturities.

105 25 d. TARIFFS. Concurrently with the issuance of
105 26 transitional funding instruments, an incumbent provider,
105 27 grantee, issuer, or an assignee shall begin to impose and
105 28 collect the specified instrument funding charges from
105 29 responsible end-use consumers, classes of responsible end-use
105 30 consumers, and any other persons or groups of persons as set
105 31 forth in the relevant transitional funding order and shall
105 32 file tariffs in accordance with this paragraph. As a
105 33 precondition to the imposition of any instrument funding
105 34 charges, an incumbent provider shall file tariffs directing

105 35 that the amount of such instrument funding charges be
106 1 deducted, stated, and collected separately from the amounts
106 2 otherwise billed by such incumbent provider for eligible rates
106 3 as set forth in the transitional funding order. Upon the
106 4 effectiveness of such tariffs, the amounts of instrument
106 5 funding charges thereby deducted and to be deducted become
106 6 intangible transition property as specified in the
106 7 transitional funding order and the rights to such intangible
106 8 transition property shall constitute a current property right.
106 9 The board shall not review such tariffs except to confirm that
106 10 the instrument funding charges authorized in the transitional
106 11 funding order have been deducted and stated separately from
106 12 eligible rates in effect at such time, and the filing of any
106 13 such tariff shall not be suspended for any other reason.
106 14 Deductions referred to in this paragraph shall not be
106 15 construed as a change in or otherwise require a recalculation
106 16 of the authorized amounts of eligible rates. Instrument
106 17 funding charges shall be recoverable with respect to services
106 18 for which the deductions provided in this paragraph have
106 19 become effective and such deductions shall not be effective
106 20 with respect to any services or power in respect of which
106 21 instrument funding charges have not been so authorized and
106 22 imposed.

106 23 e. PERIODIC ADJUSTMENTS. The board shall provide in any
106 24 transitional funding order for a procedure for periodic
106 25 adjustments to the instrument funding charges to ensure
106 26 adequate revenues from such instrument funding charges for
106 27 repaying principal of the transitional funding instruments in
106 28 accordance with their expected amortization schedule, for
106 29 paying interest and related fees and expenses, and for funding
106 30 and maintaining required reserves on a timely basis. If so
106 31 requested by an incumbent provider in an application for a
106 32 transitional funding order, the transitional funding order may
106 33 specify a dollar or percentage amount of variation from the
106 34 projected revenues within which no such adjustment will be
106 35 required, set forth a maximum adjustment amount for the
107 1 instrument funding charges, or both. If an adjustment
107 2 described in this paragraph is required, such adjustment shall
107 3 be implemented by the incumbent provider, grantee, assignee,
107 4 or issuer, as applicable, with prior written notice to the
107 5 board. Any such adjustment shall be calculated to include
107 6 amounts necessary for recovery of any additional costs
107 7 incurred by the incumbent provider, grantee, assignee, or
107 8 issuer as a result of the relevant delay in collections of
107 9 instrument funding charges. If any such adjustment would
107 10 cause the amount of any instrument funding charge to exceed
107 11 the eligible rates from which such instrument funding charge
107 12 is to be deducted, the relevant incumbent provider may ratably
107 13 allocate the deficiency to other responsible end-use consumers
107 14 as part of the adjustment mechanism set forth in this
107 15 paragraph and in the relevant transitional funding order. If,
107 16 as a result of any adjustment, the amount of any instrument
107 17 funding charge, as adjusted, will exceed an amount greater
107 18 than the amount of the instrument funding charge initially
107 19 authorized by the board in its transitional funding order, the
107 20 relevant incumbent provider shall be obligated to file
107 21 amendatory tariffs in compliance with paragraph "f".

107 22 f. AMENDATORY TARIFFS. If an adjustment under paragraph
107 23 "e" results in the amount of any instrument funding charge as
107 24 so adjusted exceeding the amount of the instrument funding
107 25 charge initially authorized by the board in its transitional
107 26 funding order, the relevant incumbent provider shall file
107 27 amendatory tariffs reducing the amounts otherwise billed by
107 28 such incumbent provider for eligible rates by the amount of
107 29 such excess. Such amendatory tariff shall be subject to the
107 30 provisions of paragraph "d", except that the failure of such
107 31 amendatory tariff to become effective for any reason shall not

107 32 delay or impair the effectiveness of the adjustments required
107 33 under paragraph "e" and the obligation of responsible end-use
107 34 consumers and other persons or groups of persons to pay
107 35 instrument funding charges as so adjusted shall not be subject
108 1 to any defense, counterclaim, or right of setoff arising as a
108 2 result of failure by the incumbent provider to comply with
108 3 this paragraph. This paragraph does not restrict any
108 4 responsible end-use consumer or other person from bringing any
108 5 suit in any court or from exercising any other legal or
108 6 equitable remedy against an incumbent provider for any failure
108 7 by such incumbent provider to comply with this paragraph.

108 8 g. NONRECOURSE STATUS NO DEFENSE, COUNTERCLAIM, OR
108 9 SETOFF. Except as otherwise specifically set forth in the
108 10 transitional funding order, the transitional funding
108 11 instruments issued pursuant to such order shall be nonrecourse
108 12 to the credit or to any assets of the incumbent provider other
108 13 than any assets comprising intangible transition property.
108 14 The obligation of responsible end-use consumers and other
108 15 persons to pay instrument funding charges shall be contingent
108 16 upon the receipt by such responsible end-use consumers and
108 17 other persons of delivery service or other services related to
108 18 the provision of electric power for which eligible rates may
108 19 be assessed, but the transitional funding order shall
108 20 specifically provide that such instrument funding charges will
108 21 not be subject to any defense, counterclaim, or right of set-
108 22 off arising as a result of failure by the incumbent provider,
108 23 upon whose application the intangible transition property was
108 24 created, to perform or provide past, present, or future
108 25 services.

108 26 h. TRANSFER AND SERVICING. On such conditions as the
108 27 board may approve in the relevant transitional funding order,
108 28 the interest of any party in intangible transition property
108 29 may be assigned, sold or otherwise transferred, in whole or in
108 30 part, and may, in whole or in part, be pledged or assigned as
108 31 security to or for the benefit of a holder or holders. To the
108 32 extent that any such interest or portion of such interest is
108 33 assigned, sold, pledged, or otherwise transferred or is
108 34 established, created, and granted to a party other than the
108 35 incumbent provider, the board, in the relevant transitional
109 1 funding order, shall authorize the incumbent provider or any
109 2 affiliate of the incumbent provider to contract with any owner
109 3 or pledgee of such intangible transition property and any
109 4 holders of the relevant transitional funding instruments to
109 5 collect the applicable instrument funding charges for the
109 6 benefit and account of such persons, and such incumbent
109 7 provider or affiliate shall, except as otherwise specified in
109 8 the transitional funding order, account for and remit the
109 9 applicable instrument funding charges, without the obligation
109 10 to remit any investment earnings on such charges, to or for
109 11 the account of the relevant persons. The obligation of such
109 12 incumbent provider or affiliate to collect and remit the
109 13 applicable instrument funding charges shall continue
109 14 irrespective of whether such incumbent provider is providing
109 15 the services to which such instrument funding charges relate.
109 16 If the documents creating the transitional funding instruments
109 17 so provide, such obligations, in the event of a default by the
109 18 incumbent provider or affiliate in performing such
109 19 obligations, shall be undertaken and performed by any other
109 20 entity selected by the grantee, assignee or any holder, group
109 21 of holders or trustee or agent on behalf of such holder or
109 22 holders, as the case may be. However, a failure by the
109 23 designated party to perform such obligations shall not affect
109 24 the existence of the intangible transition property or the
109 25 instrument funding charges or the validity or enforceability
109 26 of the instrument funding charges in accordance with their
109 27 terms.

109 28 i. REPORTING. An incumbent provider shall file a

109 29 statement of the final terms of the issuance of any series of
109 30 transitional funding instruments with the board within ninety
109 31 days of the receipt of proceeds from such issuance. In
109 32 addition, the board may require an incumbent provider to file
109 33 periodic reports on its use of the proceeds at intervals of
109 34 not less than one year.

109 35 j. REFINANCING. Any adjustment to instrument funding
110 1 charges that is necessary due to subsequent refinancing of
110 2 transitional funding instruments shall be authorized by the
110 3 board in a supplemental order. Unless specifically requested
110 4 by the incumbent provider in the application for such
110 5 supplemental order, no refinancing of previously issued
110 6 transitional funding instruments shall be deemed a new
110 7 issuance to be counted towards the dollar limitations set
110 8 forth in subsection 3, paragraph "b".

110 9 k. NO REDUCTION, POSTPONEMENT, IMPAIRMENT, OR TERMINATION.
110 10 A transitional funding order, the intangible transition
110 11 property created and established by such order, or the
110 12 instrument funding charges authorized to be imposed and
110 13 collected under such order, shall not be subject to reduction,
110 14 postponement, impairment, or termination by any subsequent
110 15 action of the board. However, a party to the board's
110 16 proceeding relating to the transitional funding order may seek
110 17 judicial review of such transitional funding order in
110 18 accordance with the provisions of other applicable law.

110 19 l. ONGOING VALIDITY. A transitional funding order shall
110 20 remain valid notwithstanding the invalidation of any portion
110 21 of this chapter. A transitional funding instrument,
110 22 instrument funding charge, intangible transition property,
110 23 lien, or other right established pursuant to a transitional
110 24 funding order is valid and binding in accordance with terms of
110 25 such order, notwithstanding that such order or any portion of
110 26 this chapter is later vacated, modified, or otherwise held to
110 27 be wholly or partly invalid.

110 28 m. CONTINUATION OF INTANGIBLE TRANSITION PROPERTY. The
110 29 intangible transition property created under a transitional
110 30 funding order and the authority of the grantee, assignee,
110 31 issuer, incumbent provider, or other person authorized under
110 32 such order to impose and collect instrument funding charges
110 33 and to exercise its rights under a transitional funding order,
110 34 including the right to make periodic adjustments pursuant to
110 35 paragraph "e", shall continue beyond the final date set forth
111 1 in the applicable transitional funding order until such time
111 2 as all transitional funding instruments authorized in such
111 3 order have been paid in full. Upon the later of the final
111 4 date set forth in the applicable transitional funding order
111 5 for the imposition and collection of instrument funding
111 6 charges or the repayment in full of any transitional funding
111 7 instruments, as applicable, authorized in such order, the
111 8 authority to impose and collect the related instrument funding
111 9 charges shall cease and any instrument funding charges
111 10 collected in excess of the amount required for the repayment
111 11 of the transitional funding instruments shall be paid to the
111 12 owner of such intangible transition property, and the relevant
111 13 incumbent provider shall be entitled to file tariffs revoking
111 14 any deductions from eligible rates which were granted in
111 15 connection with such instrument funding charges pursuant to
111 16 paragraph "d" or "f". The board shall not review such tariffs
111 17 except to determine that the rates and charges resulting from
111 18 such revocation do not exceed the applicable eligible rates
111 19 which would otherwise have been in effect at the time of such
111 20 revocation had no instrument funding charges ever been
111 21 deducted from such rates.

111 22 5. RELATIONSHIP TO STATE AND OTHER LAW.

111 23 a. The state pledges to, and agrees with, the holders of
111 24 any transitional funding instruments who may enter into
111 25 contracts with an incumbent provider, grantee, assignee, or

111 26 issuer pursuant to this section that the state will not in any
111 27 way limit, alter, impair, or reduce the value of intangible
111 28 transition property created by, or instrument funding charges
111 29 approved by, a transitional funding order so as to impair the
111 30 terms of any contract made by such incumbent provider,
111 31 grantee, assignee, or issuer with such holders or in any way
111 32 impair the rights and remedies of such holders until the
111 33 pertinent transitional funding instruments and interest,
111 34 premium and other fees, costs, and charges related to such
111 35 funding instruments, are fully paid and discharged. An
112 1 incumbent provider, grantee, or issuer is authorized to
112 2 include these pledges and agreements of the state in any
112 3 contract with the holders of transitional funding instruments
112 4 or with any assignees pursuant to this section, and any
112 5 assignees are similarly authorized to include these pledges
112 6 and agreements of the state in any contract with any issuer,
112 7 holder, or any other assignee. This section shall not
112 8 preclude the state from requiring adjustments as may otherwise
112 9 be allowed by law to eligible rates, so long as any such
112 10 adjustment does not directly affect or impair any instrument
112 11 funding charges previously authorized by a transitional
112 12 funding order issued by the board.

112 13 b. A transitional funding instrument issued under this
112 14 section does not constitute debt or liability of the state or
112 15 of any political subdivision, and transitional funding orders
112 16 authorizing such issuance do not constitute a pledge of the
112 17 full faith and credit of the state or of any political
112 18 subdivision. The issuance of transitional funding instruments
112 19 shall not directly, indirectly, or contingently obligate the
112 20 state or any political subdivision to levy or to pledge any
112 21 form of taxation or to make any appropriation for the payment
112 22 of such funding instruments. A transitional funding
112 23 instrument shall be payable solely from the intangible
112 24 transition property or from such other proceeds or property as
112 25 may be pledged for such funding instrument. This section
112 26 shall not be construed to prevent the state or any political
112 27 subdivision from owning any interest in a grantee, assignee,
112 28 or issuer or to prevent any incumbent provider, grantee,
112 29 issuer, or assignee from selling, pledging, or assigning
112 30 intangible transition property or from providing recourse or
112 31 guarantees or any other third-party credit enhancement in
112 32 connection with such sale, pledge, or assignment.

112 33 c. The procedures set forth in this section shall
112 34 constitute the sole procedures by which rights in, to, or
112 35 under intangible transition property may be created,
113 1 established, and granted, and no other approvals shall be
113 2 required under other law for such creation, establishment,
113 3 grant, or for the issuance of transitional funding
113 4 instruments. The rights of incumbent providers, grantees,
113 5 assignees, and holders in and to any such intangible
113 6 transition property shall be interpreted in accordance with
113 7 this section, which shall supersede any other law, rule, or
113 8 regulation to the contrary.

113 9 6. SECURITY INTERESTS IN INTANGIBLE TRANSITION PROPERTY.

113 10 a. Intangible transition property or any right, title, or
113 11 interest in such intangible transition property shall not
113 12 constitute property in which a security interest may be
113 13 created under the uniform commercial code. Additionally, such
113 14 property, or any such right, title, or interest in such
113 15 property shall not be deemed proceeds of any property which is
113 16 not intangible transition property. For purposes of this
113 17 paragraph, the terms "account" and "general intangible", as
113 18 defined under section 554.9106 of the uniform commercial code,
113 19 and the term "instrument", as used in the uniform commercial
113 20 code, shall be deemed to exclude any such intangible
113 21 transition property or any right, title, or interest in such
113 22 intangible transition property.

113 23 b. The granting, perfection, and enforcement of security
113 24 interests in intangible transition property shall be governed
113 25 by this section and not by the uniform commercial code.

113 26 c. A valid and enforceable security interest in intangible
113 27 transition property shall attach and be perfected only as
113 28 follows:

113 29 (1) To the extent a transitional funding instrument is
113 30 purported to be secured by intangible transition property as
113 31 specified in the applicable transitional funding order, the
113 32 lien of the transitional funding instrument shall attach
113 33 automatically to such intangible transition property from the
113 34 time of issuance of the transitional funding instrument. Such
113 35 lien shall be a valid and enforceable security interest in the
114 1 intangible transition property securing the transitional
114 2 funding instruments and shall be continuously perfected if,
114 3 before the date of issuance of the applicable transitional
114 4 funding instrument or within no more than ten days after such
114 5 issuance, a filing has been made by or on behalf of the holder
114 6 with the executive secretary of the board stating that such
114 7 transitional funding instrument has been or is to be issued.
114 8 Any such filing made with the board in respect to such
114 9 transitional funding instrument shall take precedence over any
114 10 subsequent filing except as may otherwise be provided in the
114 11 applicable transitional funding order.

114 12 (2) A lien under this paragraph is enforceable against the
114 13 incumbent provider, any grantee, issuer, or assignee, and any
114 14 third party, including a judicial lien creditor, subject only
114 15 to the rights of a third party holding a security interest in
114 16 the intangible transition property previously perfected in the
114 17 manner described in this subsection if value has been given by
114 18 the purchaser of a transitional funding instrument. A
114 19 perfected lien in intangible transition property is a
114 20 continuously perfected security interest in all then existing
114 21 or future revenues and proceeds arising with respect to the
114 22 associated intangible transition property whether or not the
114 23 electric power and related services included in the
114 24 calculation of such revenues and proceeds have been provided.
114 25 A lien created under this paragraph is perfected, and ranks
114 26 prior to any other lien, including a judicial lien, which
114 27 subsequently attaches to the intangible transition property
114 28 and to any other rights created by the transitional funding
114 29 order or any revenues or proceeds of the foregoing. The
114 30 relative priority of a lien created under this subsection is
114 31 not defeated or adversely affected by changes to the
114 32 transitional funding order or to the instrument funding
114 33 charges payable by a responsible end-use consumer, class of
114 34 responsible end-use consumers, or other person or group of
114 35 persons obligated to pay such charges.

115 1 (3) The relative priority of a lien created under this
115 2 subsection is not defeated or adversely affected by the
115 3 commingling of revenues arising with respect to intangible
115 4 transition property with funds of the incumbent provider or
115 5 other funds of the assignee, issuer, or grantee.

115 6 (4) If a default occurs under a transitional funding
115 7 instrument, the holders of such instrument or their authorized
115 8 representative, as secured parties, may foreclose or otherwise
115 9 enforce the lien in the intangible transition property
115 10 securing the transitional funding instrument, subject to the
115 11 rights of any third parties holding prior security interests
115 12 in the intangible transition property previously perfected as
115 13 provided in this subsection. Upon application by a holder or
115 14 such holder's authorized representative, without limiting any
115 15 other remedies, the board shall order the sequestration and
115 16 payment to such holder or authorized representative of
115 17 revenues arising with respect to the intangible transition
115 18 property pledged to the holder. An order under this
115 19 subsection shall remain in full force and effect

115 20 notwithstanding any bankruptcy, reorganization, or other
115 21 insolvency proceeding with respect to the incumbent provider,
115 22 grantee, assignee, or issuer.
115 23 (5) The board shall maintain segregated records which
115 24 reflect the date and time of receipt of all filings made under
115 25 this subsection. The board may provide that transfers of
115 26 intangible transition property be filed in accordance with the
115 27 same system.

115 28 7. TRUE SALE CHARACTERIZATION OF TRANSFER.

115 29 A sale, assignment, grant, or other transfer of intangible
115 30 transition property in a transaction approved in a
115 31 transitional funding order, unless otherwise provided in the
115 32 documents governing such transaction, shall be irrevocable as
115 33 against the incumbent provider requesting such transitional
115 34 funding order and shall be treated as an absolute transfer of
115 35 all of the transferor's right, title, and interest in, to, and
116 1 under such intangible transition property, or, in the case of
116 2 a grant to a grantee, as an absolute vesting of such property
116 3 in the name of the grantee. Any such sale, assignment, grant,
116 4 or other transfer is perfected as against third persons,
116 5 including judicial lien creditors, when the sale, assignment,
116 6 grant, or other transfer has become effective as between the
116 7 parties, and shall place such intangible transition property
116 8 beyond the reach of the transferor or incumbent provider and
116 9 their respective creditors, as in a true sale, and not as a
116 10 pledge or other financing, of such intangible transition
116 11 property. The characterization of a sale, assignment, grant,
116 12 or other transfer as an absolute transfer or vesting and the
116 13 corresponding characterization of the grantee's or
116 14 transferee's property interest shall not be defeated or
116 15 adversely affected by, among other things, any of the
116 16 following: the commingling of revenues arising with respect
116 17 to intangible transition property with funds of the incumbent
116 18 provider or other funds of the assignee, issuer, or grantee;
116 19 the granting to holders of transitional funding instruments a
116 20 preferred right to the intangible transition property, whether
116 21 direct or indirect; the provision by the incumbent provider,
116 22 grantee, assignee, or issuer of any recourse, collateral, or
116 23 credit enhancement with respect to transitional funding
116 24 instruments; the retention by the assigning party of a partial
116 25 interest in any intangible transition property, whether direct
116 26 or indirect, or whether subordinate or otherwise; or the
116 27 incumbent provider's responsibilities for collecting
116 28 instrument funding charges and any retention of bare legal
116 29 title for the purpose of such collection activities. The
116 30 treatment of any such sale, assignment, grant, or other
116 31 transfer for federal tax purposes shall be governed by
116 32 applicable law without regard to this section.

116 33 8. TREATMENT OF TRANSITIONAL FUNDING INSTRUMENTS IN
116 34 REGULATED RATES. The debt associated with a transitional
116 35 funding instrument shall not be included in the regulated
117 1 capital structure for the purpose of determining regulated
117 2 rates for any service.

117 3 9. ACTIONS WITH RESPECT TO INTANGIBLE TRANSITION PROPERTY
117 4 AND RELATED INSTRUMENT FUNDING CHARGES.

117 5 a. The board shall have exclusive jurisdiction over any
117 6 dispute arising out of the obligations to impose and collect
117 7 instrument funding charges. This section does not prevent a
117 8 holder from bringing an action in any court or from exercising
117 9 any other legal or equitable remedy against an incumbent
117 10 provider for failure to distribute collections of instrument
117 11 funding charges or for any other failure by the incumbent
117 12 provider to perform the contractual obligations agreed to by
117 13 the incumbent provider under any documents pertaining to, or
117 14 executed in connection with, a transitional funding instrument
117 15 issued by or on behalf of the incumbent provider.

117 16 b. An incumbent provider, issuer, assignee, grantee, or

117 17 holder is expressly permitted to bring an action against a
117 18 responsible end-use consumer or other person for nonpayment of
117 19 any instrument funding charges constituting a part of the
117 20 intangible transition property then held by the incumbent
117 21 provider, issuer, assignee, grantee, or holder. Any such
117 22 action shall be subject to any and all applicable consumer
117 23 credit protection laws and other laws relating to origination,
117 24 collection, and reporting of consumer credit obligations.

117 25 10. TAXATION OF TRANSFERS OF INTANGIBLE TRANSITION
117 26 PROPERTY. A sale, grant, pledge, assignment, or other
117 27 transfer of intangible transition property is exempt from any
117 28 state or local sales, income, transfers, gains, receipts, or
117 29 similar taxes. A transfer of intangible transition property
117 30 shall be treated as a pledge or other financing for state tax
117 31 purposes, including state and local income and franchise
117 32 taxes, unless the documents governing such transfer
117 33 specifically state that the transfer is intended to be treated
117 34 otherwise.

117 35 Sec. 18. NEW SECTION. 476B.18 RECIPROCITY.

118 1 A person with an assigned service area in this state,
118 2 including an affiliate of such person, shall not offer
118 3 competitive power supply services within another person's
118 4 assigned service area in this state until the former person
118 5 allows the latter person a reasonable opportunity to offer
118 6 competitive power supply services in the former person's
118 7 assigned service area in this state. If the board suspends
118 8 the dates for commencement of the option to choose competitive
118 9 electric service pursuant to section 476B.7, the board shall
118 10 determine the manner and extent to which this section applies.

118 11 Sec. 19. NEW SECTION. 476B.19 APPLICABILITY OF AUTHORITY
118 12 CONSUMER-OWNED UTILITIES.

118 13 An electric cooperative and a municipal utility are not
118 14 subject to regulation by the board except as specifically
118 15 provided in this chapter.

118 16 Sec. 20. NEW SECTION. 476B.20 REMEDIES AND PENALTIES.

118 17 1. The board, after notice and opportunity for hearing,
118 18 may impose the following penalties and remedies for the
118 19 following violations:

118 20 a. The board may impose a civil penalty of up to two
118 21 thousand dollars for each nonmaterial violation of a licensing
118 22 requirement, including all board rules and orders, governing a
118 23 competitive electric service provider. The maximum aggregate
118 24 penalty per person pursuant to this paragraph shall not exceed
118 25 twenty thousand dollars per calendar year.

118 26 b. The board may impose a civil penalty of up to ten
118 27 thousand dollars for each material violation of a licensing
118 28 requirement, including all board rules and orders, governing a
118 29 competitive electric service provider. The maximum aggregate
118 30 penalty per person pursuant to this paragraph shall not exceed
118 31 two hundred thousand dollars per calendar year.

118 32 c. The board may impose a civil penalty of up to twenty-
118 33 five thousand dollars for each repeat violation of a licensing
118 34 requirement, including all board rules and orders, governing a
118 35 competitive electric service provider if the board finds the
119 1 violation to be substantial. The maximum aggregate penalty
119 2 per person under this paragraph shall not exceed one million
119 3 dollars per calendar year.

119 4 d. For repeat violations of licensing requirements,
119 5 including board rules and orders, governing a competitive
119 6 electric service provider, the board may by order prohibit the
119 7 competitive electric service provider or any other person
119 8 acting on behalf of the competitive electric service provider
119 9 from billing charges directly associated with the violation.

119 10 e. For repeat substantial violations under paragraph "c"
119 11 occurring within a twenty-four-month period, the board may
119 12 revoke the competitive electric service provider's license if
119 13 the board determines that no less severe remedy is likely to

119 14 correct the competitive electric service provider's conduct.
119 15 A repeat violation for the purpose of this paragraph means
119 16 that the occurrence of the second applicable violation takes
119 17 place subsequent to the date the board has issued a notice of
119 18 violation in a contested case on the initial violation, and
119 19 the board finds that the same provision of this chapter, or
119 20 the same requirement of a board rule or order, has been
119 21 violated in both contested cases. The written notice of
119 22 violation given by the board under this paragraph shall
119 23 specify an appropriate and reasonable time for compliance.
119 24 f. The board may issue a cease and desist order if the
119 25 board finds a competitive electric service provider has
119 26 engaged in conduct to monopolize in the relevant competitive
119 27 market, including, but not limited to predatory pricing as
119 28 defined by applicable law. The board's determination of
119 29 predatory pricing shall be given no weight in any legal action
119 30 brought in court, except with respect to judicial review of a
119 31 ruling brought pursuant to section 476B.23. For a repeat
119 32 violation of a cease and desist order issued pursuant to this
119 33 paragraph, the board may revoke a competitive electric service
119 34 provider's license if the board determines that no less severe
119 35 remedy is likely to result in a change in the competitive
120 1 electric service provider's conduct. This paragraph shall not
120 2 be construed as creating an exemption from federal or state
120 3 antitrust laws.
120 4 g. If a competitive electric service provider
120 5 substantially defaults on its obligations such that a control
120 6 area operator or other person provides emergency supply to
120 7 serve a customer of the defaulting competitive electric
120 8 service provider, the board may impose a monetary penalty on
120 9 the competitive electric service provider which does not
120 10 exceed three times the cost of the emergency supply and may
120 11 also revoke a competitive electric service provider's license
120 12 if the board determines that no less severe remedy is likely
120 13 to result in a change in the competitive electric service
120 14 provider's conduct.
120 15 h. The board may issue a cease and desist order if any
120 16 competitive electric service provider has engaged or is
120 17 engaging in any act or practice in violation of this chapter
120 18 or rule or order of the board. Such order is effective when
120 19 issued unless otherwise specified in the order. For a
120 20 violation of a cease and desist order issued pursuant to this
120 21 paragraph, the board may revoke a competitive electric service
120 22 provider's license if the board determines that no less severe
120 23 remedy is likely to result in a change of the competitive
120 24 electric service provider's conduct.
120 25 i. The board may impose a civil penalty of up to five
120 26 thousand dollars for each nonmaterial violation of this
120 27 chapter, or a board rule or order, governing delivery service
120 28 providers. The maximum aggregate penalty to which a delivery
120 29 service provider may be subject pursuant to this paragraph
120 30 shall not exceed twenty thousand dollars per calendar year.
120 31 j. The board may impose a civil penalty of up to ten
120 32 thousand dollars for a material violation of this chapter, or
120 33 a board rule or order, by a delivery service provider. The
120 34 maximum aggregate penalty to which a delivery service provider
120 35 may be subject pursuant to this paragraph shall not exceed two
121 1 hundred thousand dollars per calendar year.
121 2 k. The board may impose a civil penalty of up to twenty-
121 3 five thousand dollars for each repeat violation of this
121 4 chapter, or a board rule or order, by a delivery service
121 5 provider if the board finds the violation to be substantial.
121 6 The maximum aggregate penalty to which a person may be subject
121 7 pursuant to this paragraph shall not exceed one million
121 8 dollars per calendar year.
121 9 l. For a violation of this chapter, or a board rule or
121 10 order, by a delivery service provider, in addition to the

121 11 penalties and remedies in this subsection, the board may issue
121 12 a cease and desist order and disallow cost recovery of any
121 13 associated costs in electric company rate proceedings. Such
121 14 cease and desist order is effective when issued unless
121 15 otherwise specified in the order.

121 16 2. The board may issue a cease and desist order in an
121 17 emergency, without hearing or notice, if the board receives a
121 18 written verified complaint or affidavit showing that a person
121 19 is selling competitive electric services without being duly
121 20 licensed or is engaging in conduct that creates an immediate
121 21 danger to the public safety or reliability of the delivery
121 22 system or is reasonably expected to cause significant,
121 23 imminent, and irreparable public injury. An emergency cease
121 24 and desist order is effective immediately and continues in
121 25 force and effect until further order of the board or until
121 26 stayed by a court of competent jurisdiction. A hearing shall
121 27 be held by the board within ten business days of the issuance
121 28 of the emergency cease and desist order in which the board
121 29 shall in a final order affirm, modify, or set aside the
121 30 emergency cease and desist order.

121 31 3. The board, after notice and opportunity for hearing,
121 32 may order restitution for a person injured by a violation of
121 33 the board's rules concerning deceptive, abusive, and unfair
121 34 sales practices. The board shall not have authority to order
121 35 special, incidental, consequential, or punitive damages.

122 1 4. The board, after written notice and opportunity for
122 2 hearing, may impose a civil penalty of up to twenty-five
122 3 thousand dollars per occurrence upon a delivery service
122 4 provider for an excessive number of delivery-related outages,
122 5 excessive outage durations, or failure to undertake reasonable
122 6 and prudent maintenance measures to avoid outages. For
122 7 purposes of this subsection, an occurrence does not mean per
122 8 day or per consumer affected by an occurrence. The board
122 9 shall adopt rules specifying the circumstances under which
122 10 penalties would apply and shall give due consideration to
122 11 conditions beyond the control of the delivery service
122 12 provider. Delivery service providers that are electric
122 13 companies shall not include such civil penalties in regulated
122 14 rates. The initial rules shall be proposed by November 1,
122 15 2001.

122 16 5. A person, after previously having been found by the
122 17 board to have violated a provision of this chapter or a rule
122 18 or order of the board, who willfully violates the same
122 19 provision of this chapter, the same rule or provision of an
122 20 order, shall after notice and opportunity for hearing be
122 21 subject to a civil penalty of up to twenty-five thousand
122 22 dollars per violation. For the purposes of this subsection,
122 23 "willful" means knowing and deliberate, with a specific intent
122 24 to violate.

122 25 6. Except as provided in subsection 4, each violation is a
122 26 separate offense, and in the case of a continuing violation,
122 27 each day a violation continues, after a reasonable time
122 28 specified for compliance in the written notice by the board,
122 29 is a separate and distinct offense. A civil penalty assessed
122 30 under this section may be compromised below the maximum by the
122 31 board. In determining the amount of the penalty, or the
122 32 amount agreed upon in the compromise, the board may consider
122 33 the appropriateness of the penalty in relation to the
122 34 financial resources of the person being penalized, the gravity
122 35 of the violation, the good faith of the person in attempting
123 1 to achieve compliance following notification of a violation,
123 2 and any other relevant factors. The board shall not impose a
123 3 civil penalty for any single violation in excess of fifty
123 4 thousand dollars and for any continuing violation in excess of
123 5 five hundred thousand dollars.

123 6 7. Civil penalties collected by the board under this
123 7 section shall be forwarded to the treasurer of state.

123 8 8. The board may apply to the district court of any county
123 9 of the state to enforce any order made or action taken by the
123 10 board pursuant to this section or to have a violation stopped
123 11 or prevented by injunction, mandamus, or other appropriate
123 12 remedy.

123 13 9. The board may award costs of litigation, including
123 14 reasonable attorney and expert witness fees, actually incurred
123 15 by a person found by the board to have materially contributed
123 16 to the enforcement of the remedies or penalties provided for
123 17 in this section. Litigation costs, in an amount approved by
123 18 the board and not to exceed twenty-five thousand dollars,
123 19 shall be paid by the person or persons found by the board to
123 20 be in violation of this chapter. In determining the award,
123 21 the board may consider the financial resources of such person.

123 22 Sec. 21. NEW SECTION. 476B.21 REHEARINGS BEFORE THE
123 23 BOARD.

123 24 Notwithstanding chapter 17A, a party, as defined in the
123 25 rules adopted by the board, to a contested case before the
123 26 board may within twenty days after the issuance of the final
123 27 decision apply for a rehearing. The board shall either grant
123 28 or refuse an application for rehearing within thirty days
123 29 after the filing of the application or, after giving the
123 30 interested parties notice and opportunity to be heard and
123 31 after consideration of all the facts, including those arising
123 32 since the making of the order, may abrogate or modify its
123 33 order. A failure by the board to act upon the application for
123 34 rehearing within the thirty-day period shall be deemed a
123 35 denial of the application. Neither the filing of an
124 1 application for rehearing nor the granting of the application
124 2 shall stay the effectiveness of an order unless the board so
124 3 directs.

124 4 Sec. 22. NEW SECTION. 476B.22 JUDICIAL REVIEW.

124 5 1. Notwithstanding chapter 17A, the district court for
124 6 Polk county has exclusive venue for the judicial review under
124 7 chapter 17A of actions of the board pursuant to section
124 8 476B.4, subsection 1, section 476B.8, subsections 1, 2, and 3,
124 9 and section 476B.9, subsections 5 and 7.

124 10 2. Upon the filing of a petition for judicial review
124 11 pursuant to subsection 1, the clerk of the district court
124 12 shall notify the chief justice of the supreme court for
124 13 purposes of assignment of a district judge under section
124 14 602.1212. The judicial review proceeding shall be heard by
124 15 the district judge appointed by the supreme court under
124 16 section 602.1212, but in the court of venue under subsection
124 17 1.

124 18 3. Notwithstanding chapter 17A, if a delivery service
124 19 provider that is an electric company seeks judicial review of
124 20 an order approving rates for the delivery service provider,
124 21 the level of rates that may be collected, under bond and
124 22 subject to refund, while the judicial review proceeding is
124 23 pending is limited to the level of the temporary rates set by
124 24 the board, or the level of the final rates set by the board,
124 25 whichever is greater. During the period the judicial review
124 26 proceeding is pending, the board shall retain jurisdiction to
124 27 determine the rate of interest to be paid on any refunds
124 28 eventually required on rates collected during judicial review.

124 29 Sec. 23. NEW SECTION. 476B.23 CONTRACT RIGHTS.

124 30 Except as provided in this section, this chapter shall not
124 31 affect the rights and duties of parties under a contract for
124 32 electric service in effect on the effective date of this
124 33 chapter. Notwithstanding a provision in a contract to the
124 34 contrary, contracts for bundled electric service executed
124 35 before the effective date of this chapter between an incumbent
125 1 provider and a nonresidential end-use consumer that uses fewer
125 2 than one hundred thousand kilowatt-hours in 2001 or a
125 3 residential end-use consumer may be terminated without penalty
125 4 by the consumer on or after May 1, 2002, upon thirty days

125 5 prior written notice.

125 6 Sec. 24. NEW SECTION. 476B.24 UTILITY EMPLOYEE

125 7 TRANSITION SERVICES AND BENEFITS.

125 8 1. The general assembly finds, based on experience in
125 9 other industries that have undergone similar transitions, that
125 10 the introduction of competition into the state's electric
125 11 utility industry may result in workforce reductions by
125 12 electric companies which may adversely affect persons who have
125 13 been employed by this state's electric utilities in functions
125 14 important to the public convenience and welfare. The general
125 15 assembly further finds that the impacts on employees and their
125 16 communities of any necessary reductions in the utility
125 17 workforce directly caused by this restructuring of the
125 18 electric industry shall be mitigated to the extent practicable
125 19 through such means as offers of voluntary severance,
125 20 retraining, early retirement, outplacement, and related
125 21 benefits. Therefore, before any such reduction in the
125 22 workforce during the period between the effective date of this
125 23 chapter and January 1, 2006, an electric utility shall present
125 24 to its employees or their representatives a workforce
125 25 reduction plan outlining the means by which the electric
125 26 utility intends to mitigate the impact of such workforce
125 27 reduction on its employees. For the purpose of this section,
125 28 the term "electric utility" means the electric delivery
125 29 service operations in Iowa and the electric generating
125 30 operations and units located in Iowa of incumbent providers
125 31 other than consumer-owned utilities.

125 32 2. In the event of a sale, purchase, or any other transfer
125 33 of ownership by an electric utility, during the period from
125 34 the effective date of this chapter to January 1, 2006, of one
125 35 or more Iowa divisions, business units, generating stations,
126 1 or generating units located in Iowa, the electric utility's
126 2 contract or agreement with the acquiring person shall require
126 3 that the acquiring person hire a sufficient number of
126 4 nonsupervisory employees to operate and maintain the station,
126 5 division, or unit by initially making offers of employment to
126 6 the nonsupervisory workforce of the electric utility's
126 7 division, or unit by initially making offers of employment to
126 8 the nonsupervisory workforce of the electric utility's
126 9 division, business unit, generating stations, or generating
126 10 unit at no less than the wage rates and substantially
126 11 equivalent fringe benefits and terms and conditions of
126 12 employment that are in effect at the time of transfer of
126 13 ownership of the division, business unit, generating station,
126 14 or generating units. The wage rates and substantially
126 15 equivalent fringe benefits and terms and conditions of
126 16 employment shall continue for at least thirty months from the
126 17 time of the transfer of ownership unless the parties mutually
126 18 agree to different terms and conditions of employment within
126 19 that thirty-month period. The electric utility shall offer a
126 20 transition plan to those nonsupervisory employees who are not
126 21 offered jobs by the acquiring person because that person has a
126 22 need for fewer workers. If there is litigation concerning the
126 23 sale or other transfer of ownership of the electric utility's
126 24 divisions, business units, generating stations, or generating
126 25 units, the thirty-month period will begin on the date the
126 26 acquiring person takes control or management of the divisions,
126 27 business units, generating stations, or generating units of
126 28 the electric utility.

126 29 3. If an electric utility transfers ownership of one or
126 30 more of its divisions, business units, generating stations, or
126 31 generating units located in Iowa to an affiliate, during the
126 32 period from the effective date of this chapter to January 1,
126 33 2006, that affiliate shall comply with the transition
126 34 provisions in subsection 2. If ownership of the affiliate is
126 35 subsequently sold or transferred to another person during the
127 1 transition period, the transition provisions in subsection 2

127 2 shall continue to apply.

127 3 Sec. 25. NEW SECTION. 476B.25 REPORTS TO GENERAL
127 4 ASSEMBLY.

127 5 1. After providing an opportunity for public input, the
127 6 board shall submit to the secretary of the senate and the
127 7 chief clerk of the house of representatives for transmittal to
127 8 the Iowa senate and house of representatives a report on or
127 9 before January 10, 2005, which includes both of the following:

127 10 a. An evaluation of the effectiveness of competition in
127 11 the market for each competitive electric service.

127 12 b. Recommendations, if any, that the general assembly
127 13 should consider to increase the effectiveness of competition
127 14 in the markets for all competitive electric services.

127 15 2. On or before January 10, 2005, the consumer advocate
127 16 shall provide a written report to the general assembly that
127 17 sets forth the consumer advocate's conclusions regarding the
127 18 effectiveness of competition in the market for competitive
127 19 electric services. The report may include any recommendations
127 20 which the consumer advocate believes the general assembly
127 21 should consider in light of the conclusions.

127 22 Sec. 26. NEW SECTION. 28F.15 POWERS CONFLICTING
127 23 PROVISIONS.

127 24 In addition to the powers conferred elsewhere in this
127 25 chapter, an electric power agency may exercise all other
127 26 powers reasonably necessary or appropriate for or incidental
127 27 to the effectuation of its authorized purposes including
127 28 without limitation, the powers enumerated in chapters 6A and
127 29 6B for purposes of constructing or acquiring electric power
127 30 facilities within this state. The failure of a city to comply
127 31 with requirements of section 28F.1, relating to joining an
127 32 electric power agency for the purpose of financing electric
127 33 power facilities, shall not limit the ability of that electric
127 34 power agency to jointly finance open access transmission
127 35 facilities pursuant to this subchapter. An electric power
128 1 agency may exercise in connection with its property and
128 2 affairs, and in connection with property within its control,
128 3 any and all powers which might be exercised by a natural
128 4 person or a private corporation in connection with similar
128 5 property and affairs. The enumeration of specific powers and
128 6 functions in this subchapter is not a limitation of the powers
128 7 of a public agency or an electric power agency as otherwise
128 8 provided by law. For purposes of this subchapter, open access
128 9 transmission facilities are those available for use by others
128 10 in a manner comparable to the use of transmission facilities
128 11 of a public utility subject to the federal Power Act.

128 12 Sec. 27. NEW SECTION. 28F.16 ISSUANCE OF BONDS AND NOTES
128 13 PURPOSES.

128 14 An electric power agency may from time to time issue its
128 15 bonds or notes in such principal amounts as the electric power
128 16 agency deems necessary to provide sufficient funds to carry
128 17 out the following corporate purposes and powers:

128 18 a. The construction of open access transmission facilities
128 19 to be owned or leased by the electric power agency, or the
128 20 acquisition of any interest or any right to capacity in such
128 21 facilities constructed on or after July 1, 1999.

128 22 b. The funding or refunding of the principal of, or
128 23 interest or redemption premiums on, any bonds or notes issued
128 24 by the electric power agency whether or not the bonds or notes
128 25 or interest to be funded or refunded has become due.

128 26 c. The establishment or increase of reserves to secure or
128 27 to pay the bonds or notes, or interest on such bonds or notes.

128 28 d. The payment of all other costs or expenses of the
128 29 electric power agency incident to and necessary to carry out
128 30 the foregoing corporate purposes and powers.

128 31 Sec. 28. NEW SECTION. 28F.17 BONDS AND NOTES AUTHORIZED
128 32 BY RESOLUTION OF BOARD TERMS.

128 33 1. Bonds or notes of an electric power agency shall be

128 34 authorized by resolution of its board of directors and may be
128 35 issued under the resolution or under a trust indenture or
129 1 other security agreement, in one or more series, which shall
129 2 include all of the following:

- 129 3 a. Date of issue.
- 129 4 b. Date of maturity.
- 129 5 c. Rate of interest.
- 129 6 d. Amount of denomination.

129 7 2. The terms and conditions in the resolution, trust
129 8 indenture, or other security agreement shall provide for all
129 9 of the following:

- 129 10 a. The form of the bond or note, either coupon or
129 11 registered.
- 129 12 b. Conversion, registration, and exchange privileges.
- 129 13 c. Rank or priority.
- 129 14 d. Execution requirements.
- 129 15 e. Medium and place of payment.
- 129 16 f. Terms of redemption with or without premium.
- 129 17 g. Such other terms and conditions as the resolution,
129 18 trust indenture, or other security agreement may provide.

129 19 3. Bonds and notes issued pursuant to this subchapter
129 20 shall not be restricted by any other law limiting the amounts,
129 21 maturities, interest rates, or other terms of obligation of
129 22 public agencies or private persons. Chapter 75 shall not
129 23 apply to such bonds or notes.

129 24 Sec. 29. NEW SECTION. 28F.18 BONDS AND NOTES PAYABLE
129 25 SOLELY FROM AGENCY REVENUES OR FUNDS.

129 26 The principal of and interest upon any bonds or notes
129 27 issued by an electric power agency shall be payable solely
129 28 from the revenues or funds pledged or available for their
129 29 payment as authorized in this subchapter. Each bond and note
129 30 shall contain a statement that the principal or interest
129 31 associated with such bond or note is payable solely from
129 32 revenues or funds of the electric power agency, and that the
129 33 state, any political subdivision of the state other than the
129 34 electric power agency, or any public agency which is a member
129 35 of the electric power agency is not obligated to pay the
130 1 principal or interest and that neither the full faith and
130 2 credit or the taxing power of the state, any political
130 3 subdivision of the state, or any such public agency is not
130 4 pledged to the payment of the principal of or the interest on
130 5 the bonds or notes.

130 6 Sec. 30. NEW SECTION. 28F.19 BONDS AND NOTES TYPES
130 7 SOURCES FOR PAYMENT SECURITY.

130 8 Except as may be otherwise expressly provided by this
130 9 subchapter or by the electric power agency, every issue of
130 10 bonds or notes of the electric power agency shall be payable
130 11 out of any revenues or funds of the electric power agency,
130 12 subject only to any agreements with the holders of particular
130 13 bonds or notes pledging any particular revenues or funds. An
130 14 electric power agency may issue types of bonds or notes as it
130 15 may determine, including bonds or notes as to which the
130 16 principal and interest are payable exclusively from the
130 17 revenues from one or more projects, or from an interest in
130 18 such projects or a right to capacity of such projects, or from
130 19 one or more revenue-producing contracts made by the electric
130 20 power agency with any person, or from its revenues generally.
130 21 Any bonds or notes may be additionally secured by a pledge of
130 22 any grant, subsidy, or contribution from any public agency or
130 23 other person, or a pledge of any income or revenues, funds, or
130 24 moneys of the electric power agency from any source
130 25 whatsoever.

130 26 Sec. 31. NEW SECTION. 28F.20 BONDS, NOTES, AND RATES FOR
130 27 DEBT SERVICE NOT SUBJECT TO STATE APPROVAL.

130 28 Bonds or notes of an electric power agency may be issued
130 29 under this subchapter, and rents, rates, and charges may be
130 30 established pursuant to section 28F.5 and pledged for the

130 31 security of bonds or notes, and interest and redemption
130 32 premiums on such bonds or notes, without obtaining the consent
130 33 of any department, division, commission, board, bureau, or
130 34 agency of the state and without any other proceeding or the
130 35 happening of any other condition or occurrence except as
131 1 specifically required by this subchapter.

131 2 Sec. 32. NEW SECTION. 28F.21 BONDS AND NOTES TO BE
131 3 NEGOTIABLE.

131 4 All bonds and notes of an electric power agency shall be
131 5 negotiable within the meaning and for all the purposes of the
131 6 uniform commercial code, subject only to any registration
131 7 requirement.

131 8 Sec. 33. NEW SECTION. 28F.22 VALIDITY OF BONDS AND NOTES
131 9 AT DELIVERY TEMPORARY BONDS.

131 10 Any bonds or notes may be issued and delivered,
131 11 notwithstanding that one or more of the officers executing
131 12 them shall have ceased to hold office at the time when the
131 13 bonds or notes are actually delivered. Pending preparation of
131 14 definitive bonds, an electric power agency may issue temporary
131 15 bonds which shall be exchanged for the definitive bonds.

131 16 Sec. 34. NEW SECTION. 28F.23 PUBLIC OR PRIVATE SALE OF
131 17 BONDS AND NOTES.

131 18 Bonds or notes of an electric power agency may be sold at
131 19 public or private sale for a price and in a manner as
131 20 determined by the agency.

131 21 Sec. 35. NEW SECTION. 28F.24 BONDS AND NOTES SUITABLE
131 22 INVESTMENTS FOR GOVERNMENTAL UNITS, FINANCIAL INSTITUTIONS,
131 23 AND FIDUCIARIES.

131 24 A bank, trust company, savings bank, building and loan
131 25 association, savings and loan association, credit union,
131 26 investment company, insurance company, insurance association,
131 27 executor, guardian, trustee, and other fiduciaries responsible
131 28 for the investment of funds, may legally invest any debt
131 29 service funds, money, or other funds belonging to them or
131 30 within their control in any bonds or notes issued pursuant to
131 31 this subchapter, and the bonds or notes shall be authorized
131 32 security for any and all public deposits.

131 33 Sec. 36. NEW SECTION. 28F.25 RESOLUTION, TRUST
131 34 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
131 35 PROVISIONS.

132 1 1. The resolution, trust indenture, or other security
132 2 agreement under which any bonds or notes are issued shall
132 3 constitute a contract with the holders of the bonds or notes,
132 4 and may contain provisions, among others, prescribing any of
132 5 the following:

132 6 a. The terms and provisions of the bonds or notes.

132 7 b. The mortgage or pledge of and the grant of a security
132 8 interest in any real or personal property and all or any part
132 9 of the revenue from any project or any revenue-producing
132 10 contract made by the electric power agency with any person to
132 11 secure the payment of bonds or notes, subject to any
132 12 agreements with the holders of bonds or notes which might then
132 13 exist.

132 14 c. The custody, collection, securing, investment, and
132 15 payment of any revenues, assets, money, funds, or property
132 16 with respect to which the electric power agency may have any
132 17 rights or interest.

132 18 d. The rates or charges for electric energy sold by, or
132 19 services rendered by, the electric power agency, the amount to
132 20 be raised by the rates or charges, and the use and disposition
132 21 of any or all revenue.

132 22 e. The creation of reserves or debt service funds and the
132 23 regulation and disposition of such reserves or funds.

132 24 f. The purposes to which the proceeds from the sale of any
132 25 bonds or notes to be issued may be applied, and the pledge of
132 26 the proceeds to secure the payment of the bonds or notes.

132 27 g. Limitations on the issuance of any additional bonds or

132 28 notes, the terms upon which additional bonds or notes may be
132 29 issued and secured, and the refunding of outstanding bonds or
132 30 notes.

132 31 h. The rank or priority of any bonds or notes with respect
132 32 to any lien or security.

132 33 i. The creation of special funds or moneys to be held in
132 34 trust or otherwise for operating expenses, payment, or
132 35 redemption of bonds or notes, reserves or other purposes, and
133 1 the use and disposition of moneys held in these funds.

133 2 j. The procedure by which the terms of any contract with
133 3 or for the benefit of the holders of bonds or notes may be
133 4 amended or abrogated, the amount of bonds or notes the holders
133 5 of which must consent to such amendment or abrogation, and the
133 6 manner in which consent may be given.

133 7 k. The definition of the acts or omissions to act which
133 8 shall constitute a default in the duties of the electric power
133 9 agency to holders of its bonds or notes, and the rights and
133 10 remedies of the holders in the event of default including, if
133 11 the electric power agency so determines, the right to
133 12 accelerate the due date of the bonds or notes or the right to
133 13 appoint a receiver of the property or revenues subject to the
133 14 lien of the resolution, trust indenture, or other security
133 15 agreement.

133 16 l. Any other or additional agreements with or for the
133 17 benefit of the holders of bonds or notes or any covenants or
133 18 restrictions necessary or desirable to safeguard the interests
133 19 of the holders.

133 20 m. The custody of any of its properties or investments,
133 21 the safekeeping of such properties or investments, the
133 22 insurance to be carried on such properties or investments, and
133 23 the use and disposition of insurance proceeds.

133 24 n. The vesting in a trustee, within or outside the state,
133 25 of such properties, rights, powers, and duties in trust as the
133 26 electric power agency may determine; or the limiting or
133 27 abrogating of the rights of the holders of any bonds or notes
133 28 to appoint a trustee, or the limiting of the rights, powers,
133 29 and duties of such trustee.

133 30 o. The appointment of, and the establishment of the duties
133 31 and obligations of, any paying agent or other fiduciary within
133 32 or outside the state.

133 33 Sec. 37. NEW SECTION. 28F.26 MORTGAGE OR TRUST DEED TO
133 34 SECURE BONDS.

133 35 For the security of bonds or notes issued, or to be issued,
134 1 by an electric power agency, the electric power agency may
134 2 mortgage or execute deeds of trust of the whole or any part of
134 3 its property.

134 4 Sec. 38. NEW SECTION. 28F.27 NO PERSONAL LIABILITY ON
134 5 BONDS OR NOTES.

134 6 An official, director, or member of an electric power
134 7 agency, or any person executing bonds or notes pursuant to
134 8 this subchapter shall not be liable personally on the bonds or
134 9 notes or be subject to any personal liability or
134 10 accountability by reason of the issuance of such bonds or
134 11 notes.

134 12 Sec. 39. NEW SECTION. 28F.28 REPURCHASE OF SECURITIES.

134 13 An electric power agency may purchase, out of any funds
134 14 available for such purchase, bonds or notes, and may hold,
134 15 pledge, cancel, or resell the bonds or notes, subject to and
134 16 in accordance with any agreements with the holders.

134 17 Sec. 40. NEW SECTION. 28F.29 PLEDGE OF REVENUE AS
134 18 SECURITY.

134 19 An electric power agency may pledge its rates, rents, and
134 20 other revenues, or any part of such rates, rents, or other
134 21 revenues, as security for the repayment, with interest and
134 22 redemption premiums, if any, of the moneys borrowed by it or
134 23 advanced to it for any of its authorized purposes and as
134 24 security for the payment of amounts due and owed by it under

134 25 any contract.

134 26 Sec. 41. Section [384.24](#), subsection 4, Code 1999, is

134 27 amended by adding the following new paragraph:

134 28 NEW PARAGRAPH. j. The acquisition of competitive electric
134 29 services, as defined in chapter 476B, to meet the demands of
134 30 city residents.

134 31 Sec. 42. Section [384.84](#), subsection 1, Code 1999, is

134 32 amended to read as follows:

134 33 1. The governing body of a city utility, combined utility
134 34 system, city enterprise, or combined city enterprise may
134 35 establish, impose, adjust, and provide for the collection of
135 1 rates and charges to produce gross revenues at least
135 2 sufficient to pay the expenses of operation and maintenance of
135 3 the city utility, combined utility system, city enterprise, or
135 4 combined city enterprise. When revenue bonds or pledge orders
135 5 are issued and outstanding pursuant to this division, the
135 6 governing body shall establish, impose, adjust, and provide
135 7 for the collection of rates to produce gross revenues at least
135 8 sufficient to pay the expenses of operation and maintenance of
135 9 the city utility, combined utility system, city enterprise, or
135 10 combined city enterprise, and to leave a balance of net
135 11 revenues sufficient to pay the principal of and interest on
135 12 the revenue bonds and pledge orders as they become due and to
135 13 maintain a reasonable reserve for the payment of principal and
135 14 interest, and a sufficient portion of net revenues must be
135 15 pledged for that purpose. Rates must be established by
135 16 ordinance of the council or by resolution of the trustees,
135 17 published in the same manner as an ordinance. However, prices
135 18 for electric services subject to direct competition under
135 19 chapter 476B may be changed in accordance with a policy that
135 20 has been adopted in the same manner as rates.

135 21 Sec. 43. Section [388.6](#), Code 1999, is amended to read as
135 22 follows:

135 23 388.6 DISCRIMINATION IN RATES.

135 24 A city utility or a combined utility system may not provide
135 25 use or service at a discriminatory rate, except to the city or
135 26 its agencies, as provided in section 384.91. However, the
135 27 pricing of competitive electric services, as defined in
135 28 section 476B.3, at market rates is not prohibited.

135 29 Sec. 44. Section [474.9](#), Code 1999, is amended by striking
135 30 the section and inserting in lieu thereof the following:

135 31 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

135 32 1. The board shall have broad general powers to effect the
135 33 purposes of this chapter and chapters 476, 476A, 476B, 478,
135 34 479, 479A, and 479B. The board may issue subpoenas and pay
135 35 the same fees and mileage as are payable to witnesses in the
136 1 courts of record of general jurisdiction. The board shall
136 2 adopt rules pursuant to chapter 17A to govern the exercise of
136 3 its powers and duties, the practice and procedure before it,
136 4 and to govern the form, contents, and filing of reports,
136 5 documents, and other papers as required.

136 6 2. The board shall employ at rates of compensation
136 7 consistent with current standards in industry, such
136 8 professionally trained economists, engineers, accountants,
136 9 attorneys, and skilled examiners and inspectors, secretaries,
136 10 clerks, and other employees as it may find necessary for the
136 11 full and efficient discharge of its duties and
136 12 responsibilities as required by this chapter and chapters 476,
136 13 476A, 476B, 478, 479, 479A, and 479B.

136 14 3. The board may intervene in any proceedings before the
136 15 federal energy regulatory commission or any other federal or
136 16 state regulatory body when it finds that any decision of the
136 17 commission would adversely affect the costs of regulated or
136 18 competitive utility services within this state.

136 19 4. The board shall have authority to inquire into the
136 20 management of the business of all public utilities and
136 21 delivery service providers that are electric companies, and

136 22 shall keep itself informed as to the manner and method in
136 23 which the same is conducted, and may obtain from any public
136 24 utility or delivery service provider all necessary information
136 25 to enable the board to perform its duties.

136 26 5. To the maximum extent fair and equitable, the board
136 27 shall directly charge its expenses and those of the consumer
136 28 advocate to the person causing the board or consumer advocate
136 29 to incur those expenses in accomplishing the purposes of the
136 30 board. No part of such expenses shall be charged to persons,
136 31 who without expanding the scope of the proceeding, intervene
136 32 in good faith in a board proceeding initiated by an entity
136 33 subject to the board's rate and licensing jurisdiction, the
136 34 consumer advocate, or the board on its own motion. For
136 35 allocations in complaint proceedings, the board may consider
137 1 the financial resources of the parties and the contribution to
137 2 the public interest.

137 3 6. a. In order to carry out the duties imposed upon it by
137 4 law, the board may allocate the expenses attributable to such
137 5 duties to the parties to proceedings before the board or to
137 6 persons participating in other matters before the board. The
137 7 board shall ascertain the certified expenses incurred by the
137 8 consumer advocate division of the department of justice in the
137 9 performance of its duties under the law and may allocate those
137 10 expenses that are directly chargeable.

137 11 b. The board shall ascertain the total of the division's
137 12 expenditures during each year which is reasonably attributable
137 13 to the performance of its duties under the law. The board
137 14 shall add to this total the certified expenses of the consumer
137 15 advocate as provided under section 475A.6 and shall deduct all
137 16 amounts chargeable directly to any person under any law. The
137 17 remainder shall be assessed by the board to an entity
137 18 providing service over which the board has jurisdiction in
137 19 proportion to its respective gross operating revenues during
137 20 the last calendar year derived from its intrastate operations
137 21 over which the board has jurisdiction. If any portion of the
137 22 remainder can be identified with a specific type of utility
137 23 service, the board may allocate those expenses to the
137 24 corresponding entities over which the board has jurisdiction.
137 25 Assessments may be made quarterly based upon estimates of the
137 26 expenditures for the fiscal year of the utilities division and
137 27 the consumer advocate. Not more than ninety days following
137 28 the close of the fiscal year, the utilities division shall
137 29 conform the amount of the prior fiscal year's assessments to
137 30 the requirements of this section. The total amount that may
137 31 be assessed to an entity under authority of this paragraph
137 32 shall not exceed six-tenths of one percent of the total gross
137 33 operating revenues during the calendar year derived from
137 34 intrastate operations over which the board has jurisdiction.
137 35 For public utilities exempted from board rate regulation
138 1 pursuant to chapter 476 and delivery service providers that
138 2 are incumbent provider consumer-owned utilities pursuant to
138 3 chapter 476B, the assessments under this paragraph shall be
138 4 computed at one-half the rate used in computing the assessment
138 5 for other utilities and delivery service providers that are
138 6 electric companies.

138 7 c. A person subject to assessment shall pay the division
138 8 the amount assessed against it within thirty days from the
138 9 time the division mails notice to it of the amount due unless
138 10 it shall file with the board objections in writing setting out
138 11 the grounds upon which it claims that such assessment is
138 12 excessive, erroneous, unlawful, or invalid. Upon the filing
138 13 of such objections the board shall set the matter down for
138 14 hearing and issue its order in accordance with its findings in
138 15 such proceeding, which order shall be subject to review as
138 16 provided in this chapter. All amounts collected by the
138 17 division pursuant to this section shall be deposited with the
138 18 treasurer of state and credited to the general fund of the

138 19 state.
138 20 d. Whenever the board deems it necessary in order to carry
138 21 out the duties imposed by law, the board may expend additional
138 22 sums beyond those sums appropriated. However, the authority
138 23 to add additional personnel or contract for additional
138 24 assistance must first be approved by the director of the
138 25 department of management. The costs of any additional
138 26 employees and contract services shall be assessed and paid in
138 27 the same manner as other expenses are paid under this section.
138 28 There is appropriated out of any funds in the state treasury
138 29 not otherwise appropriated, such sums as may be necessary to
138 30 enable the board to hire additional staff and contract for
138 31 services under this section. The authority to hire additional
138 32 temporary or permanent staff that is granted to the board by
138 33 this section shall not be subject to limitation by an
138 34 administrative or executive order or decision that restricts
138 35 the number of state employees or the filling of employee
139 1 vacancies, and shall not be subject to limitation by any law
139 2 of this state that restricts the number of state employees or
139 3 the filling of employee vacancies unless that law is made
139 4 applicable by express reference to this section. Fees paid to
139 5 the utilities division shall be deposited in the general fund
139 6 of the state. These funds, upon appropriation by the general
139 7 assembly, shall be used for payment of the expenses of the
139 8 utilities division and the consumer advocate division.
139 9 Subject to this section, the utilities division or the
139 10 consumer advocate division may keep on hand with the treasurer
139 11 of state funds in excess of the current needs of the utilities
139 12 division or the consumer advocate division.
139 13 e. The administrator and consumer advocate shall account
139 14 for receipts and disbursements according to the separate
139 15 duties imposed upon the utilities division and the consumer
139 16 advocate division by the laws of this state and each separate
139 17 duty shall be fiscally self-sustaining.
139 18 f. All fees and other moneys collected under this section
139 19 shall be deposited into the general fund of the state and
139 20 expenses required to be paid under this section shall be paid
139 21 from funds appropriated for those purposes. Moneys deposited
139 22 into the general fund of the state pursuant to this section
139 23 shall be used in accordance with section 8.60.
139 24 Sec. 45. Section [476.1](#), subsection 1, Code 1999, is
139 25 amended to read as follows:
139 26 1. Furnishing gas by piped distribution system

~~or~~

139 27

~~electricity~~

- to the public for compensation.

139 28 Sec. 46. Section [476.1](#), Code 1999, is amended by adding
139 29 the following new subsection:

139 30 NEW SUBSECTION. 4. Furnishing electricity to the public
139 31 for compensation, except to the extent inconsistent with
139 32 chapter 476B, as follows:

139 33 a. (1) Until May 1, 2002, for an electric company, as
139 34 defined in section 476B.3.

139 35 (2) Until the date selected by the governing body of each
140 1 consumer-owned utility, as defined in section 476B.3.

140 2 b. Except as provided in paragraph "c", after the dates
140 3 specified in paragraph "a", an electric company and a
140 4 consumer-owned utility, as so defined, shall be subject
140 5 exclusively to regulation under chapter 476B.

140 6 c. The dates specified in paragraph "a" shall be adjusted,
140 7 if necessary, consistent with an action of the board
140 8 suspending the dates for commencement of the option to choose
140 9 competitive electric services pursuant to section 476B.7,

140 10 subsection 4.

140 11 Sec. 47. Section [476A.6](#), Code 1999, is amended to read as
140 12 follows:

140 13 476A.6 DECISION CRITERIA.

140 14 The board shall render a decision on the application in an
140 15 expeditious manner. A certificate shall be issued to the
140 16 applicant if the board finds

~~all~~

~~both~~ of the following:

140 17

~~1. The services and operations resulting from the~~

140 18

~~construction of the facility are required by the present or~~

140 19

~~future public convenience, use and necessity.~~

140 20

~~2.~~

~~1.~~ The applicant is willing to perform such services
140 21 and construct, maintain, and operate the facility pursuant to
140 22 the provisions of the certificate and this chapter.

140 23

~~3.~~

~~2.~~ The construction, maintenance, and operation of the
140 24 facility will cause minimum adverse land use, environmental,
140 25 and aesthetic impact and are consonant with reasonable
140 26 utilization of air, land, and water resources

~~for beneficial~~

140 27

~~purposes considering available technology and the economics of~~

140 28

~~available alternatives~~

140 29

~~4. The applicant, if a public utility as defined in~~

140 30

~~section 476.1, has in effect a comprehensive energy management~~

140 31

~~program designed to reduce peak loads and to increase~~

140 32

~~efficiency of use of energy by all classes of customers of the~~

140 33

~~utility, and the facility in the application is necessary~~

140 34

~~notwithstanding the existence of the comprehensive energy~~

~~140 35~~

~~management program. As used in this subsection, a~~

~~141 1~~

~~"comprehensive energy management program" includes at a~~

~~141 2~~

~~minimum the following:~~

~~141 3~~

~~a. Establishment of load management and interruptible~~

~~141 4~~

~~service programs, where cost effective.~~

~~141 5~~

~~b. Development of wheeling agreements and other energy~~

~~141 6~~

~~sharing agreements, where cost effective with utilities that~~

~~141 7~~

~~have available capacity.~~

~~141 8~~

~~c. Establishment of cost effective energy efficiency and~~

~~141 9~~

~~renewable energy services and programs.~~

~~141 10~~

~~d. Compliance with board rules on energy management~~

~~141 11~~

~~procedures.~~

~~141 12~~

~~5. The applicant, if a public utility as defined in~~

~~141 13~~

~~section 476.1, shall demonstrate to the board that the utility~~

~~141 14~~

~~has considered sources for long term electric supply from~~

~~141 15~~

~~either purchase of electricity or investment in facilities~~

141 16

~~owned by other persons.~~

141 17

~~6. The applicant, if a public utility as defined in~~

141 18

~~section 476.1, has considered all feasible alternatives to the~~

141 19

~~proposed facility including nongeneration alternatives; has~~

141 20

~~ranked those alternatives by cost; has implemented the least~~

141 21

~~cost alternatives first; and the facility in the application~~

141 22

~~is necessary notwithstanding the implementation of these~~

141 23

~~alternatives.~~

141 24 Sec. 48. Section [476A.7](#), subsection 1, paragraph b, Code
141 25 1999, is amended to read as follows:

141 26 b.

~~Gives~~

~~To the extent the applicant proves the location
141 27 of generation at the site is required to maintain or enhance
141 28 the reliability of the delivery system serving the public,
141 29 gives the applicant the power of eminent domain~~

~~to the extent~~

141 30

~~and~~

~~under such conditions as the board may approve, prescribe,
141 31 and find necessary~~

~~for the public convenience, use and~~

141 32

~~necessity,~~

~~proceeding in the manner of works of internal
141 33 improvement under chapter 6B. The burden of proving the
141 34 necessity for the exercise of the power of eminent domain
141 35 shall be on the person~~

~~issued~~

~~seeking the certificate.~~

142 1 Sec. 49. Section [476A.15](#), Code 1999, is amended to read as
142 2 follows:

142 3 476A.15 WAIVER.

142 4 The board, if it determines that the public interest would
142 5 not be adversely affected, may waive any of the requirements

142 6 of this chapter

~~for facilities with a capacity of one hundred~~

142 7

~~or fewer megawatts~~

142 8 Sec. 50. Section [478.3](#), subsection 1, paragraph h, Code
142 9 1999, is amended to read as follows:

142 10 h. An allegation that the proposed construction is
142 11 necessary to serve a public use. This allegation may be
142 12 satisfied by the filing of an order of the federal energy
142 13 regulatory commission or its successor directing that the
142 14 project be constructed.

142 15 Sec. 51. NEW SECTION. 478.34 RELATIONSHIP TO COMPETITIVE
142 16 SERVICES.

142 17 The rights and powers conferred under this chapter,
142 18 including the right of eminent domain, shall be interpreted
142 19 and exercised in a manner consistent with the provisions of
142 20 chapter 476B.

142 21 Sec. 52. Section [499.14A](#), Code 1999, is amended to read as
142 22 follows:

142 23 499.14A ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS.
142 24 An electric

~~generation and transmission~~

~~cooperative~~

142 25 association may have one or more classes of members.

142 26 Qualifications, requirements, methods of acceptance, terms,
142 27 conditions, termination, and other incidents of membership
142 28 shall be set forth in the bylaws of the association.

~~An~~

142 29

~~electric utility as defined in section 476.22 and a person who~~

142 30

~~generates or transmits electric power for sale at wholesale to~~

142 31

~~an electric utility may become a member in accordance with the~~

142 32

~~bylaws.~~

142 33 Sec. 53. Section [499.30](#), subsection 5, Code 1999, is
142 34 amended to read as follows:

142 35 5. Notwithstanding an association's articles of
143 1 incorporation, for each taxable year of the association, the
143 2 association shall allocate all remaining net earnings to the
143 3 account of each member, including subscribers described in
143 4 section 499.16, ratably in proportion to the business the
143 5 member did with the association during that year. The
143 6 directors shall determine, or the articles of incorporation or
143 7 bylaws of the association may specify, the percentage or the
143 8 amount of the allocation to be currently paid in cash.
143 9 However, for a cooperative association, other than an electric
143 10 cooperative association

~~other than a public utility as defined~~

~~in section 476.1~~

-, the amount to be currently payable in cash
143 12 shall not exceed twenty percent of the allocation during any
143 13 period when unpaid local deferred patronage dividends of
143 14 deceased members for prior years are outstanding.
143 15 Notwithstanding the twenty percent allocation limitation, the
143 16 directors of a cooperative association or the articles of
143 17 incorporation or bylaws of the association may specify any
143 18 percentage or amount to be currently paid in cash to the
143 19 estates of deceased natural persons who were members. All the
143 20 remaining allocation not paid in cash shall be transferred to
143 21 a revolving fund as provided in section 499.33 and credited to
143 22 the members and subscribers. The credits in the revolving
143 23 fund are referred to in this chapter as deferred patronage
143 24 dividends.

143 25 Sec. 54. Section 499.33, subsection 2, paragraphs a and b,
143 26 Code 1999, are amended to read as follows:

143 27 a. Prior to other payments of deferred patronage dividends
143 28 or redemption of preferred stock held by members, the
143 29 directors of a cooperative association, other than

~~a~~

- an

143 30 electric cooperative association

~~which is a public utility as~~

143 31

~~defined in section 476.1~~

-, shall pay local deferred patronage
143 32 dividends and redeem local deferred patronage preferred stock
143 33 of deceased natural persons who were members, and may pay
143 34 deferred patronage dividends or may redeem preferred stock of
143 35 deceased natural persons who were members or of members who
144 1 become ineligible, without reference to the order of priority.
144 2 b. The directors of

~~a~~

- an electric cooperative association

144 3

~~which is a public utility as defined in section 476.1~~

- may pay
144 4 deferred patronage dividends and redeem preferred stock of
144 5 deceased natural persons who were members, and may pay all
144 6 other deferred patronage dividends or redeem preferred stock
144 7 of members without reference to priority.

144 8 Sec. 55. STATUTORY CONSTRUCTION. This Act shall not be
144 9 construed to invalidate any proceedings under statutes
144 10 existing prior to the effective date of this Act.
144 11 Additionally, this Act shall not affect any action,
144 12 litigation, or appeal pending prior to the effective date of
144 13 this Act.

144 14 Sec. 56. DIRECTIONS TO CODE EDITOR. The Code editor shall
144 15 codify sections 28F.15 through 28F.29, as enacted in this Act,
144 16 as a separate subchapter of chapter 28F.

144 17 Sec. 57. EFFECTIVE DATE. This Act takes effect on June 1,
144 18 1999.

144 19 EXPLANATION

144 20 This bill creates new Code chapter 476B, which provides for
144 21 consumer choice with respect to portions of the electric
144 22 utility industry.

144 23 New Code section 476B.1 sets forth the title of the new
144 24 Code chapter.

144 25 New Code section 476B.2 sets forth the legislative
144 26 findings.

144 27 New Code section 476B.3 establishes definitions for key
144 28 terms used in the new Code chapter.

144 29 New Code section 476B.4 provides for the unbundling of
144 30 electric rates and services.

144 31 New Code section 476B.5 creates a consumer education
144 32 program associated with the changes in the retail electric
144 33 market and establishes a funding mechanism for the program.

144 34 New Code section 476B.6 establishes consumer protections,
144 35 as well as defining the rights of consumers with respect to
145 1 competitive electric services.

145 2 New Code section 476B.7 establishes the dates when the
145 3 option to choose competitive electric services and providers
145 4 will occur.

145 5 New Code section 476B.8 establishes price and service
145 6 protections for certain consumers.

145 7 New Code section 476B.9 sets forth the rights and
145 8 responsibilities of delivery service providers.

145 9 New Code section 476B.10 sets forth the rights and
145 10 responsibilities of competitive electric service providers.

145 11 New Code section 476B.11 establishes certain rights and
145 12 requirements with respect to metering and meter information.

145 13 New Code section 476B.12 sets forth requirements related to
145 14 the billing of consumers.

145 15 New Code section 476B.13 establishes low-income
145 16 affordability and energy efficiency programs.

145 17 New Code section 476B.14 provides that a competitive
145 18 electric service provider, a delivery service provider, and a
145 19 control area operator shall develop procedures for filing and
145 20 resolving complaints regarding the services and operations of
145 21 such a provider or operator.

145 22 New Code section 476B.15 provides for the imposition and
145 23 collection of transition charges related to current power
145 24 generation and contracts for power and energy.

145 25 New Code section 476B.16 provides for the recovery of
145 26 certain costs associated with the decommissioning of a nuclear
145 27 generating facility.

145 28 New Code section 476B.17 establishes a method for the
145 29 securitization of transitional funding by an electric company
145 30 or a consumer-owned utility.

145 31 New Code section 476B.18 provides for reciprocity and
145 32 prohibits a consumer-owned utility from providing competitive
145 33 power supply services in the assigned area of an electric
145 34 company until such time as the consumer-owned utility permits
145 35 consumers in its assigned area to choose competitive electric
146 1 services.

146 2 New Code section 476B.19 provides that a consumer-owned
146 3 utility is not subject to the regulatory authority of the
146 4 board except as specifically provided in the new Code chapter.

146 5 New Code section 476B.20 establishes penalties and
146 6 remedies.

146 7 New Code section 476B.21 provides for rehearings before the
146 8 board.

146 9 New Code section 476B.22 provides for judicial review of
146 10 board orders and decisions.

146 11 New Code section 476B.23 establishes certain contractual
146 12 rights and provides that certain end-use consumers may
146 13 terminate a contract for electric service in effect before the
146 14 effective date of the new Code chapter.

146 15 New Code section 476B.24 provides for the employment
146 16 transition of certain utility employees.

146 17 New Code section 476B.25 provides for certain reports on
146 18 the effectiveness of competition to be made to the general
146 19 assembly.

146 20 New Code sections 28F.15 through 28F.29 provide for the
146 21 funding of construction of open access transmission facilities

146 22 to be owned or leased by an electric power agency.
146 23 Certain conforming and transitional amendments are made to
146 24 existing Code sections.
146 25 The bill takes effect on June 1, 1999.
146 26 LSB 2796HC 78
146 27 mj/jw/5