

Senate Study Bill 3002

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 citizens of this state.
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 and the continued
1 12 quality of life now enjoyed by Iowans.
1 13 3. Advances in electric generation technology and federal
1 14 initiatives to introduce competition into the wholesale
1 15 electric market favor and compliment the introduction of
1 16 competition into the retail electric market in Iowa.
1 17 4. Restructuring the electric industry to provide greater
1 18 competition and more efficient regulation is a nationwide
1 19 trend, and Iowa must pursue restructuring and increased
1 20 consumer choice to introduce competitive incentives to provide
1 21 electric service at fair and reasonable prices to the
1 22 businesses and citizens of this state.
1 23 5. It is in the public interest to allow and encourage the
1 24 development of competitive markets for electric generation and
1 25 other electric services in both rural and urban Iowa because a
1 26 competitive market may be more effective than regulation in
1 27 determining the efficient price for these services and in
1 28 promoting efficiency in operations.
1 29 6. A competitive electric market holds the potential for
1 30 end-use consumers of electricity to have access to reliable
1 31 and safe competitive electric services at fair and reasonable
1 32 prices while providing for competitive choice, more effective
1 33 use of resources, and an improved quality and variety of
1 34 competitive electric services.
1 35 7. A competitive electric industry shall have adequate and
2 1 reasonable safeguards to protect the public interest.
2 2 Residential and small commercial consumer service safeguards
2 3 and protections shall be maintained or improved.
2 4 8. Encouraging the development of a competitive market can
2 5 be accomplished in a manner that protects the environment.
2 6 9. A competitive market encourages economic development by
2 7 permitting competitive markets to determine the most efficient
2 8 use of resources.
2 9 10. The needs of Iowa's low-income consumers of electric
2 10 services, including the need for economic energy efficiency
2 11 improvements and programs, can be met while restructuring the
2 12 electric industry.
2 13 11. Recognizing that the full costs of generation, fuel,
2 14 power, and energy owned or purchased by an incumbent provider
2 15 or consumer-owned utility, to the extent included in regulated
2 16 rates, have been determined to be just, reasonable, prudent,
2 17 and used and useful, incumbent providers and consumer-owned
2 18 utilities should be afforded an opportunity to prepare for the
2 19 transition from regulation to competition and afforded an
2 20 opportunity to recover a reasonable amount of the costs of the
2 21 transition.

2 22 12. Consumer-owned utilities can participate successfully
2 23 in a competitive electric environment by retaining their local
2 24 control over their own governance, including setting rates,
2 25 terms, and conditions for products and services.

2 26 13. Facilities and personnel needed to maintain the safety
2 27 of the electric supply, as well as all other competitive and
2 28 regulated electric services, must remain available and
2 29 operational.

2 30 14. The establishment of competitive electric markets
2 31 should be undertaken in a manner that mitigates any
2 32 detrimental effect on the safety and reliability of the
2 33 electric system and on utility employees.

2 34 15. Delivery services should remain regulated. In
2 35 recognition of their exclusive assigned service areas,
3 1 delivery service providers should have an obligation to extend
3 2 the delivery grid to all consumers within the assigned service
3 3 area. Standards of conduct for delivery service providers and
3 4 provisions regarding transactions between delivery service
3 5 providers and their affiliates shall be implemented.

3 6 16. Full and fair competition in the markets for
3 7 generation and electric services other than delivery service
3 8 should be encouraged and promoted. It is not the intent of
3 9 this chapter to displace applicable antitrust and unfair
3 10 competition laws and the enforcement of the same with respect
3 11 to competitive electric services or to weaken regulation with
3 12 respect to delivery services subject to the jurisdiction of
3 13 the Iowa utilities board.

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

3 15 As used in this chapter, unless the context otherwise
3 16 requires:

3 17 1. "Affiliate" means a person, other than a municipal
3 18 utility or other political subdivision, that directly, or
3 19 indirectly, through one or more intermediaries, controls, is
3 20 controlled by, or is under common control with another person.

3 21 2. "Aggregation" means the process of organizing end-use
3 22 consumers into a group for the acquisition of competitive
3 23 electric services.

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

3 28 4. "Alliance" means a group of electric cooperatives or
3 29 their consumer-owned affiliates.

3 30 5. "Alternative energy" means electric energy measured in
3 31 kilowatt-hours produced from an alternative energy facility.

3 32 6. "Alternative energy facility" means an electric
3 33 generating unit whose energy input is derived, in whole or in
3 34 part, from solar, wind, geothermal, landfill gas, refuse-
3 35 derived fuel, agricultural crops or residues, wood, or other
4 1 renewable energy sources as determined by the board.

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

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

6 9 21. "Competitive power supply services" means demand,
6 10 energy, and ancillary services sold at retail in this state,
6 11 excluding scheduling, system control, load profiling and
6 12 financial settlement when related to distribution, whether
6 13 subject to the regulation of the board or a local governing
6 14 body.

6 15 22. "Consumer-owned utility" means a municipal utility or

6 16 electric cooperative.

6 17 23. "Control" means the possession, direct or indirect, of
6 18 the power to direct or cause the direction of the management
6 19 and policies of a person through ownership, by contract, or
6 20 otherwise.

6 21 24. "Control area" means an electric delivery system or
6 22 combination of electric delivery systems to which a common
6 23 automatic control scheme is applied in order to do the
6 24 following:

6 25 a. Match, at all times, the sum of the power output of the
6 26 generators within the electric delivery systems and demand and
6 27 energy purchased from entities outside the electric delivery
6 28 systems with the load in the electric delivery systems.

6 29 b. Maintain, within the limits of good operating practice,
6 30 scheduled interchange with other control areas.

6 31 c. Maintain the frequency of the electric delivery systems
6 32 within reasonable limits in accordance with good operating
6 33 practices.

6 34 d. Arrange for, provide, or verify that sufficient
6 35 generating capacity or the right to sufficient generating
7 1 capacity is available to maintain operating reserves in
7 2 accordance with good operating practice.

7 3 25. "Control area operator" means a person operating a
7 4 control area.

7 5 26. "Delivery service" means the transportation of
7 6 electricity from one point on a delivery service provider's
7 7 system to another point on that system in this state.
7 8 Delivery service includes transmission service and
7 9 distribution service.

7 10 27. "Delivery service provider" means a person that
7 11 provides delivery service in this state but does not include a
7 12 licensed competitive electric service provider that purchases
7 13 delivery service from an electric company or consumer-owned
7 14 utility and resells the delivery service at retail to an end-
7 15 use consumer.

7 16 28. "Demand" means electric power measured in kilowatts or
7 17 megawatts.

7 18 29. "Distribution service" means that portion of delivery
7 19 service provided in this state that is not subject to the
7 20 exclusive jurisdiction of the federal energy regulatory
7 21 commission, or for consumer-owned utilities is not subject to
7 22 section 211 of the federal Power Act. If a provider of
7 23 distribution service is an electric company that is also a
7 24 control area operator, the control area operations which are
7 25 not subject to the exclusive jurisdiction of the federal
7 26 energy regulatory commission, if any, shall be considered to
7 27 be a part of distribution service and subject to the
7 28 jurisdiction of the board.

7 29 30. "Electric company" means a delivery service provider,
7 30 either on a bundled basis prior to May 1, 2002, or on an
7 31 unbundled basis on or after May 1, 2002, but does not include
7 32 a consumer-owned utility, municipal electric cooperative
7 33 association, or governmental subdivision.

7 34 31. "Electric cooperative" means a person formed or
7 35 organized as a cooperative under the laws of this state or
8 1 elsewhere, that engages in any of the following activities:
8 2 generation of electricity, transmission of electricity,
8 3 distribution of electricity, sale of electricity, control area
8 4 operator services, or performance of ancillary services as
8 5 designated by the federal energy regulatory commission. An
8 6 electric cooperative includes a consumer-owned affiliate of an
8 7 electric cooperative, an alliance, and an incorporated city
8 8 utility provider.

8 9 32. "Electric power agency" means a political subdivision
8 10 that acquires or finances electric facilities pursuant to
8 11 chapter 28E or 28F.

8 12 33. "Eligible rates" means those rates specified in an

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

8 22 34. "End-use consumer" means a person that prior to having
8 23 the option to choose competitive electric service, purchases
8 24 for use in this state bundled electric service or that
8 25 participates in an electric retail access pilot project
8 26 approved by the board or local governing body. On and after
8 27 the date a person has the option to choose competitive
8 28 electric service, "end-use consumer" means a person that
8 29 purchases, directly or through a competitive electric service
8 30 provider, for use in this state, standard offer service,
8 31 transitional service, universal service, basic energy service,
8 32 or unbundled distribution service sold at retail.

8 33 35. "Energy" means electric power measured in kilowatt-
8 34 hours (kWh).

8 35 36. "Good operating practices" means any of the practices,
9 1 methods, and acts engaged in or approved by a significant
9 2 portion of the electric industry during a relevant time
9 3 period, or any of the practices, methods, or acts which, in
9 4 the exercise of reasonable judgment in light of the facts
9 5 known at the time the decision was made, could reasonably have
9 6 been expected to accomplish the desired result at reasonable
9 7 cost consistent with good business practices, reliability,
9 8 safety, and expedition. "Good operating practices" is not
9 9 limited to the optimum practice, method, or act, to the
9 10 exclusion of all others, but rather to acceptable practices,
9 11 methods, or acts consistently adhered to and generally
9 12 accepted in the region.

9 13 37. "Grantee" means a person, other than an incumbent
9 14 provider or an assignee which acquires its interest from an
9 15 incumbent provider, to whom or for whose benefit the board
9 16 creates, establishes, and grants rights in, to, or under
9 17 intangible transition property.

9 18 38. "Grid" means the interconnected system used for
9 19 delivering electricity within this state.

9 20 39. "Holder" means a holder of transitional funding
9 21 instruments, including a trustee, collateral agent, nominee,
9 22 or other such person acting for the benefit of such a holder.

9 23 40. "Incorporated city utility provider" means a
9 24 corporation, existing on the effective date of this chapter,
9 25 with assets worth one million dollars or more, which has one
9 26 or more platted villages located within the territorial limits
9 27 of the tract of land which it owns, and which provides
9 28 electricity to ten thousand or fewer end-use consumers.

9 29 41. "Incumbent provider" means a person, or the person's
9 30 successor or assign, that provided bundled electric service
9 31 within an assigned service area on the effective date of this
9 32 chapter.

9 33 42. "Instrument funding charge" means a nonbypassable
9 34 charge authorized in a transitional funding order to be
9 35 applied and invoiced to each responsible consumer, a class of
10 1 responsible consumers of an incumbent provider, or other
10 2 person or group of persons obligated to pay eligible rates
10 3 from which the instrument funding charge has been deducted and
10 4 stated separately pursuant to section 476B.17, subsection 4,
10 5 paragraph "d".

10 6 43. "Intangible transition property" means the right,
10 7 title, and interest of an incumbent provider, grantee, or
10 8 assignee arising pursuant to a transitional funding order to
10 9 impose and receive instrument funding charges, and all related

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

10 23 44. "Interval metering" means metering that records end-
10 24 use consumer usage on the same time frame as pricing changes
10 25 in the market, typically hourly or more frequently.

10 26 45. "Issuer" means a person, other than an incumbent
10 27 provider, which has issued transitional funding instruments.

10 28 46. "Load" means the amount of demand or energy delivered
10 29 to or required by an end-use consumer or consumers.

10 30 47. "Load profiling" means the process of estimating
10 31 rather than directly measuring the demand and energy
10 32 consumption of an end-use consumer during a period of time.

10 33 48. "Local governing body" means the board of directors of
10 34 an electric cooperative as provided in section 499.36, the
10 35 utility board of a municipal electric utility as defined in
11 1 section 388.1, or the council of a city, as defined in section
11 2 362.2, whose municipal electric utility is not operated by a
11 3 utility board.

11 4 49. "Municipal electric cooperative association" means an
11 5 electric cooperative, the membership of which is composed
11 6 entirely of municipal utilities.

11 7 50. "Municipal utility" means all or part of an electric
11 8 light and power plant system which is owned by a city,
11 9 including all land, easements, rights of way, fixtures,
11 10 equipment, accessories, improvement, appurtenances, and other
11 11 property necessary or useful for the operation of a municipal
11 12 electric utility. Municipal utility includes a combined
11 13 utility system, as defined in section 384.80, in which at
11 14 least one of the components of the combined utility system is
11 15 a municipal electric utility.

11 16 51. "Nonbypassable charge" means a charge assessed by a
11 17 delivery service provider to each end-use consumer located
11 18 within the delivery service provider's assigned service area
11 19 or to a competitive electric service provider serving that
11 20 end-use consumer, regardless of whether the consumer purchases
11 21 delivery service from that delivery service provider.

11 22 52. "Nuclear decommissioning" means a series of activities
11 23 undertaken at the time a nuclear power plant is permanently
11 24 retired from service to ensure that the final entombment,
11 25 decontamination, dismantlement, removal, and disposal of the
11 26 structures, systems, and components of the power plant,
11 27 including the plant site, and any radioactive components and
11 28 materials associated with the plant, is accomplished in
11 29 compliance with all applicable state and federal laws, and to
11 30 ensure that such final disposition does not pose any material
11 31 threat to the public health and safety.

11 32 53. "Nuclear decommissioning costs" means all reasonable
11 33 costs and expenses that are expected to be incurred or are
11 34 actually incurred in connection with nuclear decommissioning
11 35 including all costs and expenses to prepare a unit of a plant
12 1 for decommissioning, such as the cost of moving spent fuel
12 2 off-site, interim spent fuel storage costs, and interim costs
12 3 incurred pursuant to a SAFSTOR decommissioning phase as
12 4 approved and defined by the nuclear regulatory commission, and
12 5 all costs and expenses after the actual decommissioning
12 6 occurs, such as physical security and radiation monitoring

12 7 expenses. "Nuclear decommissioning costs" also includes
12 8 reasonable costs and expenses to return the plant site to a
12 9 condition suitable for public use.

12 10 54. "Person" means person as defined in section 4.1.
12 11 55. "Responsible consumer" means all of the following:
12 12 a. Prior to May 1, 2002, a person who receives bundled
12 13 electric service pursuant to a tariff or contract.
12 14 b. On or after May 1, 2002, a person responsible for
12 15 payment for distribution services pursuant to a tariff or
12 16 contract.
12 17 c. At any time, any other person responsible for payment
12 18 of eligible rates pursuant to a tariff or contract as
12 19 specified by an incumbent provider in its application for a
12 20 transitional funding order.

12 21 56. "Scheduling" means the process by which a person
12 22 notifies the control area operator of the amounts of demand
12 23 and energy it intends to provide to the grid for a specified
12 24 period of time, and the source and destination of that demand
12 25 and energy.

12 26 57. "Tariff" means a document containing rates, charges,
12 27 schedules, regulations, terms, or conditions of regulated
12 28 electric service, filed or posted with the appropriate
12 29 regulatory authority.

12 30 58. "Transition charges" means nonbypassable charges to
12 31 end-use consumers, competitive electric service providers, or
12 32 delivery service providers that are consumer-owned utilities,
12 33 that are designed to compensate an incumbent provider or
12 34 electric cooperative for all or a portion of the provider's or
12 35 cooperative's transition costs.

13 1 59. "Transition costs" means both of the following:
13 2 a. Costs and reduced revenues as calculated pursuant to
13 3 section 476B.15 incurred by an incumbent provider as a result
13 4 of changing from electric regulation under chapter 476 to a
13 5 competitive electric industry pursuant to this chapter.
13 6 b. Costs and reduced revenues as calculated by an electric
13 7 cooperative pursuant to section 476B.15, subsection 5, as a
13 8 result of changing from electric regulation under chapter 476
13 9 to a competitive electric industry pursuant to this chapter.

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

13 23 61. "Transitional funding order" means an order of the
13 24 board issued under section 476B.17 creating and establishing
13 25 intangible transition property and the rights of any person in
13 26 such property, and approving the sale, pledge, assignment, or
13 27 other transfer of intangible transition property, the issuance
13 28 of transitional funding instruments, and the imposition and
13 29 collection of instrument funding charges.

13 30 62. "Transmission service" means the portion of delivery
13 31 service that is subject to the exclusive jurisdiction of the
13 32 federal energy regulatory commission or, for consumer-owned
13 33 utilities, the portion of delivery service subject to section
13 34 211 of the federal Power Act.

13 35 63. "Unbundled rates" means separate charges for
14 1 components of regulated electric services such as distribution
14 2 services.

14 3 64. "Unbundled services" means distribution service and

14 4 other services specified in section 476B.4.
14 5 Sec. 4. NEW SECTION. 476B.4 UNBUNDLING OF RATES AND
14 6 SERVICES.

14 7 1. ELECTRIC COMPANIES. On or before October 1, 1999, an
14 8 incumbent provider that is an electric company shall file with
14 9 the board unbundled rates as provided in this subsection. At
14 10 a minimum, unbundled rates for an electric company shall
14 11 reflect separate charges for distribution service; types of
14 12 delivery service metering; supplying competitive electric
14 13 service providers with meter information, if applicable;
14 14 delivery service billings issued to competitive electric
14 15 service providers; delivery service billings issued to end-use
14 16 consumers; connecting to the delivery system those meters not
14 17 owned by the delivery service provider; processing a change in
14 18 an end-use consumer's competitive electric service provider;
14 19 transition charges pursuant to section 476B.15, if applicable;
14 20 and nuclear decommissioning cost recovery pursuant to section
14 21 476B.16, if applicable. To the extent it elects to perform
14 22 billing services for competitive electric service providers
14 23 through its regulated delivery service function under section
14 24 476B.12 or elects to perform meter reading or meter
14 25 information gathering through its regulated delivery service
14 26 function under section 476B.11, an electric company shall also
14 27 propose unbundled rates for such services that shall apply to
14 28 all competitive electric service providers in a
14 29 nondiscriminatory manner. An electric company may propose
14 30 other regulated, unbundled rates and charges associated with
14 31 delivery service, as appropriate. Terms and conditions
14 32 associated with all unbundled rates and charges shall be filed
14 33 with the board at the time of filing unbundled rates. The
14 34 board shall treat the filing as a submission under section
14 35 476.6, except that subsection 5 of that section shall not
15 1 apply.

15 2 The initial unbundled rates for the services specified in
15 3 this subsection shall be based upon cost of service, including
15 4 current cost of capital. The electric company shall submit
15 5 written evidence with its initial unbundled rate filing to
15 6 support its proposed unbundled rates and charges, including
15 7 direct and allocated costs associated with the levels of the
15 8 unbundled rates and charges. The method used to determine
15 9 class cost of service, to the maximum extent practicable,
15 10 shall permit identification of cost differences attributable
15 11 to variations in demand, energy, voltage delivery level,
15 12 customer components of cost, and other factors.

15 13 The board shall approve rates, charges, terms, and
15 14 conditions that are just, reasonable, and nondiscriminatory.
15 15 The unbundled rates, charges, terms, and conditions approved
15 16 by the board shall be posted on the board's website for
15 17 informational purposes by no later than November 1, 2001, and
15 18 shall become effective on May 1, 2002.

15 19 2. ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES. Each
15 20 incumbent provider that is a consumer-owned utility, pursuant
15 21 to its local governing process, shall unbundle and post on the
15 22 board's website its rates and charges by January 1, 2002. At
15 23 a minimum, unbundled rates for a consumer-owned utility shall
15 24 reflect separate charges for distribution service; connecting
15 25 to the delivery system meters not owned by the delivery
15 26 service provider; supplying meter information to competitive
15 27 electric service providers, if applicable; and processing a
15 28 change in an end-use consumer's competitive electric service
15 29 provider. A consumer-owned utility may unbundle and post
15 30 other rates and charges, such as transition costs including
15 31 nuclear decommissioning costs, as determined by its local
15 32 governing body. The costs associated with meter reading or
15 33 meter information gathering may be included in the
15 34 distribution service rate as long as, for each metered
15 35 location, the consumer-owned utility makes the information

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

16 13 3. CONTROL AREA OPERATORS.

16 14 a. A control area operator that is an electric company
16 15 shall file control area service rates, charges, terms, and
16 16 conditions applicable to distribution service with the board
16 17 by October 1, 1999. The filing shall also include the
16 18 processes proposed to be used by the control area operator for
16 19 scheduling and system control related to distribution service,
16 20 load profiling, and financial settlement, if applicable. The
16 21 filing shall be subject to review and approval by the board
16 22 pursuant to section 476B.9, subsection 7. Control area
16 23 service rates, charges, terms, conditions, and processes
16 24 approved by the board shall be posted on the board's website
16 25 for informational purposes by no later than November 1, 2001,
16 26 and shall become effective May 1, 2002.

16 27 b. A control area operator that is a consumer-owned
16 28 utility shall post on the board's website control area service
16 29 rates, charges, terms, and conditions applicable to
16 30 distribution service and the processes for load profiling and
16 31 financial settlement to be used by the control area operator.
16 32 The rates, charges, terms, conditions, and processes shall be
16 33 nondiscriminatory, comply with section 476B.9, subsection 6,
16 34 be regulated by the consumer-owned utility's local governing
16 35 body unless subject to the exclusive jurisdiction of the
17 1 federal energy regulatory commission or the exclusive
17 2 jurisdiction of another federal agency or, for consumer-owned
17 3 utilities, subject to section 211 of the federal Power Act, be
17 4 posted on the board's website for informational purposes by no
17 5 later than January 1, 2002, and become effective when the
17 6 first Iowa end-use consumer in the control area has the option
17 7 to choose competitive electric services.

17 8 4. INFORMATIONAL POSTING OF TRANSMISSION TARIFFS. On or
17 9 before November 1, 2001, each delivery service provider that
17 10 provides transmission service and each control area operator
17 11 shall post on the board's website, for informational purposes
17 12 only, all tariffs for transmission service and ancillary
17 13 services applicable to competitive electric service provider
17 14 and end-use consumer transactions that have been accepted by
17 15 the federal energy regulatory commission or another federal
17 16 agency with jurisdiction. The posting on the board's website
17 17 shall be updated at the time the delivery service provider
17 18 updates its comparable posting on the federal website.

17 19 Sec. 5. NEW SECTION. 476B.5 CONSUMER EDUCATION.

17 20 1. OBJECTIVE. Educated consumers and the availability of
17 21 information sufficient to allow consumers to evaluate the
17 22 prices, terms, and conditions of service offered are essential
17 23 to the development of an efficient competitive marketplace.
17 24 It is the intent of this section to establish a consumer
17 25 education program that explains changes in the retail electric
17 26 market and provides information necessary to help consumers
17 27 make appropriate choices regarding their electric service, to
17 28 understand their rights and responsibilities as consumers,
17 29 including rights under the federal Telemarketing and Consumer
17 30 Fraud and Abuse Prevention Act, and to understand the legal
17 31 obligations of the competitive electric service providers and
17 32 delivery service providers. A collaborative process shall be

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

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

18 10 3. STANDARDS. A consumer education program shall be
18 11 developed in a two-step process, including message development
18 12 and message dissemination. Message development shall be
18 13 designed to educate consumers about all of the following:

18 14 a. The existing electric industry structure and the
18 15 difference between that structure and the purchase of
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 incumbent
20 1 providers. Moneys collected from the nonbypassable charges
20 2 shall be forwarded to the board quarterly. To the extent the
20 3 amount collected through the nonbypassable charge exceeds by
20 4 more than five percent the amount authorized to be collected,
20 5 the electric company shall be required to refund such
20 6 overcollections to the end-use consumers who paid those
20 7 amounts in a manner to be approved by the board. A consumer-
20 8 owned utility may collect its share of message development
20 9 costs and the costs of its own message dissemination program
20 10 through a nonbypassable delivery charge.

20 11 6. OTHER COMMUNICATIONS. Nothing in this section shall
20 12 prohibit a person from communicating to an end-use consumer in
20 13 an accurate and truthful manner regarding the competitive
20 14 electric market and regulated electric services through a
20 15 means other than the consumer education program developed
20 16 under this section. In addition, the board may continue to
20 17 provide information and education following the conclusion of
20 18 the consumer education program, but shall not continue the
20 19 nonbypassable charge established for that purpose.

20 20 Sec. 6. NEW SECTION. 476B.6 CONSUMER PROTECTIONS
20 21 RIGHTS AND RESPONSIBILITIES OF CONSUMERS.

20 22 1. LICENSE REQUIRED.

20 23 a. Except as provided in this section, a person shall not
20 24 provide or offer to provide competitive electric services to
20 25 an end-use consumer, or aggregate end-use consumers for the
20 26 acquisition of competitive electric services without first
20 27 obtaining a license from the board. This section does not
20 28 prohibit a person from communicating to an end-use consumer in
20 29 an accurate and truthful manner regarding the emerging
20 30 competitive electric market in this state and the person's
20 31 planned role in that market. In addition to the licensing
20 32 requirements in this section, the board may adopt, by rule,
20 33 additional licensing requirements consistent with this section
20 34 that are required to protect the public from fraud and unfair,
20 35 deceptive, or other abusive business sales practices, to
21 1 provide for reasonable disclosure of service terms and
21 2 conditions and consumer rights and responsibilities, and to
21 3 protect the integrity of the delivery system. However, the
21 4 disclosure of fuel sources to an end-use consumer or the board
21 5 shall only be required if necessary to support advertising
21 6 claims. The board shall adopt rules providing additional
21 7 protections that require competitive electric service
21 8 providers to disclose to a residential end-use consumer
21 9 information regarding service prices, terms, and conditions
21 10 with a written statement which the residential end-use
21 11 consumer may retain. The board shall adopt rules regarding
21 12 the form, content, and distribution of the residential end-use
21 13 consumer information, which shall include, but not be limited
21 14 to, the following: prices, fees, charges, and penalties and
21 15 other terms and conditions of service; whether a credit agency
21 16 will be contacted; deposit requirements and interest paid on
21 17 deposits; due dates of bills and consequences of late
21 18 payments; deferred payment arrangements; limits, if any, on
21 19 warranties and damages; any other fees, charges, or penalties;
21 20 whether the competitive electric service provider or its
21 21 primary power supplier, if known, operates under a collective
21 22 bargaining agreement and whether it operates with employees
21 23 hired as replacements during the course of a labor dispute;
21 24 and the methods by which residential end-use consumers shall
21 25 be notified of any changes to these items. The competitive
21 26 electric service provider, in an informational booklet form,

21 27 shall describe residential end-use consumer rights under this
21 28 chapter and annually mail this booklet to its residential end-
21 29 use consumers. The board may adopt, by rule, additional
21 30 licensing requirements regarding adequate notice to end-use
21 31 consumers prior to automatic contract renewal. The board
21 32 shall also adopt rules regarding the circumstances under which
21 33 residential end-use consumers would have the right to
21 34 terminate competitive electric service contracts. The board
21 35 may establish reasonable conditions or restrictions on a
22 1 license. Unless otherwise expressly provided by this chapter,
22 2 the licensing rules adopted by the board shall not
22 3 discriminate in favor of or against any prospective licensee.
22 4 The initial licensing rules shall be proposed by the board no
22 5 later than October 1, 1999.

22 6 b. The board may reject a request for a license if the
22 7 request does not contain sufficient information for the board
22 8 to evaluate the request, but must reject such a request within
22 9 thirty days of the request's filing. The board shall fully
22 10 describe in writing any deficiencies in a license request that
22 11 is rejected.

22 12 c. The board shall rule upon a request for a license that
22 13 is not found to be deficient within one hundred twenty days of
22 14 the filing of the request with the board. However, the board
22 15 may process a request for a license, but shall not make a
22 16 license effective until one hundred eighty days after the
22 17 adoption of the initial rules under paragraph "a".

22 18 d. The board shall maintain a current list of all licensed
22 19 providers of competitive electric services. The board shall
22 20 make such a list available to a person upon request and shall
22 21 post the list on its website. This list shall be updated as
22 22 soon as practicable following the issuance of a license to a
22 23 competitive electric service provider or upon revocation of
22 24 the license of a competitive electric service provider.

22 25 e. A license shall not be required for an incumbent
22 26 provider that is a consumer-owned utility who chooses to
22 27 provide competitive electric services only within its assigned
22 28 service area, either through the incumbent provider or its
22 29 affiliate.

22 30 f. The board may charge reasonable fees for licensing
22 31 requests and for administering licenses.

22 32 2. LICENSE REQUIREMENTS FOR COMPETITIVE ELECTRIC SERVICE
22 33 PROVIDERS OTHER THAN AGGREGATORS. In addition to other
22 34 requirements that the board may adopt under subsection 1, a
22 35 competitive electric service provider, except one acting only
23 1 as an aggregator, shall file with the board as a condition of
23 2 obtaining a license under this section all of the following:

23 3 a. The legal name and all trade names under which the
23 4 licensee will operate, a description of the business structure
23 5 of the licensee, evidence of authorization to do business in
23 6 the state if required, and, if applicable, the state of
23 7 organization.

23 8 b. The names, business addresses, and business telephone
23 9 numbers of the principal officers of the licensee, the name
23 10 and business address of the agent for the licensee who can be
23 11 contacted regarding its operations in this state, and a
23 12 telephone number at which the agent can be contacted twenty-
23 13 four hours a day.

23 14 c. Identification of any affiliates that are licensees
23 15 under this section and a listing of the names and addresses of
23 16 all affiliates of the competitive electric service provider
23 17 engaged in the provision of competitive electric services in
23 18 any other state.

23 19 d. Identification of any state in which the licensee or an
23 20 affiliate has had a comparable license suspended, revoked, or
23 21 denied, including identification of the title and number of
23 22 any applicable proceedings and a copy of any final orders in
23 23 such proceedings or the citation to the website where the text

23 24 of the orders can be found.

23 25 e. A listing of all pending and completed legal actions
23 26 and formal complaints pertaining to the provision of retail or
23 27 wholesale electric service in the United States that have been
23 28 filed against the licensee or its affiliates with a public
23 29 utility regulatory body other than the board in the twelve
23 30 months prior to the date of the request for a license,
23 31 including identification of the title and number of any
23 32 applicable proceedings and a copy of any final orders in such
23 33 proceedings or the citation to the website where the text of
23 34 the orders can be found.

23 35 f. Unless the licensee is an incumbent provider or a
24 1 consumer-owned utility with delivery service property in this
24 2 state on the effective date of this chapter, or a municipal
24 3 electric cooperative association established prior to the
24 4 effective date of this chapter, a demonstration that the
24 5 licensee has the operational and financial capability to
24 6 obtain and deliver the services it proposes to offer.

24 7 g. A commitment to provide the board, upon the board's
24 8 request, with evidence supporting the basis of any advertising
24 9 claims made regarding fuel sources.

24 10 h. A commitment to disclose to each prospective end-use
24 11 consumer prior to the initiation of service those terms and
24 12 conditions of service and those rights and responsibilities of
24 13 the end-use consumer associated with the offered service that
24 14 are required to be disclosed by rules adopted by the board
24 15 pursuant to subsection 1 and section 476B.8, subsection 3.

24 16 i. A bond or other demonstration of the financial
24 17 capability to satisfy claims and expenses that can reasonably
24 18 be anticipated to occur as part of operations under its
24 19 license, including the failure to honor contractual
24 20 commitments. The adequacy of the bond or demonstration shall
24 21 be determined by the board and reviewed by the board from time
24 22 to time. In determining the adequacy of the bond or
24 23 demonstration, the board shall consider the extent of the
24 24 services to be offered, the size of the licensee, and the size
24 25 of the load to be served, with the objective of ensuring that
24 26 the board's financial requirements do not unreasonably erect
24 27 barriers to market entry. In no event shall the board require
24 28 a bond or other demonstration of financial capability in
24 29 excess of ten million dollars. A person not subject to
24 30 paragraph "f" is deemed by the board to have fulfilled the
24 31 requirements of this paragraph.

24 32 j. A commitment that, commencing with calendar year 2006,
24 33 an annual calendar year average of at least two percent of the
24 34 capacity, in megawatts, available for purchase by end-use
24 35 consumers as a competitive power supply service will represent
25 1 the licensee's ownership of, or contracts for the purchase of,
25 2 capacity from alternative energy facilities, provided that the
25 3 board may waive this requirement to the extent that it
25 4 determines that compliance with the requirement is not
25 5 practicable or that the requirement constitutes a significant
25 6 impediment to the development of competitive electric
25 7 services, or to the extent that a consumer-owned utility can
25 8 demonstrate that a statute or a contract in effect as of
25 9 January 1, 1999, precludes compliance. For purposes of
25 10 meeting this requirement, the capacity available for purchase
25 11 from alternative energy facilities shall be calculated by
25 12 multiplying an alternative energy facility's nameplate
25 13 capacity in megawatts or kilowatts by the fraction of fuel
25 14 input derived from geothermal, landfill gas, refuse-derived
25 15 fuel, agricultural crops or residues, or wood. If the
25 16 facility was not designed as an alternative energy facility,
25 17 the facility's rated capacity for purposes of reliability in
25 18 the applicable reliability region or council, or its
25 19 successor, shall be used in lieu of the nameplate capacity in
25 20 determining the megawatts available for purchase from

25 21 alternative energy facilities. In the case of a solar, wind,
25 22 or hydroelectric alternative energy facility, the megawatts
25 23 available for purchase shall be deemed to be equal to the
25 24 nameplate capacity or contract amount. If the board finds
25 25 that any costs of a contract for alternative energy during an
25 26 annual calendar year are being recovered through the charges
25 27 provided in section 476B.15, subsection 3, the alternative
25 28 energy in that contract shall not be used to satisfy the
25 29 requirement of this paragraph for that year. A licensee may
25 30 credit against the capacity requirement of this paragraph one
25 31 hundred fifty percent of the nameplate capacity of any
25 32 alternative energy facility located in this state that is no
25 33 larger than five hundred kilowatts in nameplate capacity to
25 34 the extent that the licensee agrees to allow net billing. For
25 35 purposes of this paragraph, "net billing" means that an end-
26 1 use consumer's electric service and the generation from its
26 2 alternative energy facility are both measured by a single
26 3 meter, and the end-use consumer only pays for service net of
26 4 its own generation.

26 5 k. A commitment not to terminate the provision of
26 6 competitive electric service, or to request a delivery service
26 7 provider to disconnect electric service, to an end-use
26 8 consumer without providing at least twelve calendar days'
26 9 prior notice to the end-use consumer, unless the contract
26 10 between a nonresidential end-use consumer and the licensee
26 11 provides otherwise.

26 12 l. A commitment to comply with the applicable rules of the
26 13 board and this chapter, and to recognize an end-use consumer's
26 14 rights including the right to voluntarily aggregate under
26 15 subsection 4, paragraph "e".

26 16 m. A commitment to comply with all applicable federal,
26 17 state, and regional rules and procedures, including those for
26 18 the use, operation, and maintenance of the electric delivery
26 19 system including control area operations. This shall include
26 20 a commitment by the proposed licensee to accept, to the extent
26 21 required by the applicable authority, the responsibility to
26 22 report the loads of the end-use consumers served by the
26 23 proposed licensee to the North American electric reliability
26 24 council or its successor, or a person performing similar
26 25 functions.

26 26 n. A commitment that competitive electric services, when
26 27 offered to residential end-use consumers, will be provided for
26 28 a minimum of thirty days.

26 29 o. A commitment to advise each end-use consumer of the
26 30 right to rescind the selection of a competitive electric
26 31 service offered by the licensee within three business days of
26 32 selection, in accordance with rules adopted pursuant to
26 33 subsection 4, paragraph "o".

26 34 p. A commitment not to transfer to another person the
26 35 competitive electric service account of any end-use consumer
27 1 except with the consent of the end-use consumer or in
27 2 accordance with any applicable statute. This chapter does not
27 3 preclude a competitive electric service provider from
27 4 transferring all or a portion of its end-use consumers and
27 5 competitive electric service accounts pursuant to a sale or
27 6 transfer of all or a substantial portion of a competitive
27 7 electric service provider's competitive electric service
27 8 business in this state, provided that the transfer satisfies
27 9 all of the following conditions:

27 10 (1) The transferee will serve the affected end-use
27 11 consumers through a licensed competitive electric service
27 12 provider.

27 13 (2) The transferee will honor the transferor's contracts
27 14 with affected end-use consumers.

27 15 (3) The transferor provides written notice of the transfer
27 16 to each affected end-use consumer not less than thirty days
27 17 prior to the transfer.

27 18 (4) An affected residential end-use consumer is given
27 19 thirty days to change to a competing competitive electric
27 20 service provider without penalty.

27 21 q. A commitment not to charge or attempt to collect any
27 22 charges from end-use consumers for any competitive electric
27 23 service or electric equipment not contracted for or otherwise
27 24 agreed to by the end-use consumer.

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

27 32 s. A commitment that if the licensee ceases to comply with
27 33 contractual commitments to end-use consumers, fails to
27 34 schedule energy with the control area operator for two
27 35 consecutive twenty-four-hour periods, fails to deliver energy
28 1 scheduled with or committed to a control area operator for two
28 2 consecutive twenty-four-hour periods, ceases operation under
28 3 its license, or otherwise substantially defaults on its
28 4 obligations under its license, within eight hours of such
28 5 occurrence, the licensee shall do both of the following:

28 6 (1) Provide the board with the names and addresses of all
28 7 end-use consumers of the licensee.

28 8 (2) If any of the end-use consumers of the licensee are
28 9 located in the assigned service area of a delivery service
28 10 provider that is a consumer-owned utility, the licensee shall
28 11 provide that delivery service provider with the names and
28 12 addresses of such consumers.

28 13 t. A commitment to include on bills rendered to
28 14 residential end-use consumers all of the following:

28 15 (1) The period of time for which the billing is
28 16 applicable.

28 17 (2) The amount owed for current service, including an
28 18 itemization of all charges.

28 19 (3) Any past due amount owed.

28 20 (4) The last date for timely payment.

28 21 (5) The amount of penalty for any late payment.

28 22 (6) The location for or method of remitting payment.

28 23 (7) A toll-free telephone number for the end-use consumer
28 24 to contact for information and to make complaints regarding
28 25 the licensee.

28 26 (8) A toll-free telephone number for the end-use consumer
28 27 to contact the licensee in the event of an emergency.

28 28 (9) A toll-free telephone number for the end-use consumer
28 29 to notify the delivery service provider of an emergency
28 30 regarding delivery service.

28 31 (10) If the bill is to an end-use consumer in the assigned
28 32 service area of a delivery service provider that is an
28 33 electric company, information regarding regulated rates,
28 34 charges, refunds, and services as provided in rules adopted by
28 35 the board as being required by the public interest. The
29 1 initial rules shall be by October 1, 1999.

29 2 u. A commitment to notify the board during the pendency of
29 3 the license request and after the issuance of the license of
29 4 any substantial change in the representations and commitments
29 5 required by this subsection within fourteen days of such
29 6 change.

29 7 v. A commitment to annually submit to the board such
29 8 information as the board reasonably determines by rule is
29 9 necessary to monitor the development of competitive electric
29 10 services in this state and the licensee's compliance with this
29 11 chapter. Information submitted pursuant to this paragraph
29 12 shall be kept confidential and shall not be available for
29 13 public examination. The initial rules shall be by October 1,
29 14 1999.

29 15 w. For a competitive electric service provider operating
29 16 generating facilities in Iowa, or involved in meter
29 17 installation, meter maintenance, or meter reading within Iowa,
29 18 including a competitive electric service provider that is a
29 19 consumer-owned utility but only to the extent that it provides
29 20 competitive electric service outside its assigned service
29 21 area, a commitment to conduct these activities in a prompt,
29 22 safe, and reliable manner; to maintain within the state those
29 23 administrative, technical, and operating personnel necessary
29 24 for the provision of reasonably safe, reliable, and prompt
29 25 generation and metering services and facilities; and to
29 26 demonstrate that personnel involved in installing, operating,
29 27 and maintaining generating facilities or electric meters and
29 28 metering equipment have the requisite skills, knowledge,
29 29 experience, and training to perform those work functions
29 30 necessary to provide high-quality, safe, reliable, and prompt
29 31 services. Such demonstration may include a showing that
29 32 applicable personnel have completed an accredited or
29 33 recognized apprenticeship training program for the particular
29 34 skill, trade, or craft.

29 35 3. LICENSE REQUIREMENTS FOR AGGREGATORS. In addition to
30 1 other requirements that the board may adopt under subsection
30 2 1, each competitive electric service provider that acts only
30 3 as an aggregator shall file with the board the information
30 4 specified in subsection 2, paragraphs "a", "b", "c", "d", "e",
30 5 "g", "h", "k", "l", "n", "o", "p", "u", and "v". If the
30 6 aggregator will be issuing bills to end-use consumers, then it
30 7 shall also file the information required in subsection 2,
30 8 paragraphs "q", "r", and "t".

30 9 4. RIGHTS OF CONSUMERS.

30 10 a. An end-use consumer shall have access to competitive
30 11 electric services and regulated delivery services in
30 12 accordance with this chapter. All such services shall be
30 13 provided in a safe, reliable, and prompt manner.

30 14 b. The electric grid shall be extended to every end-use
30 15 consumer in accordance with section 476B.9 and such applicable
30 16 rules as are adopted by the board, or, for a consumer-owned
30 17 utility, policies adopted by the local governing body.

30 18 c. An end-use consumer shall have nondiscriminatory access
30 19 to use the electric grid in accordance with this chapter.

30 20 d. An end-use consumer shall not be refused competitive
30 21 electric services, regulated delivery services, standard offer
30 22 service, transitional service, basic energy service, or
30 23 universal service on the basis of age, race, religion,
30 24 national origin, gender, or disability within the meaning of
30 25 the federal Americans with Disabilities Act.

30 26 e. An end-use consumer shall have the right to voluntarily
30 27 aggregate with other end-use consumers for the purpose of
30 28 seeking competitive electric services. Aggregation shall not
30 29 be restricted by any rule or regulation except those
30 30 determined necessary by the board to maintain the safety or
30 31 reliability of the delivery system or to prevent fraud or
30 32 unfair advantage. An end-use consumer shall not be forced to
30 33 aggregate with any group of end-use consumers or other persons
30 34 without the end-use consumer's express consent.

30 35 f. An end-use consumer that has the option to choose
31 1 competitive electric services under this chapter may negotiate
31 2 a bilateral contract for these services.

31 3 g. An end-use consumer or an account of an end-use
31 4 consumer shall not be transferred by a competitive electric
31 5 service provider to another person except as provided in
31 6 subsection 2, paragraph "p".

31 7 h. An end-use consumer located in the assigned service
31 8 area of an incumbent provider that is an electric company
31 9 shall have the right not to choose another competitive
31 10 electric service provider and automatically receive service
31 11 under section 476B.8, subsection 1 or 2, as applicable, from

31 12 their incumbent provider without further action by the end-use
31 13 consumer.

31 14 i. An end-use consumer located in the assigned service
31 15 area of an incumbent provider that is a consumer-owned utility
31 16 shall have the right not to choose another competitive
31 17 electric service provider and automatically receive service
31 18 from the consumer-owned utility under section 476B.8,
31 19 subsection 4, without further action by the end-use consumer.

31 20 j. A residential end-use consumer who is located in the
31 21 assigned service area of an electric company and who either
31 22 has made a good faith effort to obtain a competitive electric
31 23 service provider, but has not been able to do so, or qualifies
31 24 for assistance under section 476B.13, subsection 1, shall have
31 25 the option to receive electric services pursuant to section
31 26 476B.8, subsection 3, and the rules adopted pursuant to that
31 27 subsection. An end-use consumer who is located in the
31 28 assigned service area of a consumer-owned utility and who is
31 29 without a competitive electric service provider shall have the
31 30 option to receive electric services pursuant to section
31 31 476B.8, subsection 4.

31 32 k. Except as otherwise provided in this chapter, on or
31 33 after May 1, 2002, information regarding the electric usage
31 34 history or electric account credit history of an individual
31 35 end-use consumer in the possession of an electric company,
32 1 consumer-owned utility, delivery service provider, control
32 2 area operator, competitive electric service provider, or
32 3 aggregator shall not be provided to any other electric
32 4 company, consumer-owned utility, delivery service provider,
32 5 control area operator, competitive electric service provider,
32 6 or aggregator except pursuant to an order of the board or a
32 7 court having jurisdiction, pursuant to a final determination
32 8 of an appropriate governmental entity with authority to compel
32 9 disclosure of such information, with the consent of the end-
32 10 use consumer, or pursuant to a proposed sale or transfer of
32 11 all or a substantial portion of the electric business in this
32 12 state of the person disclosing the information.

32 13 l. An end-use consumer shall be entitled to request from
32 14 its incumbent provider or competitive electric service
32 15 provider the most recent twenty-four months of the consumer's
32 16 historical usage information, if reasonably available, from
32 17 its account. The requested information shall be provided to
32 18 the end-use consumer without charge one time per calendar
32 19 year. If requested more than once per calendar year, the end-
32 20 use consumer may be charged the reasonable cost incurred by
32 21 the incumbent provider or competitive electric service
32 22 provider in providing the information.

32 23 m. The board may adopt rules regarding physical
32 24 disconnection procedures. Only a delivery service provider
32 25 with an assigned service area shall physically disconnect end-
32 26 use consumers located within its assigned service area. Rules
32 27 adopted, at a minimum, shall provide that disconnection is
32 28 warranted by any of the following:

32 29 (1) Failure to pay charges for delivery service including
32 30 nonbypassable charges.

32 31 (2) Failure of an end-use consumer that does not qualify
32 32 for service under section 476B.8 to designate one or more
32 33 competitive electric service providers to provide competitive
32 34 power supply services, and, where applicable, electric
32 35 metering, or electric billing services.

33 1 (3) Failure to pay for standard offer service,
33 2 transitional service, basic energy service, or universal
33 3 service.

33 4 The initial rules shall be proposed by June 1, 2001.

33 5 n. An end-use consumer shall have the right to install
33 6 metering in accordance with section 476B.11.

33 7 o. An end-use consumer shall have three business days
33 8 after the selection of a competitive electric service provider

33 9 or a competitive electric service, but prior to the initiation
33 10 of the service, within which to rescind the selection. The
33 11 board shall propose rules by June 1, 2001, applicable to
33 12 competitive electric service providers regarding the manner,
33 13 method, and content of the notice to be provided to end-use
33 14 consumers regarding this right.

33 15 p. Provisions addressing consumer fraud, including
33 16 misrepresentations regarding service and terms of service,
33 17 contained in section 714.16, subsection 2, paragraph "a", and
33 18 all accompanying provisions of chapter 714 shall apply to
33 19 competitive electric service providers.

33 20 q. A residential end-use consumer that is certified as a
33 21 low-income consumer shall have the opportunity to receive
33 22 assistance for bill payment and energy efficiency programs as
33 23 provided in section 476B.13, subsection 1, and is eligible to
33 24 request electric service under section 476B.8, subsection 3 or
33 25 4, as applicable.

33 26 r. The board shall establish rules of uniform
33 27 applicability to all competitive electric service providers
33 28 that it determines to be required to protect the public
33 29 interest regarding credit practices, consumer deposit
33 30 practices, collection practices, service termination
33 31 practices, billing practices, accuracy of information, public
33 32 safety, electric service reliability, and quality of electric
33 33 service. The initial rules shall be proposed by June 1, 2001.

33 34 Sec. 7. NEW SECTION. 476B.7 AVAILABILITY OF CHOICE.

33 35 1. Beginning on May 1, 2002, an end-use consumer located
34 1 in the assigned service area of a delivery service provider
34 2 that is an electric company shall have the option to choose
34 3 competitive electric services from competitive electric
34 4 service providers and unbundled delivery services from the
34 5 delivery service provider. An end-use consumer located in the
34 6 assigned service area of a delivery service provider that is a
34 7 consumer-owned utility shall have the option to choose
34 8 competitive electric services from competitive electric
34 9 service providers and unbundled delivery services from the
34 10 delivery service provider on a date to be determined by the
34 11 consumer-owned utility's local governing body, but in no event
34 12 prior to May 1, 2002, or after October 1, 2002. The board
34 13 shall adopt rules regarding the procedures to be used by
34 14 delivery service providers, competitive electric service
34 15 providers, and end-use consumers for those end-use consumers
34 16 exercising their option to choose competitive electric
34 17 services, including the amount of notice that must be provided
34 18 to the delivery service provider prior to switching from
34 19 bundled electric service to unbundled delivery service. The
34 20 initial rules shall be proposed by October 1, 2000.

34 21 2. After January 1, 1999, the board shall not initiate or
34 22 order an increase or a reduction in any of the bundled
34 23 electric rates or standard offer service rates of an electric
34 24 company except as provided in section 476B.8.

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

34 35 4. The board shall order the suspension of the dates for
35 1 commencement of the option to choose competitive electric
35 2 services specified in subsection 1 if the board determines
35 3 that essential deadlines cannot reasonably be met or there is
35 4 a threat to service reliability or the public safety. The
35 5 suspension may apply to all end-use consumers or some portion

35 6 of such consumers. The suspension shall continue until the
35 7 board determines the concern has been resolved or until the
35 8 conclusion of the next regular session of the Iowa general
35 9 assembly following the suspension, whichever occurs first.
35 10 5. If nationally recognized bond counsel determines that
35 11 access to a municipal utility's delivery system by a
35 12 competitive electric service provider, or provision of
35 13 competitive electric services by the municipal utility, will
35 14 result in the loss of exemption from federal income taxation
35 15 for interest on debt incurred for electric facilities prior to
35 16 the effective date of this chapter, the governing body of the
35 17 municipal utility may defer the commencement of the option to
35 18 choose competitive electric service in its assigned service
35 19 area for a period of up to six months following the date on
35 20 which the debt is eligible to be currently refunded. The
35 21 reasonable costs of replacing tax-exempt bonds with taxable
35 22 bonds may be collected as a nonbypassable charge. This
35 23 subsection shall not be used to unreasonably impair the
35 24 ability of consumers to choose competitive electric services.

35 25 6. The board may adopt rules for evaluating whether other
35 26 regulated electric services of electric companies subject to
35 27 the jurisdiction of the board should become competitive
35 28 services, in addition to the competitive electric services
35 29 specified in this chapter. For the purpose of this
35 30 subsection, the board's authority shall not include
35 31 distribution service except the control area services subject
35 32 to its jurisdiction. The initial rules shall be proposed by
35 33 June 1, 2001. Upon a board determination that a service
35 34 provided by an electric company is subject to effective
35 35 competition, the board shall deregulate the price of the
36 1 service. Service regulation, but not rate regulation, shall
36 2 continue if the service is deemed essential and the public
36 3 interest requires retention of service regulation.

36 4 Sec. 8. NEW SECTION. 476B.8 PRICE PROTECTIONS FOR
36 5 CERTAIN CONSUMERS.

36 6 1. STANDARD OFFER SERVICE.

36 7 a. (1) A nonresidential end-use consumer that purchased
36 8 fewer than twenty-five thousand kilowatt-hours of electric
36 9 service in 2001 and in each calendar year after 2001 and a
36 10 residential end-use consumer located within the assigned
36 11 service area of an incumbent provider that is an electric
36 12 company shall be provided electric service by the incumbent
36 13 provider under this subsection commencing May 1, 2002. This
36 14 service shall be provided by the incumbent provider's
36 15 competitive electric service provider or its delivery service
36 16 provider, at its option, and shall be a regulated service.
36 17 This service shall continue until the earlier of any of the
36 18 following:

36 19 (a) The end-use consumer selects an electric service
36 20 offering other than the one provided in this subsection.

36 21 (b) The end-use consumer no longer qualifies to receive
36 22 service under the terms and conditions of this paragraph "a"
36 23 or the applicable standard offer service tariff or board
36 24 rules.

36 25 (c) January 1, 2006.

36 26 (2) Termination of standard offer service on January 1,
36 27 2006, is conditioned upon the board finding, after a contested
36 28 case proceeding concluding not later than October 1, 2005,
36 29 that as of January 1, 2006, all of the following conditions
36 30 will exist:

36 31 (a) Transition cost recovery under section 476B.15,
36 32 subsection 1, will have concluded.

36 33 (b) The delivery service provider substantially complies
36 34 with all applicable board rules governing the administration
36 35 of open access and comparable distribution service adopted
37 1 pursuant to section 476B.9, subsection 2.

37 2 (c) The delivery service provider has in place an

37 3 enforceable dispute resolution process.

37 4 (d) Transaction costs assessed by the delivery service
37 5 provider to end-use consumers exercising their option to
37 6 choose competitive electric services are reasonable.

37 7 (e) Competitive electric services purchased by end-use
37 8 consumers eligible for standard offer service are subject to
37 9 effective competition in the relevant markets.

37 10 (3) In determining whether a service is or becomes subject
37 11 to effective competition in the relevant markets, the board,
37 12 in addition to other factors, shall consider whether a
37 13 comparable service is available from a competitive electric
37 14 service provider other than the incumbent provider and whether
37 15 market forces are sufficient to assure competitively priced
37 16 services without regulation. If the board finds that any of
37 17 the conditions under subparagraph (2) have not been met,
37 18 standard offer service shall continue until a showing is made
37 19 by the incumbent provider and the board determines all
37 20 conditions are met. An end-use consumer has no right to
37 21 return to standard offer service after any of the conditions
37 22 identified under subparagraph (1) occur, except that an end-
37 23 use consumer having selected an electric service offering
37 24 other than standard offer service may return to standard offer
37 25 service if all of the following apply:

37 26 (a) No more than ninety days have passed since the
37 27 consumer left standard offer service.

37 28 (b) The consumer has not previously left and returned to
37 29 standard offer service.

37 30 (c) The consumer is otherwise still qualified to receive
37 31 standard offer service.

37 32 The ninety-day period in subparagraph subdivision (a) shall
37 33 not extend the termination date of standard offer service.

37 34 b. At the time an incumbent provider that is an electric
37 35 company files its initial unbundled rates with the board
38 1 pursuant to section 476B.4, it shall also file its initial
38 2 standard offer service tariffs under this subsection, which
38 3 shall be subject to review and approval by the board. The
38 4 initial standard offer service tariffs shall reflect the
38 5 electric rates, charges, terms, and conditions of the tariffs
38 6 applicable to nonresidential end-use consumers using fewer
38 7 than twenty-five thousand kilowatt-hours per year and the
38 8 tariffs applicable to residential end-use consumers, as those
38 9 tariffs existed in the rate zones of the incumbent provider's
38 10 assigned service area on the effective date of this chapter,
38 11 adjusted to avoid duplicate recovery of costs to be recovered
38 12 under section 476B.15, subsection 3, costs to be recovered
38 13 under section 476B.16, and the portion of uncollectible costs
38 14 projected to be offset by the programs established under
38 15 section 476B.13, subsection 1. However, the board may approve
38 16 modifications to the terms and conditions of such tariffs
38 17 existing on the effective date of this chapter to the extent
38 18 just, reasonable, and nondiscriminatory. An electric company,
38 19 to the extent it has not already done so, shall eliminate
38 20 automatic adjustment mechanisms in effect pursuant to section
38 21 476.6, subsection 11, that are applicable to standard offer
38 22 service rates. Elimination shall be accomplished by adjusting
38 23 the initial standard offer service rates to include a
38 24 representative amount of the costs which would have been
38 25 recovered through the mechanisms. If an electric company's
38 26 nuclear generating unit is unavailable for reasons beyond the
38 27 electric company's reasonable control, the electric company
38 28 may file with the board an adjustment reflecting changes in
38 29 exogenous factors beyond the control of the electric company.
38 30 The board shall allow the adjustment to become effective
38 31 immediately. The board shall review the adjustment within
38 32 thirty days after the date the adjustment is effective, and
38 33 order refunds of the revenues resulting from the adjustment if
38 34 the board determines after its review that the nuclear

38 35 generating unit's unavailability was reasonably within the
39 1 control of the electric company. The effective date of the
39 2 automatic adjustment mechanism elimination for standard offer
39 3 service rates shall be May 1, 2002. An electric company may
39 4 retain automatic adjustment mechanisms to the extent the
39 5 mechanisms apply to transitional service under subsection 2.
39 6 c. After January 1, 1999, the board shall not initiate or
39 7 order an increase or a reduction in any of the bundled
39 8 electric rates of an electric company or in the standard offer
39 9 service rates established pursuant to this section except as
39 10 provided in this subsection. However, an incumbent provider
39 11 that is an electric company may reduce its bundled electric
39 12 rates or standard offer service rates at any time, so long as
39 13 such reduction is effected in a nondiscriminatory manner, the
39 14 reduction is filed with the board thirty days prior to the
39 15 proposed effective date of the reduction, and the reduced
39 16 rates are posted on the board's website. The board may hold a
39 17 hearing on the reduction prior to the proposed effective date
39 18 and may suspend the effective date for up to an additional
39 19 sixty days. The board shall approve the reduction unless it
39 20 determines that it is unreasonably discriminatory or would
39 21 constitute predatory pricing as defined by applicable
39 22 antitrust law. A board finding of predatory pricing under
39 23 this paragraph shall be given no weight in any subsequent
39 24 legal action, except with respect to judicial review of the
39 25 board's ruling brought pursuant to section 476B.22.
39 26 d. Commencing January 1, 2003, an incumbent provider that
39 27 is an electric company may increase its standard offer service
39 28 rates to reflect increases in its unbundled distribution
39 29 service rates approved by the board under section 476B.9,
39 30 subsection 5. An incumbent provider that is an electric
39 31 company may also increase its standard offer service rates
39 32 after January 1, 2003, to reflect increases in applicable
39 33 transmission service rates approved by a federal or state
39 34 agency with rate jurisdiction. Standard offer service rates
39 35 incorporating an increase permitted by this paragraph shall be
40 1 filed with the board thirty days prior to becoming effective.
40 2 The increased standard offer service rates shall become
40 3 effective at the conclusion of the thirty-day period unless
40 4 the board determines that the incumbent provider has increased
40 5 standard offer service rates by an amount greater than the
40 6 increase in unbundled distribution service rates or
40 7 transmission service rates, in which case the board may
40 8 suspend the effective date for up to an additional sixty days.
40 9 If the board suspends a filing made pursuant to this
40 10 paragraph, the board shall provide the incumbent provider with
40 11 an opportunity for hearing.
40 12 e. On or before January 1, 2003, an incumbent provider
40 13 that is an electric company may file with the board a
40 14 mechanism to increase or decrease standard offer service rates
40 15 by adjusting the generation components of the rates to or
40 16 toward the market price of generation that an affected end-use
40 17 consumer should reasonably be expected to pay after the
40 18 termination of standard offer service. The mechanism shall be
40 19 approved by the board if it finds, after hearing, that it is
40 20 in the public interest and is as revenue neutral to the
40 21 incumbent provider as practicable. In determining the public
40 22 interest of the mechanism, the board, in addition to other
40 23 factors, shall consider whether the approval of the mechanism
40 24 would contribute to the development of effective competition
40 25 in the relevant markets. A mechanism approved under this
40 26 paragraph shall not become effective before January 1, 2004.
40 27 The board shall determine the market price that the affected
40 28 end-use consumer would reasonably be expected to pay in the
40 29 relevant competitive market. An incumbent provider's filing
40 30 under this paragraph is subject to section 476B.9, subsection
40 31 5.

40 32 f. If the board does not allow the termination of standard
40 33 offer service in a relevant market on or before January 1,
40 34 2006, pursuant to paragraph "a", the incumbent provider shall
40 35 be required to acquire competitive power supply services in
41 1 the market for this service. The price of standard offer
41 2 service shall be adjusted to reflect the cost of acquiring
41 3 that supply. The board shall adopt rules to assure
41 4 competitive pricing under this paragraph.

41 5 g. At any time, an incumbent provider that is an electric
41 6 company may file with the board a request to recalculate the
41 7 generation component of its bundled electric rates or standard
41 8 offer service rates to reflect changes in revenues, expenses,
41 9 and investments due to exogenous factors beyond the control of
41 10 the electric company. Such filing is subject to section
41 11 476B.9, subsection 5.

41 12 h. At a time and in a manner determined by the board to be
41 13 reasonable and in the public interest, an electric company
41 14 shall notify those end-use consumers receiving standard offer
41 15 service of the termination of such service and the
41 16 alternatives reasonably available to such consumers.

41 17 i. Rates, charges, terms, and conditions in effect under
41 18 this subsection shall be posted on the board's website.

41 19 j. An end-use consumer receiving standard offer service
41 20 under this subsection shall also be billed for applicable
41 21 charges under section 476B.13, subsection 1, section 476B.15,
41 22 subsection 3, and section 476B.16.

41 23 2. TRANSITIONAL SERVICE.

41 24 a. Commencing on May 1, 2002, a nonresidential end-use
41 25 consumer of an incumbent provider that is an electric company
41 26 who purchased twenty-five thousand kilowatt-hours of electric
41 27 service or more from the electric company in 2001 and who has
41 28 not chosen competitive electric services from another
41 29 competitive electric service provider shall receive
41 30 transitional service from the incumbent provider for a period
41 31 not to exceed one year and under tariff provisions approved by
41 32 the board. On or before January 1, 2001, an incumbent
41 33 provider shall file its initial rates, charges, terms, and
41 34 conditions applicable to this transitional service and shall
41 35 specify the duration for which the service will be available.
42 1 The board shall approve transitional service rates, charges,
42 2 terms, and conditions to the extent it determines them to be
42 3 just and reasonable. The filing shall be subject to section
42 4 476B.9, subsection 5. The rates, charges, terms, conditions,
42 5 and duration of transitional service approved by the board
42 6 shall be posted on the board's website for informational
42 7 purposes by no later than November 1, 2001, and shall become
42 8 effective May 1, 2002.

42 9 b. Nothing in this subsection shall preclude a qualifying
42 10 end-use consumer from exercising its option to choose
42 11 competitive electric services from a licensed competitive
42 12 electric service provider at any time, consistent with this
42 13 chapter and applicable board rules.

42 14 c. An end-use consumer receiving transitional service
42 15 under this subsection shall also be billed for applicable
42 16 charges under section 476B.13, subsection 1, section 476B.15,
42 17 subsection 3, and section 476B.16.

42 18 3. UNIVERSAL SERVICE.

42 19 a. The board shall adopt rules establishing the conditions
42 20 with which a residential end-use consumer located in the
42 21 assigned service area of a delivery service provider that is
42 22 an electric company must comply to qualify to receive service
42 23 under this subsection. The rules, at a minimum, shall address
42 24 the rights and remedies to avoid disconnection including, but
42 25 not limited to, use of prepaid meters, payment plans, deposit
42 26 requirements, load limiters, and other provisions deemed
42 27 appropriate by the board. The rules shall include a
42 28 requirement that electric service to a residential end-use

42 29 consumer who is the head of the household as defined by law
42 30 and who is eligible for assistance under the programs
42 31 established by section 476B.13, subsection 1, shall not be
42 32 discontinued from November 1 through April 1 except as
42 33 otherwise provided by the board. The initial rules shall be
42 34 proposed by March 1, 2001.

42 35 b. Residential end-use consumers who qualify to receive
43 1 service under the rules adopted pursuant to paragraph "a" and
43 2 who can demonstrate they have made an effort, as defined by
43 3 the board rules, to secure electric service from a competitive
43 4 electric service provider, but have been denied service, or
43 5 who have been determined to qualify for assistance under
43 6 section 476B.13, subsection 1, shall have the option to be
43 7 provided electric service under this subsection by their
43 8 delivery service provider.

43 9 c. At the time an electric company files its initial
43 10 unbundled rates with the board pursuant to section 476B.4, the
43 11 electric company shall also file its initial universal service
43 12 tariffs under this subsection, which shall be subject to
43 13 review and approval by the board. Through December 31, 2005,
43 14 the rates for universal service shall generally be the same as
43 15 the residential rates that would be available to the consumer
43 16 from its incumbent provider under subsection 1, including the
43 17 adjustments as specified in that subsection. However, an
43 18 electric company may propose to offer only one universal
43 19 service rate in each rate zone and may propose automatic
43 20 adjustment mechanisms applicable only to rates under this
43 21 subsection. The board shall approve universal service rates
43 22 and tariffs to the extent it determines those rates and
43 23 tariffs to be just and reasonable. The initial universal
43 24 service rates approved by the board shall be posted on the
43 25 board's website by no later than November 1, 2001, and shall
43 26 become effective May 1, 2002. Beginning January 1, 2006, the
43 27 rates for this service shall be based upon the market prices
43 28 applicable to the type of service received by the consumer,
43 29 adjusted for any state or federal subsidy of the rate paid to
43 30 the delivery service provider. The board may adopt rules, to
43 31 be effective January 1, 2006, that require the delivery
43 32 service provider to acquire competitive power supply services
43 33 for this service.

43 34 d. Section 476B.9, subsection 5, applies to changes in the
43 35 initial universal service tariffs proposed by an electric
44 1 company after the board's approval of the initial tariffs.

44 2 e. Rates, charges, terms, and conditions in effect under
44 3 this subsection shall be posted on the board's website within
44 4 twenty-four hours after becoming effective.

44 5 f. An end-use consumer receiving universal service under
44 6 this subsection shall also be billed for applicable charges
44 7 under section 476B.13, subsection 1, section 476B.15,
44 8 subsection 3, and section 476B.16.

44 9 4. CONSUMER-OWNED UTILITIES.

44 10 a. BASIC ENERGY SERVICE. Delivery service providers with
44 11 an assigned service area that are consumer-owned utilities
44 12 shall offer basic energy services to all end-use consumers
44 13 within their assigned service areas that have not specified a
44 14 competitive electric service provider or are otherwise without
44 15 a competitive electric service provider. Rates, charges,
44 16 terms, and conditions of basic energy services shall be
44 17 established by the local governing body and shall comply with
44 18 section 476B.9, subsection 6.

44 19 b. UNIVERSAL SERVICE. Delivery service providers with an
44 20 assigned service area that are consumer-owned utilities shall
44 21 offer universal service as a type of basic energy service to
44 22 eligible residential consumers determined in accordance with
44 23 the board's rules adopted pursuant to subsection 3, paragraphs
44 24 "a" and "b". This service will only be offered to eligible
44 25 consumers for the same period of time this service is offered

44 26 by electric company delivery service providers. Rates
44 27 associated with this service are subject to section 476B.9,
44 28 subsection 6.

44 29 Sec. 9. NEW SECTION. 476B.9 RESPONSIBILITIES AND RIGHTS
44 30 OF DELIVERY SERVICE PROVIDERS.

44 31 1. RESPONSIBILITIES FOR SAFE, RELIABLE, AND PROMPT
44 32 SERVICE.

44 33 a. A delivery service provider shall furnish safe,
44 34 reliable, and prompt delivery services and facilities. A
44 35 delivery service provider with an assigned service area shall
45 1 maintain within the state those administrative, technical, and
45 2 operating personnel necessary for the provision of safe,
45 3 reliable, and prompt delivery services and facilities. Such
45 4 personnel shall be strategically located by the delivery
45 5 service provider to ensure that end-use consumers receive
45 6 safe, reliable, and prompt service. A delivery service
45 7 provider shall also maintain within the state an office for
45 8 Iowa operations that shall maintain those books, accounts,
45 9 papers, and records deemed necessary by the board to be
45 10 maintained within the state, unless otherwise authorized by
45 11 the board. Nothing in this paragraph requires a consumer-
45 12 owned utility to relocate any delivery service personnel or to
45 13 change the current location of its books, accounts, papers, or
45 14 records.

45 15 b. The board shall have general oversight responsibility
45 16 for delivery service safety requirements and inspection and
45 17 maintenance activities for all delivery service providers.
45 18 The board shall adopt rules for delivery service providers
45 19 that it determines are required for reasonably safe, reliable,
45 20 and prompt delivery service, including rules relating to
45 21 credit practices, collection practices, disconnection
45 22 practices, billing practices, public safety, service
45 23 reliability, quality of service, power quality, preventive
45 24 maintenance standards, line clearance standards, outage
45 25 frequency, outage duration, service restoration, and other
45 26 necessary provisions. The board shall also adopt rules
45 27 regarding distribution service extensions, staffing levels as
45 28 related to outage duration, and the timeliness of service
45 29 installation for delivery service providers that are electric
45 30 companies. In adopting the rules required by this paragraph,
45 31 the board shall give due consideration to weather, terrain,
45 32 public safety, staffing levels, cost, and end-use consumer
45 33 satisfaction. The initial rules shall be proposed by March 1,
45 34 2001.

45 35 c. The board shall adopt rules requiring that delivery
46 1 service providers demonstrate that personnel who will be
46 2 installing, operating, and maintaining the delivery system
46 3 have the requisite skills, knowledge, experience, and training
46 4 to perform those work functions necessary to provide high
46 5 quality, safe, and reliable services. Such demonstration may
46 6 include a showing that applicable personnel have completed an
46 7 accredited or recognized apprenticeship training program for
46 8 the particular skill, trade, or craft. The initial rules
46 9 shall be proposed by June 1, 2001.

46 10 2. OPEN ACCESS AND COMPARABLE DELIVERY SERVICE.

46 11 a. Commencing May 1, 2002, for each delivery service
46 12 provider that is an electric company, and commencing on the
46 13 date that an end-use consumer has the option to choose
46 14 competitive electric services in the assigned service area of
46 15 each delivery service provider that is a consumer-owned
46 16 utility, unbundled distribution services, and other electric
46 17 services unbundled pursuant to section 476B.4, shall be made
46 18 available to end-use consumers and, if in the assigned service
46 19 area of an electric company, to licensed competitive electric
46 20 service providers, as provided in this chapter and the rules
46 21 adopted by the board to implement this section. Unbundled
46 22 delivery services shall be offered on a nondiscriminatory and

46 23 comparable service basis.

46 24 b. The board may adopt uniform rules for administering
46 25 open access and comparable delivery service including, but not
46 26 limited to, procedures for access to consumer information for
46 27 operational purposes, data transfers, and switching of
46 28 competitive electric service providers by end-use consumers.
46 29 However, the board shall not impose rates upon a consumer-
46 30 owned utility. The rules shall give due consideration to the
46 31 technology available, the administrative and financial burden
46 32 on delivery service providers and competitive electric service
46 33 providers, the objective of reasonable distribution service
46 34 rates, and the objective of nondiscriminatory and comparable
46 35 service. The initial rules shall be proposed by October 1,
47 1 2000.

47 2 c. Delivery service providers shall adopt and implement
47 3 procedures for restoring delivery service after outages on a
47 4 nondiscriminatory basis without regard to the competitive
47 5 electric service provider serving the end-use consumer.

47 6 d. If, after notice and opportunity for hearing, the board
47 7 determines that any delivery service provider or control area
47 8 operator is imposing unreasonable or artificial barriers to
47 9 access to any competitive electric service on the delivery
47 10 system, the board shall require the delivery service provider
47 11 or control area operator to take corrective measures, not
47 12 inconsistent with federal law, to the extent necessary and
47 13 feasible to eliminate the barriers to access. However, the
47 14 board shall not impose rates upon a consumer-owned utility.
47 15 The measures ordered by the board may include a requirement
47 16 that the delivery service provider participate in a regional
47 17 entity approved by the federal energy regulatory commission,
47 18 or its successor, that has authority over the portion of the
47 19 delivery system subject to federal regulation independently
47 20 from the wholesale electric sales function of the delivery
47 21 service provider. For the purposes of this paragraph,
47 22 artificial barriers shall not include legislative or
47 23 regulatory actions.

47 24 3. ELIMINATION OF OBLIGATION TO PROVIDE CERTAIN ELECTRIC
47 25 SERVICES.

47 26 a. Except as provided in subsection 7 and sections 476B.8,
47 27 476B.11, and 476B.12, an incumbent provider and a delivery
47 28 service provider shall not have any obligation to provide
47 29 competitive electric services to an end-use consumer that has
47 30 the option to choose competitive electric services.

47 31 b. A delivery service provider or a control area operator
47 32 shall not be liable for any damages to an end-use consumer if
47 33 a competitive electric service provider chosen by the consumer
47 34 fails to fulfill the terms of its contract with the end-use
47 35 consumer. This paragraph shall not be construed to limit the
48 1 liability of a delivery service provider or a control area
48 2 operator for damages caused by its own actions or failure to
48 3 act.

48 4 4. ASSIGNED SERVICE AREAS.

48 5 a. EXCLUSIVE ASSIGNED SERVICE AREAS ESTABLISHED. The
48 6 state has established a system of exclusive assigned service
48 7 areas for electric service pursuant to section 476.25 and in
48 8 effect on January 1, 1999. The service areas shall continue
48 9 to be assigned to the persons to whom such areas were assigned
48 10 on January 1, 1999, or their successors, who shall provide
48 11 bundled electric service to end-use consumers on an exclusive
48 12 basis until the dates when choice is available as specified in
48 13 section 476B.7. On or after the dates when choice is
48 14 available, a person assigned a service area immediately prior
48 15 to the dates when choice is available shall be the delivery
48 16 service provider for the assigned service area unless such
48 17 person designates to the board a different person. A delivery
48 18 service provider shall provide delivery services to end-use
48 19 consumers within its assigned area on an exclusive basis

48 20 pursuant to this chapter.

48 21 b. CLARIFICATION OR MODIFICATION OF BOUNDARIES.

48 22 (1) Consistent with this subsection, the board, on its own
48 23 motion or at the request of a delivery service provider or
48 24 municipal corporation, after notice and opportunity for
48 25 hearing, may clarify or modify the boundaries of an assigned
48 26 service area if it finds that the clarification or
48 27 modification will promote the public interest, preserve
48 28 existing assigned service areas and the delivery service
48 29 providers' right to serve existing end-use consumers, prevent
48 30 unnecessary duplication of facilities, provide adequate
48 31 delivery service to all assigned service areas and end-use
48 32 consumers affected, and promote the efficient and economical
48 33 use and development of the electric delivery system.

48 34 (2) An agreement between delivery service providers to
48 35 designate assigned service areas and end-use consumers or to
49 1 clarify or modify assigned service areas to be served by the
49 2 delivery service providers or for the exchange of end-use
49 3 consumers between delivery service providers shall be
49 4 submitted to the board for review. The agreement, when
49 5 approved by the board, is valid and enforceable and shall be
49 6 incorporated into the appropriate assigned service areas
49 7 established pursuant to this subsection. The board shall
49 8 approve an agreement if the board finds the agreement
49 9 satisfies the criteria set forth in subparagraph (1).

49 10 (3) If a delivery service provider declines to enter into
49 11 an agreement to designate an assigned service area or end-use
49 12 consumers, or to clarify or modify an assigned service area,
49 13 an aggrieved person may petition the board to order such a
49 14 designation, clarification, or modification on the grounds
49 15 that the proposed designation, clarification, or modification
49 16 will promote the public interest, preserve existing service
49 17 areas and the delivery service providers' right to serve
49 18 existing end-use consumers, prevent unnecessary duplication of
49 19 facilities, provide adequate delivery service to all assigned
49 20 service areas and end-use consumers affected, and promote the
49 21 efficient and economical use and development of the electric
49 22 delivery system. If the board finds that the petition meets
49 23 the foregoing standards, the board shall order the
49 24 designation, clarification, or modification on such terms and
49 25 conditions as it finds just and reasonable.

49 26 c. LIMIT ON BYPASS. Except with the written approval of
49 27 the affected delivery service provider and the board, a person
49 28 shall not provide or offer to provide delivery service to an
49 29 end-use consumer in an assigned service area assigned to
49 30 another delivery service provider, or construct delivery
49 31 service facilities in an assigned service area assigned to
49 32 another delivery service provider to serve an end-use consumer
49 33 in such assigned service area. This paragraph does not
49 34 preclude an end-use consumer from constructing, or having
49 35 constructed, on real estate which the end-use consumer owns or
50 1 leases, distribution service facilities for the exclusive
50 2 purpose of meeting the end-use consumer's own electric service
50 3 requirements, as long as such facilities are constructed
50 4 entirely within the boundaries of such real estate and, as a
50 5 consequence of constructing such facilities, will not allow
50 6 that end-use consumer to avoid nonbypassable charges or reduce
50 7 the value of facilities dedicated to that end-use consumer for
50 8 which the delivery service provider would not be compensated.
50 9 With respect to matters subject to the board's jurisdiction, a
50 10 person may file a complaint with the board regarding a
50 11 violation of this paragraph. Upon finding a violation, the
50 12 board shall order appropriate corrective action including
50 13 discontinuance of the unlawful service, removal of the
50 14 unlawful facility, compensation for lost margin, or other
50 15 disposition commensurate with the injury suffered. A petition
50 16 for franchise filed by a municipal utility pursuant to section

50 17 478.2 for facilities used to connect the utility to the
50 18 transmission grid shall not be limited by this paragraph.

50 19 d. CERTIFICATES OF AUTHORITY. A municipal corporation,
50 20 after being authorized by a vote of the people, or any
50 21 delivery service provider may file a petition with the board
50 22 requesting a certificate of authority to furnish delivery
50 23 service to the existing point of delivery of any end-use
50 24 consumer already receiving delivery service. If, after thirty
50 25 days have elapsed following notice by the board to the person
50 26 currently serving the end-use consumer, objection to the
50 27 petition is not filed and investigation is not deemed
50 28 necessary, the board shall issue a certificate. If an
50 29 objection is filed, and the board, after notice and
50 30 opportunity for hearing, determines that delivery service to
50 31 the end-use consumer by the petitioner should be granted, the
50 32 board shall grant a certificate in whole or in part, upon such
50 33 terms, conditions, and restrictions as may be justified. In
50 34 determining whether a proposal should be granted, the board
50 35 shall consider the factors set forth in paragraph "b",
51 1 subparagraph (1). Whether or not an objection is filed, a
51 2 certificate issued shall require that the petitioner pay to
51 3 the person presently serving the end-use consumer the
51 4 reasonable price for the facilities serving the end-use
51 5 consumer as determined by the board. A price determination by
51 6 the board shall include due consideration of all of the
51 7 following:

51 8 (1) The value of the facilities being acquired.
51 9 (2) Any penalties, buyout costs, or other costs associated
51 10 with any commitments to generating and transmission capacity
51 11 on behalf of the departing consumers or to support the
51 12 delivery service facilities being acquired.
51 13 (3) Projected loss of revenue and its impact on remaining
51 14 end-use consumers of the affected provider.
51 15 (4) The cost of any facilities necessary to reintegrate
51 16 the system of the delivery service provider after detaching
51 17 the portion sold.

51 18 e. OBLIGATION TO EXTEND DELIVERY SERVICE FACILITIES. A
51 19 delivery service provider that has been assigned an exclusive
51 20 delivery service area pursuant to this subsection shall extend
51 21 delivery service facilities to all end-use consumers within
51 22 its assigned service area as provided in this chapter. The
51 23 board shall adopt rules for electric companies setting forth
51 24 the terms and conditions of delivery service facility
51 25 extensions for electric companies and shall issue proposed
51 26 rules by no later than October 1, 2001.

51 27 f. DELIVERY SERVICE AREA MAPS. Whenever requested by the
51 28 board, delivery service providers shall file with the board,
51 29 jointly or severally, detailed maps of their assigned service
51 30 areas drawn to a scale specified by the board showing all of
51 31 the following:

51 32 (1) The locations of franchised transmission lines,
51 33 distribution lines, and related facilities.
51 34 (2) All state and federal highways and other public roads
51 35 within the delivery service area.
52 1 (3) All section lines and numbers, and township and range
52 2 numbers within the delivery service area.
52 3 (4) The corporate boundaries of all cities within the
52 4 delivery service area.
52 5 (5) All lakes and rivers within the delivery service area.
52 6 (6) All railroads within the delivery service area.
52 7 (7) The number, classifications, training levels, and
52 8 locations of personnel involved in installing, operating, and
52 9 maintaining delivery services and facilities.
52 10 (8) Any additional information requested by the board.

52 11 If deemed by the board to be necessary, the board shall
52 12 prepare or cause to have prepared a composite map of this
52 13 state showing the delivery service areas. The form and detail

52 14 of all maps shall be determined by the board.

52 15 g. EXCEPTION. Notwithstanding contrary provisions of this
52 16 section, a delivery service provider may extend delivery
52 17 service facilities and provide delivery service outside its
52 18 assigned service area to its own utility property and
52 19 facilities.

52 20 h. RIGHTS OF CITIES. If not inconsistent with this
52 21 chapter, the rights of cities under chapters 362 through 390
52 22 are preserved.

52 23 However, prior to the institution of condemnation
52 24 proceedings under chapter 6B, a city shall obtain a
52 25 certificate of authority from the board as provided in
52 26 paragraph "d" and the board's determination of price shall be
52 27 conclusive evidence of damages in these condemnation
52 28 proceedings.

52 29 i. EFFECT OF INCORPORATION, ANNEXATION, OR CONSOLIDATION.
52 30 The inclusion by incorporation, annexation, or consolidation
52 31 of any facilities or service area of a person with an
52 32 exclusive assigned service area within the boundaries of any
52 33 city shall not by such inclusion impair or affect in any
52 34 respect the rights of the delivery service provider to
52 35 continue to provide delivery services and to extend service to
53 1 prospective end-use consumers in accordance with this chapter.

53 2 5. DELIVERY SERVICE RATE REGULATION FOR ELECTRIC
53 3 COMPANIES. A delivery service provider that is also an
53 4 electric company shall file, post, and maintain applicable
53 5 unbundled rates in accordance with this subsection and section
53 6 476B.4. The board shall regulate the rates, charges,
53 7 schedules, and regulations for distribution services and other
53 8 services unbundled pursuant to section 476B.4, subsection 1,
53 9 and provided by delivery service providers that are electric
53 10 companies. The burden of establishing the reasonableness of
53 11 rates, charges, schedules, and regulations is upon the
53 12 delivery service provider.

53 13 a. FILING WITH BOARD. Except as provided in paragraphs
53 14 "g" and "i", a delivery service provider that is an electric
53 15 company shall not make effective a new or changed distribution
53 16 service rate, charge, schedule, or regulation or other
53 17 unbundled rate, charge, schedule, or regulation subject to the
53 18 jurisdiction of the board until the rate, charge, schedule, or
53 19 regulation has been approved by the board. Notwithstanding
53 20 anything in this chapter to the contrary, if an application
53 21 for a new or changed rate or charge is filed with the board
53 22 and posted on its website, and if affected competitive
53 23 electric service providers and end-use consumers have the
53 24 option to select or not select such rate or charge, the rate
53 25 or charge shall become effective within ten business days
53 26 after filing. The board, within ten business days after the
53 27 filing, may docket the filing and suspend the rate or charge,
53 28 either upon the filing of a written objection or on its own
53 29 motion, but the board shall not suspend the rate or charge for
53 30 more than ninety days from the date the tariff was filed.

53 31 b. LIMITATIONS ON FILING. A delivery service provider
53 32 that is an electric company shall not make a subsequent filing
53 33 of an application for a new or changed rate, charge, schedule,
53 34 or regulation which relates to the same rate, charge,
53 35 schedule, or regulation for which a filing is pending within
54 1 twelve months following the date the prior application was
54 2 filed or until the board has issued a final order on the prior
54 3 application, whichever date is earlier, unless the delivery
54 4 service provider applies to the board for authority to make a
54 5 subsequent filing at an earlier date and such application is
54 6 approved by the board.

54 7 c. WRITTEN NOTICE OF INCREASE. A delivery service
54 8 provider that is an electric company shall give written notice
54 9 of a proposed increase of a distribution service rate or
54 10 charge or other unbundled rate or charge subject to the

54 11 jurisdiction of the board to all affected competitive electric
54 12 service providers and end-use consumers receiving service
54 13 under board-approved tariffs or with whom the delivery service
54 14 provider has distribution service contracts, whether or not
54 15 written, prior to the time the application for the increase is
54 16 filed with the board. The notice shall state that the
54 17 competitive electric service provider or end-use consumer has
54 18 a right to file a written objection to the rate increase and
54 19 may request the board to hold a public hearing to determine if
54 20 the increase should be allowed. The board shall adopt rules
54 21 prescribing the timing, manner, and method of serving the
54 22 written notice. The board may adopt rules regarding
54 23 notification of other end-use consumers that may be affected
54 24 by a proposed increase. The initial rules shall be proposed
54 25 by March 1, 2001.

54 26 d. FACTS AND ARGUMENTS SUBMITTED. At the time an
54 27 application for any new or changed rate, charge, schedule, or
54 28 regulation is filed with the board, the delivery service
54 29 provider shall submit factual evidence and written argument
54 30 offered in support of the filing. If the application proposes
54 31 an increase in distribution service rates, the delivery
54 32 service provider shall also file testimonial evidence in
54 33 support of the filing.

54 34 e. HEARING SET. After the filing of an application by a
54 35 delivery service provider for a new or changed rate, charge,
55 1 schedule, or regulation subject to the jurisdiction of the
55 2 board, the board, prior to the expiration of thirty days after
55 3 the filing date, shall docket the case as a formal proceeding
55 4 and set the case for hearing unless the new or changed rate,
55 5 charge, schedule, or regulation is approved by the board. If
55 6 an application presents no material issue of fact subject to
55 7 dispute, and the board determines that the application
55 8 violates a relevant statute, or is not in substantial
55 9 compliance with a board rule, the application may be rejected
55 10 by the board without prejudice and without a hearing, provided
55 11 that the board issues a written order setting forth all of its
55 12 reasons for rejecting the application. The board shall give
55 13 notice of formal proceedings as it deems appropriate. Except
55 14 as provided in paragraphs "g" and "i", the docketing of a case
55 15 as a formal proceeding suspends the effective date of the new
55 16 or changed rate, charge, schedule, or regulation until the
55 17 rate, charge, schedule, or regulation is approved by the
55 18 board.

55 19 f. UTILITY HEARING EXPENSES REPORTED. If a case has been
55 20 docketed as a formal proceeding, the delivery service provider
55 21 shall file with the board a report outlining the expected
55 22 expenses for litigating the case through the period allowed by
55 23 the board in rendering a final decision. Within ten days
55 24 after the conclusion of the delivery service provider's
55 25 presentation of comments, testimony, or briefs, the delivery
55 26 service provider shall submit to the board a listing of the
55 27 delivery service provider's actual litigation expenses in the
55 28 proceeding, excluding costs to be billed by the board and the
55 29 consumer advocate. As part of the findings of the board, the
55 30 board shall allow recovery of all reasonable costs of the
55 31 litigation, including all costs billed by the board and the
55 32 consumer advocate, over a reasonable period of time.

55 33 g. DISTRIBUTION SERVICE RATES AND CHARGES. Distribution
55 34 service rates and charges and other unbundled rates and
55 35 charges shall be based upon a cost of service method,
56 1 performance-based incentives, or such other method of
56 2 ratemaking as the board deems just and reasonable. If cost of
56 3 service is used for establishing a component of unbundled
56 4 rates, the method used to determine class cost of service, to
56 5 the maximum extent practicable, should permit identification
56 6 of cost differences attributable to variations in demand,
56 7 energy, voltage delivery level, customer components of costs,

56 8 and other factors. This chapter does not prohibit a delivery
56 9 service provider from making provision for the automatic
56 10 adjustment of a distribution service rate or charge or other
56 11 rate or charge subject to the jurisdiction of the board,
56 12 provided that a tariff setting forth the mechanism for
56 13 automatic adjustment of a rate or charge is first filed with
56 14 and approved by the board. Notice of such filing to end-use
56 15 consumers and competitive electric service providers receiving
56 16 service under board-approved tariffs or with whom the delivery
56 17 service provider has distribution service contracts, whether
56 18 or not written, shall be required, but adjustments pursuant to
56 19 an approved mechanism shall not require further notice. The
56 20 board may adopt rules regarding notification of other end-use
56 21 consumers that may be affected by the automatic adjustment
56 22 mechanism.

56 23 The board, in determining the value of materials or
56 24 services to be included in valuations or costs of operations
56 25 for ratemaking purposes, may disallow any unreasonable profit
56 26 made in the sale of materials to or services supplied for any
56 27 delivery service provider by a firm or corporation owned or
56 28 controlled directly or indirectly by such delivery service
56 29 provider or any affiliate, subsidiary, parent company,
56 30 associate, or any corporation whose controlling stockholders
56 31 are also controlling stockholders of such delivery service
56 32 provider. The burden of proof is on the delivery service
56 33 provider to prove that no unreasonable profit is made.

56 34 h. FINDING BY BOARD. If, after hearing and decision on
56 35 all issues presented for determination in the rate proceeding,
57 1 the board finds the proposed rate, charge, schedule, or
57 2 regulation to be unlawful or not just and reasonable, the
57 3 board shall, by order, authorize and direct the delivery
57 4 service provider to file a new or changed rate, charge,
57 5 schedule, or regulation which, when approved by the board and
57 6 placed in effect, will satisfy the requirements of this
57 7 chapter. A rate, charge, schedule, or regulation so approved
57 8 is lawful and effective upon its approval.

57 9 i. TEMPORARY AUTHORITY. Upon the request of a delivery
57 10 service provider, the board, when required by this paragraph,
57 11 shall grant temporary authority to place in effect any or all
57 12 of a suspended rate, charge, schedule, or regulation. A
57 13 delivery service provider shall file with the board a bond or
57 14 other undertaking approved by the board conditioned upon the
57 15 refund in a manner to be prescribed by the board of any
57 16 amounts collected in excess of the amounts which would have
57 17 been collected under a rate, charge, schedule, or regulation
57 18 finally approved by the board. In determining that portion of
57 19 the new or changed rate, charge, schedule, or regulation to be
57 20 placed into effect prior to a final decision, the board shall
57 21 apply previously established regulatory principles and, at a
57 22 minimum, shall permit rates and charges which will allow the
57 23 delivery service provider the opportunity to earn a return on
57 24 common stock equity equal to that which the board held
57 25 reasonable and just in the most recent rate case involving
57 26 electric or distribution service. However, if the most recent
57 27 final decision of the board in an applicable rate case was
57 28 rendered more than twelve months prior to the date of filing
57 29 of the request for temporary rates, the board, in addition,
57 30 shall consider financial market data that is filed or that is
57 31 otherwise available to the board and shall adjust the rate of
57 32 return on common stock equity that was approved in that
57 33 decision upward or downward as necessary to reflect current
57 34 conditions. The board shall render a decision on a request
57 35 for temporary authority within ninety days after the date of
58 1 filing of the request. The decision shall be effective
58 2 immediately. If the board has not rendered a final decision
58 3 with respect to a suspended rate, charge, schedule, or
58 4 regulation upon the expiration of ten months after the filing

58 5 date, plus the length of any delay that necessarily results
58 6 either from the failure of the delivery service provider to
58 7 exercise due diligence in connection with the proceedings or
58 8 from intervening judicial proceedings, the portion of the
58 9 rate, charge, schedule, or regulation that was approved by the
58 10 board on a temporary basis shall be deemed finally approved by
58 11 the board and the delivery service provider may place that
58 12 portion of the rate, charge, schedule, or regulation into
58 13 effect on a permanent basis, and also may place into effect
58 14 subject to refund and until the final decision of the board
58 15 any portion of the suspended rate, charge, schedule, or
58 16 regulation not previously approved on a temporary basis by
58 17 filing with the board a bond or other undertaking approved by
58 18 the board.

58 19 The board shall determine the rate of interest to be paid
58 20 by a delivery service provider to persons receiving refunds.

58 21 j. INVESTIGATIONS. If a written request is filed with the
58 22 board by any person or body politic, or filed by the board
58 23 upon its own motion, requesting the board to determine the
58 24 reasonableness of a distribution service rate, charge,
58 25 schedule, or regulation or other unbundled rate, charge,
58 26 schedule, or regulation subject to the jurisdiction of the
58 27 board, or anything done or omitted to be done in contravention
58 28 of this chapter by a delivery service provider that is an
58 29 electric company, the written complaint shall be forwarded by
58 30 the board to the delivery service provider, which shall be
58 31 called upon to satisfy the complaint or to answer it in
58 32 writing within a reasonable time to be specified by the board.
58 33 Copies of the written complaint forwarded by the board to the
58 34 delivery service provider and copies of all correspondence
58 35 from the delivery service provider in response to the
59 1 complaint shall be provided by the board in an expeditious
59 2 manner to the consumer advocate. If the board determines the
59 3 delivery service provider's response is inadequate and there
59 4 appears to be any reasonable ground for investigating the
59 5 complaint, the board shall promptly initiate a formal
59 6 proceeding. If the consumer advocate determines the delivery
59 7 service provider's response to the complaint is inadequate,
59 8 the consumer advocate may file a petition with the board which
59 9 shall promptly initiate a formal proceeding if the board
59 10 determines that there is any reasonable ground for
59 11 investigating the complaint. The complainant or the delivery
59 12 service provider also may petition the board to initiate a
59 13 formal proceeding, which petition shall be granted if the
59 14 board determines that there is any reasonable ground for
59 15 investigating the complaint. A formal proceeding may be
59 16 initiated at any time by the board on its own motion. If a
59 17 formal proceeding is initiated, the board shall set the case
59 18 for hearing and give notice as it deems appropriate. If the
59 19 board, after a hearing held after reasonable notice, finds a
59 20 delivery service provider's rate, charge, schedule, or
59 21 regulation subject to the jurisdiction of the board is unjust,
59 22 unreasonable, discriminatory, or otherwise in violation of any
59 23 law, the board shall determine a just, reasonable, and
59 24 nondiscriminatory rate, charge, schedule, or regulation to be
59 25 observed and enforced.

59 26 k. RATE COMPLAINTS BY CONSUMER ADVOCATE. If the consumer
59 27 advocate files a complaint with the board alleging that a
59 28 delivery service provider's regulated rates are excessive, the
59 29 disputed amount shall be specified in the petition. The board
59 30 shall promptly initiate a formal proceeding if it determines
59 31 that there is any reasonable ground for investigating the
59 32 complaint. If the board determines to initiate a formal
59 33 proceeding, the delivery service provider, within the time
59 34 prescribed by the board, shall file a bond or undertaking
59 35 approved by the board conditioned upon the refund in a manner
60 1 prescribed by the board of amounts collected after the date of

60 2 filing of the petition in excess of a rate or charge finally
60 3 determined by the board to be lawful. If after hearing the
60 4 board finds that the delivery service provider's regulated
60 5 rates are unlawful or not just and reasonable, the board shall
60 6 order a refund, with interest, of amounts collected after the
60 7 date of filing of the petition that are determined to be in
60 8 excess of the amounts which would have been collected under
60 9 the rates finally approved. However, the board shall not
60 10 order a refund that is greater than the amount specified in
60 11 the petition, plus interest, and if the board fails to render
60 12 a decision within ten months following the date of filing of
60 13 the petition, the board shall not order a refund of any excess
60 14 amounts that are collected after the expiration of that ten-
60 15 month period and prior to the date the decision is rendered.

60 16 1. PROSPECTIVE EFFECT. A determination by the board of a
60 17 distribution service rate or charge or another unbundled rate,
60 18 charge, schedule, or regulation pursuant to paragraph "i" or
60 19 "j" that is based upon a variance from previously established
60 20 regulatory principles shall apply prospectively from the date
60 21 of the decision.

60 22 m. RULES GOVERNING HEARINGS. The board shall adopt rules
60 23 to provide for the completion of proceedings under this
60 24 subsection within ten months after the date of the filing of
60 25 the application or complaint. The rules shall include
60 26 reasonable time limitations for the submission or completion
60 27 of comments, testimony, exhibits, briefs, and hearings, which
60 28 the board may extend upon the request of a party to the
60 29 proceeding for good cause shown. Additional time granted to a
60 30 party shall not extend the amount of time for which a delivery
60 31 service provider is required to file a bond or other
60 32 undertaking. If additional time is granted, the board may
60 33 extend the ten-month period during which a delivery service
60 34 provider is prohibited from placing its entire rate increase
60 35 request into effect, but an extension shall not exceed the
61 1 aggregate amount of all additional time granted under this
61 2 paragraph. The initial rules shall be proposed by March 1,
61 3 2001.

61 4 n. CONSIDERATION OF CURRENT INFORMATION. The board shall
61 5 adopt rules that require the board in rate proceedings under
61 6 this subsection to consider the use of the most current test
61 7 period possible in determining reasonable and just rates,
61 8 subject only to the availability of existing and verifiable
61 9 data with respect to costs and revenues, and in addition to
61 10 consider verifiable data that exist as of the filing date of
61 11 the application or complaint with respect to known and
61 12 measurable changes in costs not associated with a different
61 13 level of revenue, and known and measurable revenues not
61 14 associated with a different level of costs, that are to occur
61 15 at any time within twelve months after the date of the filing.
61 16 This paragraph shall not limit the authority of the board to
61 17 consider other evidence in proceedings under this subsection.
61 18 The initial rules shall be proposed by March 1, 2001.

61 19 o. TARIFFS POSTED. A rate, charge, schedule, term,
61 20 condition, or regulation applicable to distribution service or
61 21 other unbundled service that has been approved by the board or
61 22 is otherwise in effect pursuant to this subsection shall be
61 23 posted on the board's website within twenty-four hours after
61 24 being placed into effect.

61 25 p. ACCOUNTS RENDERED TO THE BOARD.

61 26 (1) A delivery service provider that is an electric
61 27 company shall keep and render to the board, in the manner and
61 28 form prescribed by rules of the board, uniform accounts of all
61 29 business transacted.

61 30 (2) A delivery service provider that is an electric
61 31 company and that is engaged directly or indirectly in any
61 32 other business than that of the provision of delivery services
61 33 to the public, if required by rules adopted by the board,

61 34 shall keep and render separately to the board in like manner
61 35 and form the accounts of all such other business, in which
62 1 case this subsection shall apply to the books, accounts,
62 2 papers, and records of such other business and all profits and
62 3 losses may be taken into consideration by the board if deemed
62 4 relevant to the general fiscal condition of the delivery
62 5 service provider.

62 6 (3) A delivery service provider that is an electric
62 7 company is required to keep and render its books, accounts,
62 8 papers, and records accurately and faithfully in the manner
62 9 and form prescribed by rules of the board, and to comply with
62 10 all directions of the board relating to such books, accounts,
62 11 papers, and records.

62 12 (4) The board shall consult with other state and federal
62 13 regulatory bodies for the purpose of eliminating accounting
62 14 discrepancies with regard to the keeping of accounts before
62 15 prescribing any system of account to be kept by a delivery
62 16 service provider. The initial rules shall be proposed by
62 17 March 1, 2001.

62 18 q. JURISDICTION OVER DELIVERY SERVICE PROVIDERS. The
62 19 jurisdiction and powers of the board shall extend as provided
62 20 in this chapter to a delivery service business of an electric
62 21 company operating within this state to the full extent
62 22 permitted by the Constitution and laws of the United States.

62 23 r. AUDIT OF DELIVERY SERVICE OPERATIONS. The board shall
62 24 adopt rules to administer a program for the continuous review
62 25 of operations of a delivery service provider that is an
62 26 electric company with respect to all matters that affect rates
62 27 or charges for delivery service. The initial rules shall be
62 28 proposed by March 1, 2001.

62 29 s. LOBBYING COSTS. A delivery service provider that is an
62 30 electric company is prohibited from including either directly
62 31 or indirectly the costs of lobbying in the charges or rates
62 32 subject to the jurisdiction of the board.

62 33 t. LEGAL COSTS. Legal costs and attorney fees incurred by
62 34 a delivery service provider that is an electric company in a
62 35 judicial review proceeding in state or federal court involving
63 1 the validity of any action of the board shall not be included
63 2 either directly or indirectly in the charges or rates subject
63 3 to the jurisdiction of the board except to the extent that
63 4 recovery of legal costs and attorney fees is allowed by the
63 5 board. The board shall allow recovery of the reasonable legal
63 6 costs and attorney fees incurred in judicial review. The
63 7 board may consider the degree of success of the legal
63 8 arguments of the delivery service provider in determining the
63 9 reasonable legal costs and attorney fees to be allowed.

63 10 u. ADVERTISING. Except as provided in this paragraph, a
63 11 delivery service provider that is an electric company shall
63 12 not include either directly or indirectly in the charges or
63 13 rates subject to the jurisdiction of the board the costs of
63 14 advertising other than advertising regarding public safety or
63 15 advertising that is required by the board or by any other
63 16 state or federal regulation. However, this restriction does
63 17 not apply to advertising which is deemed by the board to be in
63 18 the public interest and which is approved by the board.

63 19 An advertisement which is published, broadcast, or
63 20 otherwise displayed or disseminated to the public by a
63 21 delivery service provider that is an electric company, the
63 22 costs of which will be included in the rates or charges
63 23 subject to the jurisdiction of the board and which is not
63 24 public safety advertising or advertising required by the board
63 25 or by other state or federal regulation, shall include a
63 26 statement in the advertisement that the costs of the
63 27 advertisement are being charged to the users of delivery
63 28 service. This paragraph does not apply to a delivery service
63 29 provider's product or service that is or becomes subject to
63 30 competition as determined by the board.

63 31 v. ANNUAL REPORTS OF DELIVERY SERVICE PROVIDERS. The
63 32 board shall adopt rules prescribing the form and content of an
63 33 annual report to be filed with the board by a delivery service
63 34 provider, other than a consumer-owned utility. The board
63 35 shall review annual reports submitted pursuant to the rules.
64 1 The board may commence rate-review proceedings under this
64 2 chapter for an electric company if an annual report indicates
64 3 that its earnings are excessive. The initial rules shall be
64 4 proposed by March 1, 2001.

64 5 6. DELIVERY SERVICE RATE REGULATION FOR CONSUMER-OWNED
64 6 UTILITIES.

64 7 a. LOCAL REGULATION. The rates for delivery service and
64 8 other unbundled services provided by a consumer-owned utility
64 9 and all other matters not specifically reserved to the board
64 10 by statute shall be regulated by the consumer-owned utility's
64 11 local governing body. An election made pursuant to section
64 12 476.1A by the board of directors or the membership of an
64 13 electric cooperative corporation or association to have the
64 14 cooperative's rates regulated by the board is rescinded
64 15 effective June 1, 1999.

64 16 b. POSTING. Rates, terms, and conditions of applicable
64 17 distribution services and other unbundled services provided by
64 18 a consumer-owned utility shall be posted on the board's
64 19 website. Any change in rates, terms, or conditions shall be
64 20 posted no less than twenty-four hours prior to becoming
64 21 effective.

64 22 c. NOTICE OF CHANGES. A consumer-owned utility shall give
64 23 written notice of any proposed increase in delivery service
64 24 rates or charges or other unbundled rates or charges to all
64 25 applicable and directly affected end-use consumers and
64 26 competitive electric service providers at least thirty days
64 27 prior to the effective date of the increase.

64 28 d. DISCRIMINATION PROHIBITED. A consumer-owned utility
64 29 shall not make or grant to any person any unreasonable
64 30 preference or advantage as to delivery service rates,
64 31 services, terms, or conditions or subject any person to
64 32 unreasonable prejudice or disadvantage. This paragraph shall
64 33 not be construed to prohibit a municipal utility from
64 34 providing preferential rates, terms, or conditions of services
64 35 to any department or function of municipal government pursuant
65 1 to section 384.91.

65 2 e. DISPUTES. The district court has original jurisdiction
65 3 concerning disputes with respect to the distribution service
65 4 rates and charges and other unbundled service rates of a
65 5 consumer-owned utility and all other matters concerning a
65 6 consumer-owned utility not specifically reserved to the board
65 7 by this chapter or another statute.

65 8 f. ANNUAL REPORTS OF CONSUMER-OWNED DELIVERY SERVICE
65 9 PROVIDERS. The board shall adopt rules prescribing the form
65 10 and content of an annual report to be filed with the board by
65 11 a consumer-owned delivery service provider. The initial rules
65 12 shall be proposed by March 1, 2001.

65 13 7. CONTROL AREA OPERATIONS.

65 14 a. REGULATORY JURISDICTION. A rate, charge, term, and
65 15 condition of distribution services provided within the state
65 16 by a control area operator that is an electric company is
65 17 subject to subsection 5 and to regulation by the board except
65 18 to the extent such rate, charge, term, or condition is subject
65 19 to the exclusive jurisdiction of the federal energy regulatory
65 20 commission or another federal agency. Distribution services
65 21 may include load profiling, financial settlement, distribution
65 22 system scheduling, and ancillary services to the extent not
65 23 subject to exclusive federal jurisdiction. The board shall
65 24 approve rates, charges, terms, conditions, and processes for
65 25 load profiling and financial settlement that are just,
65 26 reasonable, and nondiscriminatory. The board shall adopt
65 27 rules governing the filing and posting of control area

65 28 operator's services, rates, charges, terms, conditions, and
65 29 processes subject to its jurisdiction and changes in such
65 30 services, rates, charges, terms, conditions, and processes.
65 31 The initial rules shall be proposed by October 1, 1999.

65 32 b. NOTICE TO BOARD OF DEFAULT. If a control area operator
65 33 becomes aware that a competitive electric service provider has
65 34 substantially failed to schedule energy for two consecutive
65 35 twenty-four-hour periods, failed to deliver energy scheduled
66 1 with or committed to the control area operator for two
66 2 consecutive twenty-four-hour periods, or has otherwise
66 3 substantially defaulted upon its obligations to or agreements
66 4 with the control area operator, the control area operator
66 5 shall notify the board and the affected delivery service
66 6 provider of such occurrence as soon as practicable. A control
66 7 area operator shall use reasonable commercial efforts to
66 8 provide power supply services on an emergency basis to end-use
66 9 consumers if a competitive electric service provider defaults.
66 10 However, notwithstanding subsection 3, paragraph "b", a
66 11 control area operator shall not be liable to an end-use
66 12 consumer for failure to provide emergency power supply
66 13 services.

66 14 The board shall adopt rules addressing the failure of a
66 15 competitive electric service provider to comply with the
66 16 terms, conditions, and obligations of control area services.
66 17 The rules shall provide for finding a replacement competitive
66 18 electric service provider or competitive electric service
66 19 providers to serve the end-use consumers of the defaulting
66 20 competitive electric service provider as soon as feasible in
66 21 order to eliminate the burden on the control area operator to
66 22 provide power supply services for such consumers. The rules
66 23 shall include a provision for the board or an entity
66 24 designated by the board to notify affected end-use consumers
66 25 if a need exists for the end-use consumers to select a new
66 26 competitive electric service provider. The rules shall also
66 27 include a provision that permits a control area operator to
66 28 recover all reasonable costs incurred by the control area
66 29 operator in remedying the competitive electric service
66 30 provider's failure and providing service to the end-use
66 31 consumers of the competitive electric service provider to the
66 32 extent the competitive electric service provider fails to pay
66 33 such costs. The initial rules shall be proposed by October 1,
66 34 2000.

66 35 8. STANDARDS OF CONDUCT.

67 1 a. DELIVERY SERVICE PROVIDERS. No later than November 1,
67 2 2001, each delivery service provider shall post on the board's
67 3 website standards of conduct, to be effective May 1, 2002,
67 4 that require the delivery service provider to do all of the
67 5 following:

67 6 (1) Apply all tariff provisions in a nondiscriminatory and
67 7 comparable service manner to similarly situated persons.

67 8 (2) Process requests for delivery service in a
67 9 nondiscriminatory manner.

67 10 (3) Make available any distribution service discounts,
67 11 rebates, or waiver of fees on a nondiscriminatory basis to all
67 12 similarly situated persons.

67 13 (4) Comply with section 476B.6, subsection 4, paragraph
67 14 "k".

67 15 (5) Deny to any competitive electric service provider
67 16 preferential access to information related to the distribution
67 17 of electricity which is not otherwise made publicly available,
67 18 except information regarding the competitive electric service
67 19 provider's own end-use consumers.

67 20 (6) Not represent that any advantages accrue to end-use
67 21 consumers or others in the use of the delivery service
67 22 provider's services as a result of that end-use consumer or
67 23 others dealing with any particular competitive electric
67 24 service provider.

67 25 (7) Establish a complaint procedure applicable to the
67 26 standards of conduct, and process and resolve complaints in
67 27 accordance with such procedure.

67 28 (8) Develop written agreements with generating plant
67 29 operators as needed to maintain distribution system
67 30 reliability.

67 31 (9) Abide by the applicable federal energy regulatory
67 32 commission standards of conduct when providing delivery
67 33 service subject to the jurisdiction of the federal energy
67 34 regulatory commission.

67 35 (10) Take reasonable steps to keep its delivery system in
68 1 operation in emergency circumstances affecting system
68 2 reliability.

68 3 (11) Prohibit discrimination in the extension or repair of
68 4 the delivery system facilities.

68 5 (12) If the delivery service provider is an electric
68 6 company, maintain separate books, records, and accounts for
68 7 distribution service operations. If the delivery service
68 8 provider is a consumer-owned utility, maintain records in such
68 9 a manner as to enable delivery service data to reasonably be
68 10 separated from data that do not pertain to delivery services.

68 11 (13) With respect to distribution service and control area
68 12 operator employees engaged in receiving requests from a
68 13 competitive electric service provider for reservation or
68 14 scheduling of energy over the distribution system, prohibit
68 15 the sharing of such employees with a competitive electric
68 16 service provider and physically separate such employees from a
68 17 competitive electric service provider.

68 18 A consumer-owned utility shall not be required to comply
68 19 with subparagraph (13), but shall be required to comply with
68 20 paragraph "b", subparagraph (7), with respect to employees
68 21 engaged in receiving requests from a competitive electric
68 22 service provider for reservation or scheduling of energy over
68 23 the delivery system.

68 24 The board shall review any posting of an electric company
68 25 and, if it concludes there are reasonable grounds to do so,
68 26 may hold a hearing to determine if the standards comply with
68 27 this subsection.

68 28 b. CONTROL AREA OPERATORS. No later than November 1,
68 29 2001, each control area operator that engages in retail
68 30 electric sales within a control area, either directly or
68 31 through its own corporate structure or an affiliate, shall
68 32 post on the board's website standards of conduct, to be
68 33 effective May 1, 2002, that require the control area operator
68 34 to do all of the following:

68 35 (1) Disclose tariff information to users of the control
69 1 area and apply all tariff provisions on a nondiscriminatory
69 2 basis to similarly situated persons.

69 3 (2) If the control area operator is an electric company,
69 4 maintain separate books of accounts and financial records from
69 5 any competitive electric service provider. If the control
69 6 area operator is a consumer-owned utility, maintain records in
69 7 such a manner as to enable control area service data to
69 8 reasonably be separated from other data.

69 9 (3) Prohibit the tying of the provision of any control
69 10 area services to the selection of any particular competitive
69 11 electric service provider or the selection of a product or
69 12 service from any particular competitive electric service
69 13 provider.

69 14 (4) Deny a competitive electric service provider
69 15 preferential access to information related to control area
69 16 operations which is not otherwise made publicly available,
69 17 except with respect to information regarding the competitive
69 18 electric service provider's own end-use consumers.

69 19 (5) Solicit, from time to time, competitive bids for
69 20 ancillary services, to the extent not inconsistent with any
69 21 applicable federal requirements.

69 22 (6) Administer energy balancing and financial settlement
69 23 performed by the control area in a nondiscriminatory manner.
69 24 (7) Develop and administer a method for maintaining the
69 25 integrity of proprietary and confidential information.
69 26 (8) Develop and post on the board's website a system for
69 27 reporting declared emergencies. However, a control area
69 28 operator shall not declare an emergency situation for the
69 29 purpose of unreasonably discriminating against any other
69 30 person.

69 31 The board shall review the posting of standards of conduct
69 32 of an electric company and, if it concludes there are
69 33 reasonable grounds to do so, may hold a hearing to determine
69 34 if the standards comply with the provisions of this
69 35 subsection.

70 1 c. INFORMATIONAL FILING AND ADDITIONAL STANDARDS FOR
70 2 ELECTRIC COMPANIES. A delivery service provider or control
70 3 area operator that is an electric company shall submit to the
70 4 board such information as the board may require in order to
70 5 evaluate the actual effectiveness of the standards of conduct
70 6 in fulfilling the purposes of this chapter. The board, upon
70 7 its own motion or upon receipt of a complaint from any person
70 8 alleging a violation of the standards of conduct, may
70 9 investigate a delivery service provider's or control area
70 10 operator's compliance with the standards of conduct. In
70 11 addition, the board may add new standards of conduct by rule,
70 12 if it determines the existing standards are not sufficient to
70 13 ensure open access and comparable and nondiscriminatory
70 14 service.

70 15 9. ADHERENCE TO SCHEDULES. A delivery service provider
70 16 shall not directly or indirectly charge a greater compensation
70 17 for its services than that prescribed in its tariffs, and a
70 18 delivery service provider shall not make or grant any
70 19 unreasonable preferences or advantages as to rates, charges,
70 20 or services to any person, or subject any person to any
70 21 unreasonable prejudice or disadvantage.

70 22 10. AFFILIATES OF DELIVERY SERVICE PROVIDERS.

70 23 a. Except as provided in this section or as otherwise
70 24 approved by the board, a delivery service provider that is an
70 25 electric company shall not directly or indirectly include in
70 26 regulated rates or charges any costs or expenses of an
70 27 affiliate engaged in any business other than delivery service
70 28 unless the affiliate provides goods or services to the
70 29 delivery service provider in accordance with rules adopted
70 30 pursuant to this subsection. Any costs included in regulated
70 31 rates or charges shall be reasonably necessary and appropriate
70 32 for the delivery service business.

70 33 b. A delivery service provider that is an electric company
70 34 shall only provide regulated services in a manner that
70 35 minimizes the possibility of cross-subsidization of
71 1 unregulated services and unfair competitive advantage and
71 2 shall provide services as described in subsection 11 only in a
71 3 manner that minimizes the possibility of cross-subsidization
71 4 or unfair competitive advantage.

71 5 c. A delivery service provider that is an electric company
71 6 shall keep and render to the board upon request delivery
71 7 service records and records pertaining to services as
71 8 described in subsection 11 separate from affiliates or
71 9 operations that do not provide delivery service.

71 10 d. For a delivery service provider that is an electric
71 11 company, the board, for delivery service ratemaking purposes,
71 12 may inquire as to and prescribe the allocation of
71 13 capitalization, earnings, debts, shared corporate services,
71 14 and expenses related to ownership, operation, or management of
71 15 affiliates.

71 16 e. Not later than October 1, 2000, the board shall propose
71 17 rules identifying those services that may be shared between a
71 18 delivery service provider or control area operator that is an

71 19 electric company and an affiliated competitive electric
71 20 service provider. Such rules shall not prevent a delivery
71 21 service provider or control area operator from using the
71 22 following shared corporate services, even when shared with an
71 23 affiliated competitive electric service provider: corporate
71 24 oversight; governance; administrative services, including
71 25 travel administration, security, printing, graphics, custodial
71 26 services, secretarial support, mail services and records
71 27 management; financial management services, including
71 28 accounting, treasury, internal audit, tax and financial
71 29 reporting and planning; data processing; shareholder services;
71 30 strategic corporate planning; human resources; employee
71 31 benefits; regulatory services; legal services; lobbying; and
71 32 nonmarket research and development activities. Such rules
71 33 shall not prevent a delivery service provider or control area
71 34 operator from using such shared corporate services even when
71 35 shared with an affiliated competitive electric service
72 1 provider. This paragraph shall not be construed to limit the
72 2 authority of the board to determine the amount of shared
72 3 corporate service costs, if any, to be included in regulated
72 4 rates for distribution service and other unbundled services
72 5 under section 476B.4 and this section.

72 6 f. A contract or arrangement providing for the furnishing
72 7 or receiving of goods and services between a delivery service
72 8 provider that is an electric company and an affiliate shall be
72 9 filed with the board in a time frame established by rule of
72 10 the board. The initial rules shall be proposed by March 1,
72 11 2001.

72 12 g. A contract or arrangement for the purchase, sale,
72 13 lease, or exchange of any property, right, or thing between a
72 14 delivery service provider that is an electric company and any
72 15 affiliate shall be filed with the board in a time frame
72 16 established by rule by the board. The initial rules shall be
72 17 proposed by March 1, 2001.

72 18 h. A contract or arrangement providing for a loan of money
72 19 or an extension or renewal of a loan of money or any similar
72 20 transaction between a delivery service provider that is an
72 21 electric company and an affiliate, whether as guarantor,
72 22 endorser, surety, or otherwise, shall be filed with the board
72 23 in a time frame established by rule of the board. The initial
72 24 rules shall be proposed by March 1, 2001.

72 25 i. A contract or agreement filed pursuant to paragraph
72 26 "f", "g", or "h" and determined by the board to be a
72 27 confidential record pursuant to section 22.7 shall be
72 28 available for review by an interested party under rules
72 29 protecting the confidentiality of the contract or agreement as
72 30 adopted by the board. The initial rules shall be proposed by
72 31 March 1, 2001. The contract or agreement shall be returned to
72 32 the delivery service provider filing the confidential record
72 33 within sixty days after the contract or agreement is filed.

72 34 j. The board shall adopt rules excluding from the filing
72 35 requirements of paragraphs "f", "g", and "h", the filing of a
73 1 contract or agreement for a transaction with an affiliate
73 2 where the amount of consideration involved does not exceed a
73 3 threshold level of annual distribution and transmission
73 4 revenues of the delivery service provider. The initial rules
73 5 to be adopted pursuant to this paragraph shall be proposed by
73 6 March 1, 2001.

73 7 k. In a proceeding involving the rates, charges, or
73 8 practices of a delivery service provider that is an electric
73 9 company, the board may exclude from rates or charges any
73 10 unreasonable payment or compensation to an affiliate made
73 11 pursuant to a contract or arrangement whether or not filed
73 12 under this subsection. For ratemaking purposes, the board may
73 13 exclude the payment of compensation to an affiliate or adjust
73 14 the revenue received from an affiliate associated with any
73 15 contract or arrangement required to be filed with the board if

73 16 the contract or arrangement is not so filed.

73 17 1. The board has the same jurisdiction over modification
73 18 of or amendment to a contract or arrangement filed under this
73 19 subsection as it has over the original contracts or
73 20 arrangements. A modification of or amendment to a contract or
73 21 arrangement shall also be filed in a time frame as determined
73 22 by the board.

73 23 m. The board shall consult with other state and federal
73 24 regulatory agencies for the purpose of eliminating duplicate
73 25 or conflicting filing requirements and may adopt rules which
73 26 provide that comparable information required to be filed with
73 27 other state or federal regulatory agencies may be accepted by
73 28 the board in lieu of information required by this subsection.

73 29 n. The board may adopt rules or issue orders which exempt
73 30 a class of contracts or arrangements from this subsection, or
73 31 waive the requirements of this subsection if the board finds
73 32 that the exemption or waiver is in the public interest.

73 33 o. The board may periodically retain a nationally or
73 34 regionally recognized independent auditing firm to conduct an
73 35 audit of the transactions between a delivery service provider
74 1 that is an electric company and its affiliates to investigate
74 2 compliance with this subsection. An affiliate transaction
74 3 audit shall not be conducted more frequently than twelve
74 4 months after the conclusion of the most recently completed
74 5 audit, unless ordered by the board for good cause after notice
74 6 and opportunity for hearing. The cost of the audit shall be
74 7 paid by the delivery service provider to the independent
74 8 auditing firm and shall be included in its regulated rates and
74 9 charges, unless otherwise ordered by the board for good cause
74 10 after providing the delivery service provider the opportunity
74 11 for a hearing.

74 12 p. A delivery service provider that is a consumer-owned
74 13 utility shall keep and render to the board upon request
74 14 delivery service records in a manner as to enable delivery
74 15 service data to reasonably be separated from affiliates' data.
74 16 This subsection shall not be construed to authorize the board
74 17 to impose rates on a consumer-owned utility. Information
74 18 rendered to the board pursuant to this paragraph and
74 19 determined by the board to be a confidential record pursuant
74 20 to section 22.7 shall be returned to the delivery service
74 21 provider rendering the confidential record within sixty days
74 22 after rendering the confidential record or at the end of the
74 23 investigation or proceeding. Except as provided in this
74 24 subsection, a consumer-owned delivery service provider shall
74 25 not directly or indirectly include in delivery service rates
74 26 or charges any costs or expenses of an affiliate engaged in
74 27 any business other than delivery service unless the affiliate
74 28 provides goods and services to the delivery service provider.
74 29 Any costs included in rates or charges shall be reasonably
74 30 necessary and appropriate for the delivery service business,
74 31 and shall be market priced and directly related to such goods
74 32 or services in a manner that avoids cross-subsidization or
74 33 unfair competitive advantage.

74 34 11. CROSS-SUBSIDIZATION PROHIBITED. A delivery service
74 35 provider that is an electric company shall not directly or
75 1 indirectly include in distribution service rates or charges
75 2 any costs or expenses attributable to the sale, lease, or
75 3 other conveyance of commercial and residential electric
75 4 appliances, interior lighting systems or fixtures, or electric
75 5 heating, ventilating, or air conditioning systems and
75 6 component parts, or the servicing, repair, or maintenance of
75 7 such equipment. Except for contracts existing as of July 1,
75 8 1996, a delivery service provider that is an electric company,
75 9 or its affiliate, shall not use the delivery service
75 10 provider's vehicles, service tools and instruments, or
75 11 employees, the costs, salaries, or benefits of which are
75 12 recoverable in regulated rates for distribution service, to do

75 13 either of the following:

75 14 a. Install, service, or repair residential or commercial
75 15 electric heating, ventilating, or air conditioning systems, or
75 16 interior lighting systems and fixtures.

75 17 b. Sell at retail electric heating, ventilating, air
75 18 conditioning, or interior lighting equipment.

75 19 For purposes of this subsection, "commercial" means a place
75 20 of business primarily used for the storage or sale, at
75 21 wholesale or retail, of goods, wares, services, or
75 22 merchandise, as well as a nonprofit institution and a business
75 23 office. This subsection shall not be construed to prohibit a
75 24 delivery service provider from using its vehicles, service
75 25 tools and instruments, and employees to market its systems,
75 26 services, and equipment or to eliminate an emergency or threat
75 27 to public safety.

75 28 12. REORGANIZATION OF DELIVERY SERVICE PROVIDERS THAT ARE
75 29 ELECTRIC COMPANIES.

75 30 a. For purposes of this subsection, "reorganization" means
75 31 any of the following:

75 32 (1) The acquisition, sale, lease, or any other
75 33 disposition, directly or indirectly, including by merger or
75 34 consolidation, of the whole or any substantial part of the
75 35 regulated delivery service assets of an electric company.

76 1 (2) Until the cessation of standard offer service under
76 2 section 476B.8, subsection 1, the sale by an electric company
76 3 to any person, or the transfer by an electric company to any
76 4 of its unregulated affiliates, of any interest in a generation
76 5 unit located in this state, the costs of which have been
76 6 included in the standard offer service rates.

76 7 (3) The purchase or other acquisition or sale or other
76 8 disposition of the controlling capital stock of any delivery
76 9 service provider that is an electric company, either directly
76 10 or indirectly.

76 11 b. A reorganization shall not take place unless the board
76 12 approves. Prior to reorganization, an applicant shall file
76 13 with the board a proposal for reorganization with supporting
76 14 testimony and evidence addressing the items specified in
76 15 paragraph "d".

76 16 c. A proposal for reorganization shall be approved or
76 17 disapproved within ninety days after its filing. However, the
76 18 board may extend the time for its decision by no more than an
76 19 additional ninety-day period for good cause. The board shall
76 20 provide for notice and opportunity for hearing on the
76 21 proposal. The notice of hearing shall be provided no later
76 22 than fifty days after the proposal for reorganization has been
76 23 filed.

76 24 d. In its review of a proposal for reorganization, the
76 25 board shall consider all of the following:

76 26 (1) Whether the board will have reasonable access to
76 27 books, records, documents, and other information relating to
76 28 the delivery service provider or any affiliates with which the
76 29 delivery service provider has contracts.

76 30 (2) Whether the delivery service provider's ability to
76 31 attract capital on reasonable terms, including the maintenance
76 32 of a reasonable capital structure, is impaired.

76 33 (3) Whether the ability of the delivery service provider
76 34 to provide safe, reasonable, and adequate delivery service is
76 35 impaired.

77 1 (4) Whether users of the delivery service are
77 2 detrimentally affected.

77 3 (5) Whether the public interest is detrimentally affected,
77 4 including, but not limited to, whether the proposed
77 5 reorganization is likely to have a significant adverse effect
77 6 on competition in this state.

77 7 (6) Whether the delivery service provider has shown that
77 8 it will maintain within the state those administrative,
77 9 technical, and operating personnel necessary for the provision

77 10 of reasonably safe, reliable, and prompt delivery services and
77 11 facilities, and that such personnel shall be strategically
77 12 located by the delivery service provider to ensure that end-
77 13 use consumers receive safe, reliable, and prompt service.

77 14 e. The board may adopt rules or issue orders which exempt
77 15 a class of reorganization from this subsection if the board
77 16 finds, with respect to the class of reorganization, that
77 17 review is not necessary in the public interest. The board may
77 18 waive any or all of the requirements of this subsection, if
77 19 the board finds that board review is not necessary in the
77 20 public interest.

77 21 f. In approving any proposed reorganization pursuant to
77 22 this subsection, the board may impose such terms, conditions,
77 23 or requirements as in its judgment are necessary to protect
77 24 the financial and operational integrity of the delivery
77 25 service provider.

77 26 13. JOINT ADVERTISING PROHIBITED.

77 27 a. No later than May 1, 2002, a delivery service provider
77 28 that is an electric company shall use a name that is distinct
77 29 from any affiliated competitive electric service provider. An
77 30 affiliated competitive electric service provider may use any
77 31 name and logo of its choosing, including that of the incumbent
77 32 provider or parent company. The board shall determine whether
77 33 the name of the delivery service provider is distinct from any
77 34 affiliated competitive electric service provider. Except as
77 35 provided in rules adopted by the board, the delivery service
78 1 provider shall not identify its affiliation with a competitive
78 2 electric service provider or the parent of a competitive
78 3 electric service provider either through a tag line or other
78 4 means, except that a common logo may be used.

78 5 b. A delivery service provider or a control area operator
78 6 of an electric company shall neither jointly advertise nor
78 7 jointly market its services or products with an affiliated
78 8 competitive electric service provider. However, this
78 9 subsection does not preclude a delivery service provider from
78 10 having joint meetings and contacts with end-use consumers and
78 11 competitive electric service providers, including affiliated
78 12 competitive electric service providers, for legitimate
78 13 business purposes. The board shall adopt rules regarding such
78 14 meetings and purposes. The initial rules shall be proposed by
78 15 October 1, 2000.

78 16 Sec. 10. NEW SECTION. 476B.10 RESPONSIBILITIES AND
78 17 RIGHTS OF COMPETITIVE ELECTRIC SERVICE PROVIDERS.

78 18 1. GENERAL. The responsibilities and rights of a licensed
78 19 competitive electric service provider include those specified
78 20 in this section and elsewhere in this chapter.

78 21 2. RESPONSIBILITIES AND RIGHTS.

78 22 a. A competitive electric service provider may do any of
78 23 the following:

78 24 (1) To the extent permitted by its license, offer and
78 25 enter into contracts to provide competitive electric services
78 26 to end-use consumers.

78 27 (2) Purchase delivery services from a delivery service
78 28 provider that is an electric company to sell to end-use
78 29 consumers, subject to this chapter and any applicable delivery
78 30 service tariffs and board rules.

78 31 (3) Purchase delivery services from a delivery service
78 32 provider that is a consumer-owned utility at the discretion of
78 33 the consumer-owned utility and subject to the terms and
78 34 conditions of the consumer-owned utility.

78 35 (4) Consistent with the rules adopted pursuant to section
79 1 476B.6, subsection 4, require a money deposit from an end-use
79 2 consumer as a condition of service, with any deposit so
79 3 required becoming part of the contract between the end-use
79 4 consumer and the competitive electric service provider.

79 5 (5) Bill for services in accordance with section 476B.12.

79 6 (6) With the agreement of an end-use consumer, install,

79 7 own, maintain, and read a meter in accordance with section
79 8 476B.11.

79 9 b. A competitive electric service provider shall do all of
79 10 the following:

79 11 (1) Comply with all applicable environmental, safety, and
79 12 service standards.

79 13 (2) Be able to demonstrate the truth of any claim that it
79 14 makes to end-use consumers regarding types of fuel used to
79 15 produce energy.

79 16 (3) Pay a delivery service provider for services provided
79 17 and charges assessed to a competitive electric service
79 18 provider or to an end-use consumer for whom the competitive
79 19 electric service provider has agreed to assume payment
79 20 responsibility, without regard to whether the competitive
79 21 electric service provider receives payment from the end-use
79 22 consumer.

79 23 (4) Pay a delivery service provider for services provided
79 24 to an end-use consumer and charges assessed to an end-use
79 25 consumer for which the delivery service provider has
79 26 authorized the competitive electric service provider to bill
79 27 and collect, without regard to whether the competitive
79 28 electric service provider receives payment from the end-use
79 29 consumer.

79 30 (5) If requested, provide to each delivery service
79 31 provider, schedules and schedule changes submitted for
79 32 deliveries to the delivery service provider at the same time
79 33 that they are submitted to the control area operator.

79 34 (6) If operating generating facilities in Iowa or offering
79 35 metering installation, meter maintenance, or meter reading
80 1 services within Iowa, perform these activities in a prompt,
80 2 safe, and reliable manner; maintain within the state those
80 3 administrative, technical, and operating personnel necessary
80 4 for the provision of reasonably safe, reliable, and prompt
80 5 generation and metering services and facilities; and
80 6 demonstrate that personnel involved in installing, operating,
80 7 and maintaining generating facilities or electric meters and
80 8 metering equipment have the requisite skills, knowledge,
80 9 experience, and training to perform those work functions
80 10 necessary to provide high-quality, safe, reliable, and prompt
80 11 services. Such demonstration may include a showing that
80 12 applicable personnel have completed an accredited or
80 13 recognized apprenticeship training program for the particular
80 14 skill, trade, or craft. This subparagraph shall only apply to
80 15 a competitive electric service provider that is a consumer-
80 16 owner utility to the extent that it provides competitive
80 17 electric service outside its assigned service area.

80 18 c. A competitive electric service provider shall not be
80 19 required to provide individual end-use consumer information,
80 20 including metering information, to other competitive electric
80 21 service providers.

80 22 d. This chapter is not intended to affect the activities
80 23 of a licensed competitive electric service provider in the
80 24 provision of goods and services other than the sale of
80 25 competitive electric services at retail in this state.

80 26 e. The board shall not regulate the rates or charges of
80 27 competitive electric services of or a competitive electric
80 28 service provider with the exception of the rates or charges
80 29 for standard offer service under section 476B.8, subsection 1.

80 30 Sec. 11. NEW SECTION. 476B.11 METERING AND METER
80 31 INFORMATION.

80 32 1. An existing meter owned by an incumbent provider shall
80 33 remain the property of the delivery service provider.

80 34 2. A delivery service provider shall install, own, and
80 35 maintain metering as deemed necessary by the delivery service
81 1 provider. However, this chapter shall not be construed to
81 2 require a delivery service provider to provide, install, own,
81 3 or maintain meters that are not necessary for the purpose of

81 4 providing delivery service.

81 5 3. A delivery service provider or a control area operator
81 6 shall not require interval metering as a condition for
81 7 residential end-use consumers and nonresidential end-use
81 8 consumers using fewer than twenty-five thousand kilowatt-hours
81 9 annually to exercise the option to choose competitive
81 10 services.

81 11 4. A meter owned by the delivery service provider shall be
81 12 installed by that delivery service provider regardless of the
81 13 location of the meter.

81 14 5. An end-use consumer may install metering not owned by
81 15 the delivery service provider on the consumer's side of the
81 16 main disconnect, subject to the reasonable connection
81 17 requirements of the delivery service provider and the rules of
81 18 the board. The end-use consumer is subject to the board's
81 19 rules regarding standards, installation, maintenance, and
81 20 testing of meters used for billing if the end-use consumer
81 21 chooses to own the meter. The delivery service provider may
81 22 disconnect electric service at such meter subject to board
81 23 rules.

81 24 6. An end-use consumer or such consumer's competitive
81 25 electric service provider may request that metering and
81 26 associated hardware be installed on the electric facilities of
81 27 the delivery service provider or on the delivery service
81 28 provider's side of the main disconnect, to enable the consumer
81 29 to take advantage of competitive service offerings. The meter
81 30 and associated hardware shall comply with applicable board
81 31 rules, and the costs of the meter shall be borne by the end-
81 32 use consumer or the competitive electric service provider.
81 33 The installation of the meter and associated hardware shall be
81 34 performed by the delivery service provider in accordance with
81 35 its requirements and the rules of the board. The delivery
82 1 service provider may charge a reasonable, cost-based fee for
82 2 the installation. The delivery service provider shall have
82 3 reasonable discretion in prescribing the location and
82 4 necessary connection equipment for the installation of meters
82 5 and associated hardware under this subsection.

82 6 7. If the meter will be owned by the end-use consumer or
82 7 the competitive electric service provider and will be
82 8 installed on the end-use consumer's side of the main
82 9 disconnect, the delivery service provider may offer to, but is
82 10 not required to, install the meter.

82 11 8. The board shall adopt rules relating to installation of
82 12 meters, uniform metering standards and practices, inspection
82 13 and testing programs, accuracy requirements, data transmission
82 14 protocols, load profiling, and maintenance of meter reading
82 15 records. The board shall not preclude the use of accurate
82 16 prepaid meters by a competitive electric service provider. In
82 17 addition, the board shall require a competitive electric
82 18 service provider and an end-use consumer owning a meter to
82 19 provide meter access to the delivery service provider for
82 20 disconnections, and may require a presence for meter testing.
82 21 The initial rules shall be proposed by October 1, 2000.

82 22 9. A person is entitled to read meters that the person
82 23 owns. A delivery service provider is entitled to reasonable
82 24 access to any meters connected to the delivery service
82 25 provider's system without regard to ownership. A competitive
82 26 electric service provider is responsible for obtaining the
82 27 meter information necessary to bill such provider's end-use
82 28 consumers. With the consent of the end-use consumer, a
82 29 competitive electric service provider serving the end-use
82 30 consumer is entitled to reasonable access to read any meters
82 31 owned by the delivery service provider on the end-use
82 32 consumer's premises for this purpose.

82 33 10. A delivery service provider is not required to read
82 34 meters but, to the extent such provider does so, the delivery
82 35 service provider shall make the meter information needed for

83 1 billing available to a competitive electric service provider
83 2 serving the metered premises. A delivery service provider may
83 3 assess the competitive electric service provider a reasonable
83 4 charge for making such information available to the
83 5 competitive electric service provider.

83 6 11. To avoid unnecessary reading of an end-use consumer's
83 7 meter, a competitive electric service provider responsible for
83 8 meter information gathering shall make end-use consumer usage
83 9 information needed for billing and financial settlement
83 10 available to the delivery service provider at a charge if the
83 11 competitive electric service provider so chooses. It shall
83 12 also make necessary information available to the control area
83 13 operator serving the metered premises.

83 14 Sec. 12. NEW SECTION. 476B.12 BILLING.

83 15 1. Subject to subsections 3 and 4, a delivery service
83 16 provider and a control area operator may bill an end-use
83 17 consumer and a competitive electric service provider for the
83 18 services each provides. A delivery service provider or a
83 19 control area operator shall not be required to bill for
83 20 services provided by a competitive electric service provider
83 21 except as provided in subsection 3, but either may do so at
83 22 its option for a cost-based charge.

83 23 2. A competitive electric service provider may bill an
83 24 end-use consumer for services it provides, subject to section
83 25 476B.6, subsection 2, and other applicable provisions of this
83 26 chapter and board rules.

83 27 3. An end-use consumer receiving delivery service from an
83 28 electric company is entitled to request a single consolidated
83 29 bill for competitive electric services, delivery services, and
83 30 control area services. Unless otherwise agreed by the
83 31 affected service providers, such consolidated billing is the
83 32 responsibility of the competitive electric service provider
83 33 selling competitive billing services.

83 34 4. An end-use consumer receiving delivery service from a
83 35 consumer-owned utility shall receive a bill from the consumer-
84 1 owned utility for services rendered and a bill from the
84 2 competitive electric service provider for competitive electric
84 3 services, unless otherwise agreed to by the affected service
84 4 providers. Any consolidated billing for an end-use consumer
84 5 receiving delivery service from a consumer-owned utility shall
84 6 be the responsibility of the consumer-owned utility, unless
84 7 otherwise agreed to by the consumer-owned utility and affected
84 8 competitive electric service providers. If a delivery service
84 9 provider that is a consumer-owned utility provides all billing
84 10 services for its associated licensed competitive electric
84 11 service provider function within its assigned service area,
84 12 such consumer-owned utility shall provide comparable service
84 13 within its assigned service area for all other competitive
84 14 electric service providers.

84 15 5. Not later than March 1, 2000, the board shall propose
84 16 rules related to billing services consistent with this
84 17 chapter. Except as provided in this chapter, the board shall
84 18 not restrict a delivery service provider or a control area
84 19 operator from contracting with a competitive electric service
84 20 provider to provide or receive billing services.

84 21 Sec. 13. NEW SECTION. 476B.13 SYSTEM BENEFIT PROGRAMS.

84 22 1. LOW-INCOME AFFORDABILITY AND ENERGY EFFICIENCY
84 23 PROGRAMS.

84 24 a. PURPOSE. For purposes of this subsection, "division"
84 25 means the division of community action agencies within the
84 26 department of human rights or its successor. A low-income
84 27 affordability program and a low-income energy efficiency
84 28 program are created to be administered by the division. The
84 29 purpose of the low-income affordability program is to
84 30 encourage the competitive market to serve the electric needs
84 31 of low-income, end-use consumers. The purpose of the low-
84 32 income energy efficiency program is to reduce the consumption

84 33 of electricity by low-income, end-use consumers through energy
84 34 efficiency improvements.

84 35 b. APPORTIONMENT. Low-income affordability and low-income
85 1 energy efficiency assistance shall be distributed statewide.
85 2 However, an electric company or consumer-owned utility shall
85 3 not receive in the first two years of the program an
85 4 apportionment of funding that is less than eighty percent of
85 5 the total amount of funding paid by end-use consumers in such
85 6 company's or utility's assigned service area under this
85 7 subsection, as determined by the division. Commencing in the
85 8 third year of the program and biannually after that year, if
85 9 the apportionment of funding to low-income, end-use consumers
85 10 in an assigned service area would be less than eighty percent
85 11 of the funds collected pursuant to paragraph "f" in that
85 12 assigned service area, the division shall return or direct the
85 13 return of the difference between the amount apportioned and
85 14 eighty percent of the amount collected to the appropriate
85 15 delivery service provider. The delivery service provider
85 16 shall return to end-use consumers in its assigned service area
85 17 the above amount in a manner that reflects the proportion of
85 18 collections. The board shall approve the mechanism for return
85 19 for electric companies. Consumer-owned utilities shall
85 20 determine the return mechanism.

85 21 c. ELIGIBILITY. Eligibility for the low-income
85 22 affordability and low-income energy efficiency programs shall
85 23 be determined as follows:

85 24 (1) A residential end-use consumer with a household income
85 25 at or below one hundred fifty percent of the federal poverty
85 26 level, as determined annually by the United States department
85 27 of health and human services, is eligible to receive low-
85 28 income affordability assistance.

85 29 (2) A residential end-use consumer with a household income
85 30 at or below one hundred fifty percent of the federal poverty
85 31 level, as determined annually by the United States department
85 32 of health and human services, is eligible to receive low-
85 33 income energy efficiency program assistance, regardless of
85 34 their eligibility to receive low-income affordability
85 35 assistance.

86 1 d. LOW-INCOME AFFORDABILITY PROGRAM. The community action
86 2 agencies shall qualify a consumer for participation in the
86 3 low-income affordability program and shall notify a person
86 4 billing the end-use consumer of the consumer's monthly fixed
86 5 credit and the duration for which the monthly fixed credit is
86 6 authorized. The monthly fixed credit is the amount necessary
86 7 to reduce the consumer's total electric bill to an affordable
86 8 percentage of income in accordance with rules adopted by the
86 9 division. The affordable percentage of income shall be tiered
86 10 to reflect the ratio of the consumer's household income to the
86 11 federal poverty level, with greater assistance provided to
86 12 those at lower poverty levels, as determined by rules of the
86 13 division.

86 14 Program benefits shall be distributed as a monthly fixed
86 15 credit applied toward a consumer's delivery service bill for
86 16 provision of electricity. A person billing an end-use
86 17 consumer shall subtract the amount of the credit from the
86 18 amount of the consumer's bill each month, or an equivalent
86 19 amount if a different billing cycle is utilized. If the
86 20 monthly fixed credit exceeds the portion of the bill related
86 21 to delivery service, the excess shall be applied toward the
86 22 cost of the consumer's competitive power supply services. A
86 23 person billing the end-use consumer shall bill the appropriate
86 24 community action agency for the sum of the total amount of
86 25 fixed credits provided to the consumer and the division shall
86 26 timely reimburse the person for all credited amounts. Only
86 27 those credits that are authorized in accordance with this
86 28 subsection shall be reimbursed.

86 29 e. LOW-INCOME ENERGY EFFICIENCY PROGRAM. Energy

86 30 efficiency assistance shall be prioritized based on the end-
86 31 use consumers with the largest kilowatt-hours of annual use.
86 32 Moneys allocated to the low-income energy efficiency program
86 33 may be used for space heating as allowed pursuant to the
86 34 federal weatherization assistance program or nonspace heating
86 35 as determined by the division as necessary and appropriate to
87 1 provide maximum comprehensive cost-effective energy efficiency
87 2 treatment to low-income households.

87 3 f. FUNDING. For the first three years the low-income
87 4 affordability program and the low-income energy efficiency
87 5 program are in effect, funds for the programs shall be
87 6 provided by all end-use consumers through a nonbypassable
87 7 surcharge on distribution service to be collected by the
87 8 person billing the end-use consumer for such distribution
87 9 service. The monthly charge shall commence with bills issued
87 10 on February 1, 2002, and shall be as follows:

87 11 (1) Seventy cents for all residential electric accounts.

87 12 (2) Seventy cents for nonresidential electric accounts
87 13 with an annual usage of less than twenty-five thousand
87 14 kilowatt-hours in the prior calendar year.

87 15 (3) Two dollars and fifty cents for nonresidential
87 16 electric accounts with an annual usage of twenty-five thousand
87 17 kilowatt-hours to one hundred thousand kilowatt-hours in the
87 18 prior calendar year.

87 19 (4) Ten dollars for nonresidential electric accounts with
87 20 annual usage of more than one hundred thousand kilowatt-hours
87 21 to four hundred thousand kilowatt-hours in the prior calendar
87 22 year.

87 23 (5) Forty dollars for nonresidential electric accounts
87 24 with annual usage of more than four hundred thousand kilowatt-
87 25 hours to one million five hundred thousand kilowatt-hours in
87 26 the prior calendar year.

87 27 (6) One hundred fifty dollars for nonresidential electric
87 28 accounts with annual usage of more than one million five
87 29 hundred thousand kilowatt-hours to six million kilowatt-hours
87 30 in the prior calendar year.

87 31 (7) Six hundred dollars for nonresidential electric
87 32 accounts with annual usage of more than six million kilowatt-
87 33 hours in the prior calendar year.

87 34 For the purpose of determining the monthly charge, the term
87 35 "accounts" may be interpreted by the board in appropriate
88 1 circumstances to mean end-use consumers. During the second
88 2 and third twelve-month periods that the program is in effect,
88 3 the monthly charges shall be adjusted as necessary to yield no
88 4 less than twenty-three million dollars annually. For
88 5 nonresidential consumers with no prior calendar-year usage the
88 6 delivery service provider may use a reasonable estimate of the
88 7 consumer's usage.

88 8 All moneys collected pursuant to this subsection shall be
88 9 remitted to the treasurer of state. The treasurer shall make
88 10 disbursements from this fund as appropriate. The unencumbered
88 11 or unobligated moneys remaining at the end of any fiscal year
88 12 from the appropriations made in this subsection shall not
88 13 revert but shall be available for expenditure during
88 14 subsequent fiscal years until expended for the purposes for
88 15 which originally appropriated. Interest or earnings on
88 16 investments or time deposits of the moneys remitted under this
88 17 section shall be retained for the purposes designated in this
88 18 section.

88 19 After the third year of the program, the board shall
88 20 annually establish levels of charges on electric accounts
88 21 based on the total program budget developed by the division.
88 22 When determining the per account charge, the board shall not
88 23 substantially deviate from the cost allocation among consumer
88 24 groups reflected in the initial funding charges. Any increase
88 25 in monthly charges as provided in this paragraph shall not go
88 26 into effect without prior approval by joint resolution as

88 27 adopted by the general assembly.

88 28 g. PROGRAM ALLOCATIONS, ADMINISTRATION, AND BUDGETS.

88 29 (1) Amounts allocated to the low-income affordability
88 30 program shall be based on participation rates from prior years
88 31 and the level of credits necessary to maintain affordable
88 32 energy burdens. Low-income energy efficiency program
88 33 allocations shall be based on the level of funding necessary
88 34 to deliver adequate energy efficiency to participating
88 35 households, as determined by the weatherization assistance
89 1 program. The level of funding allocated for the low-income
89 2 energy efficiency program shall not exceed twenty percent of
89 3 total low-income affordability program funding. The level of
89 4 funding allocated for administration shall not exceed ten
89 5 percent of the amounts allocated for the sum of the low-income
89 6 affordability program and the low-income energy efficiency
89 7 program.

89 8 (2) The division shall administer the program.

89 9 Administration of the program shall include contracting with
89 10 community action agencies, enrolling low-income, end-use
89 11 consumers in the program, providing outreach and consumer
89 12 education, notifying consumers and answering consumer
89 13 inquiries, and keeping records relating to the numbers of
89 14 program participants and program expenditures.

89 15 (3) The division shall develop a budget for the low-income
89 16 affordability program and the low-income energy efficiency
89 17 program on an annual basis.

89 18 h. IMPLEMENTATION PLAN. Within ninety days after the
89 19 effective date of this chapter, the division shall convene an
89 20 initial meeting of persons interested in participating in the
89 21 development of an implementation plan. Additional meetings
89 22 shall be scheduled by the division as necessary. The plan, at
89 23 a minimum, shall include the requirements identified in this
89 24 subsection.

89 25 i. DELIVERY SERVICE PROVIDER REPORT. A delivery service
89 26 provider shall report to the board annually the number of end-
89 27 use consumer accounts in its assigned service area eligible
89 28 for each program under paragraph "c".

89 29 j. BOARD RULES. The board shall propose rules by October
89 30 1, 2000, applicable to a delivery service provider and
89 31 competitive electric service provider concerning the
89 32 collection of funds pursuant to paragraph "f".

89 33 k. EVALUATION AND PLAN. Every other year, the division,
89 34 in consultation with the board, shall evaluate the performance
89 35 and effectiveness of the low-income affordability program
90 1 through use of an independent third party and develop a low-
90 2 income needs and resources plan for the state which shall
90 3 include a statewide assessment of the need for low-income
90 4 affordability assistance and low-income energy efficiency
90 5 assistance; an identification of the public and private
90 6 resources available to meet the identified needs; and
90 7 recommendations on how to coordinate the available resources
90 8 to most effectively address the identified needs, taking into
90 9 account the difference between short-term and long-term
90 10 effectiveness.

90 11 Upon completion, the evaluation and the plan shall be
90 12 submitted to the general assembly.

90 13 2. CONTRIBUTION FUND.

90 14 a. A delivery service provider and a licensed competitive
90 15 electric service provider may establish a fund whose purposes
90 16 shall include receiving contributions to assist consumers with
90 17 weatherization measures to improve energy efficiency related
90 18 to winter heating and summer cooling and to supplement other
90 19 energy assistance sources for the payment of electric bills.

90 20 b. The delivery service provider or competitive electric
90 21 service provider establishing the fund may be reimbursed by
90 22 the fund for the reasonable administrative costs of the
90 23 billings, disbursements, notices to potential contributors,

90 24 and financial recordkeeping. However, such reimbursement
90 25 shall not exceed five percent of the total contributions
90 26 collected.

90 27 3. ENVIRONMENTAL ASSESSMENT.

90 28 a. On and after May 1, 2002, the board shall direct all
90 29 delivery service providers with an assigned service area to
90 30 collect from each end-use consumer in the assigned service
90 31 area, directly or through the competitive electric service
90 32 provider billing the end-use consumer, the following
90 33 nonbypassable monthly charge, with the proceeds to be remitted
90 34 to the treasurer of state as follows:

90 35 (1) Six cents for all residential electric accounts.

91 1 (2) Six cents for a nonresidential electric account with
91 2 an annual usage of less than twenty-five thousand kilowatt-
91 3 hours in the prior calendar year.

91 4 (3) Twenty cents for a nonresidential electric account
91 5 with an annual usage of twenty-five thousand kilowatt-hours to
91 6 one hundred thousand kilowatt-hours in the prior calendar
91 7 year.

91 8 (4) Eighty cents for a nonresidential electric account
91 9 with annual usage of more than one hundred thousand kilowatt-
91 10 hours to four hundred thousand kilowatt-hours in the prior
91 11 calendar year.

91 12 (5) Three dollars and twenty cents for a nonresidential
91 13 electric account with annual usage of more than four hundred
91 14 thousand kilowatt-hours to one million five hundred thousand
91 15 kilowatt-hours in the prior calendar year.

91 16 (6) Twelve dollars for a nonresidential electric account
91 17 with annual usage of more than one million five hundred
91 18 thousand kilowatt-hours to six million kilowatt-hours in the
91 19 prior calendar year.

91 20 (7) Forty-eight dollars for a nonresidential electric
91 21 account with annual usage of more than six million kilowatt-
91 22 hours in the prior calendar year.

91 23 For the purpose of determining the monthly charge, the term
91 24 "accounts" may be interpreted by the board in appropriate
91 25 circumstances to mean end-use consumers. The board shall, by
91 26 rule, provide a schedule for remittances. The initial rules
91 27 shall be proposed by March 1, 2001. The board shall allow
91 28 inclusion of the remittance amounts in unbundled distribution
91 29 service rates. Eighty-five percent of the remittances
91 30 collected pursuant to this subsection is appropriated to the
91 31 Iowa energy center created in section 266.39C. Fifteen
91 32 percent of the remittances collected pursuant to this
91 33 subsection is appropriated to the center for global and
91 34 regional environmental research established by the state board
91 35 of regents.

92 1 Notwithstanding section 8.33, any unexpended moneys
92 2 remitted to the treasurer of state under this subsection shall
92 3 not revert and shall be retained by the centers for the
92 4 purposes designated. Notwithstanding section 12C.7,
92 5 subsection 2, interest or earnings on investments or time
92 6 deposits of the moneys remitted under this subsection shall be
92 7 retained and used for the purposes designated.

92 8 The Iowa energy center and the center for global and
92 9 regional environmental research shall each provide a written
92 10 annual report to the board which describes each center's
92 11 activities and the results that each center has accomplished.
92 12 Each report shall include an explanation of initiatives and
92 13 projects of importance to the state.

92 14 4. ENERGY EFFICIENCY PROGRAMS. This chapter shall not be
92 15 interpreted to preclude a delivery service provider from
92 16 offering energy efficiency programs and tree planting
92 17 programs. Such tree planting programs need not be cost
92 18 effective.

92 19 Sec. 14. NEW SECTION. 476B.14 COMPLAINTS.

92 20 1. A competitive electric service provider, a delivery

92 21 service provider, and a control area operator shall develop
92 22 and post on the board's website the procedures for filing and
92 23 resolving complaints regarding their services and operations.
92 24 2. The board is authorized to hear all complaints subject
92 25 to its jurisdiction by and against an end-use consumer, a
92 26 competitive electric service provider, a delivery service
92 27 provider, and a control area operator. This subsection does
92 28 not confer exclusive jurisdiction in collection matters upon
92 29 the board.

92 30 3. The district court has original jurisdiction concerning
92 31 disputes with respect to all rates and charges of a consumer-
92 32 owned utility and all other matters concerning a consumer-
92 33 owned utility not specifically reserved to the board by this
92 34 chapter or another statute. A complaint shall be filed in the
92 35 district court for the county in which the complainant resides
93 1 or, if the complainant is a nonresident, in the district court
93 2 for Polk county.

93 3 4. The board shall render a decision upon a complaint as
93 4 soon as practicable. A person aggrieved by the board's
93 5 decision may seek judicial review pursuant to chapter 17A.

93 6 5. A delivery service provider or a competitive electric
93 7 service provider shall not take any detrimental action against
93 8 an employee of such provider for the filing of a good faith
93 9 complaint with the board.

93 10 Sec. 15. NEW SECTION. 476B.15 TRANSITION CHARGES.

93 11 1. COSTS OF GENERATION AND CONTRACTS FOR POWER AND ENERGY.
93 12 An electric company is entitled, but not required, to
93 13 implement transition charges under this subsection. If an
93 14 electric company elects to implement transition charges, such
93 15 charges shall be nonbypassable charges collected from each
93 16 end-use consumer within the incumbent provider's assigned
93 17 service area. However, transition charges shall not increase
93 18 the rates for electric service provided under section 476B.8.
93 19 Transition charges under this subsection shall be billed by an
93 20 electric company to end-use consumers, directly or through a
93 21 competitive electric service provider, commencing with service
93 22 rendered on May 1, 2002, and concluding with service rendered
93 23 on and including December 31, 2005.

93 24 Transition charges shall be calculated for each bundled
93 25 retail rate group or code existing on the date the electric
93 26 company files its unbundled rates pursuant to section 476B.4.
93 27 Transition charges shall be calculated each year in which the
93 28 electric company is entitled to implement such charges.
93 29 Transition charges in cents per kilowatt-hour shall be
93 30 calculated by rate group or code by first subtracting the
93 31 market price from the cost of generation, and then multiplying
93 32 that result times a mitigation factor, the percentage of which
93 33 varies by calendar year as follows:

93 34 a. Eighty percent applicable to 2002.

93 35 b. Seventy percent applicable to 2003.

94 1 c. Sixty percent applicable to 2004.

94 2 d. Fifty percent applicable to 2005.

94 3 Under no circumstance shall a charge under this subsection
94 4 be less than zero.

94 5 For purposes of this subsection, the cost of generation
94 6 shall be stated in cents per kilowatt-hour included in a
94 7 bundled rate group or code on the effective date of this
94 8 chapter. The cost of generation shall include the return on
94 9 plant investment allowed in the most recent rate proceeding,
94 10 but shall exclude that portion of regulatory assets to be
94 11 recovered under subsection 3 that are attributable to
94 12 generation costs, and the amount of nuclear decommissioning
94 13 expenses included in the rate group or code.

94 14 For purposes of this subsection, the market price shall be
94 15 stated in cents per kilowatt-hour an electric company should
94 16 reasonably be expected to receive for demand and energy from a
94 17 rate group or code when sold in a competitive power market.

94 18 At a minimum, separate values shall be determined by the board
94 19 for firm and interruptible sales. The market price shall be
94 20 determined by the board by no later than January 1, 2002, and
94 21 shall be updated annually. In determining the market price,
94 22 the board shall consider relevant wholesale and retail
94 23 contracts for demand and energy sales and purchases,
94 24 recognizing such factors as the time differentiation of price
94 25 levels in the contracts and whether the prices in the
94 26 contracts are for firm or interruptible service. The board
94 27 shall also consider other relevant information from power
94 28 exchanges, trading hubs, and similar sources.

94 29 An electric company that elects to implement transition
94 30 charges under this subsection shall file tariffs with the
94 31 board that identify the cost of generation to be included in
94 32 the calculation of transition charges to be paid by end-use
94 33 consumers in each bundled rate group or code at the time it
94 34 files its initial unbundled rates under section 476B.4. Rate
94 35 groups or codes, for purposes of calculating transition
95 1 charges, shall be defined in tariffs included in the electric
95 2 company's filing under section 476B.4, subsection 1. The
95 3 board shall issue its decision regarding the transition charge
95 4 tariffs at the same time it issues its order regarding the
95 5 initial unbundled rates filed under section 476B.4. Charges
95 6 approved by the board shall be posted on its website starting
95 7 no later than November 1, 2001.

95 8 2. DIVESTITURE OPTION. The board may permit, but shall
95 9 not require, an incumbent provider that is an electric company
95 10 to divest itself of its generation assets and contracts for
95 11 power and energy.

95 12 No later than January 1, 2000, an incumbent provider,
95 13 including, for the purposes of this subsection, any affiliated
95 14 incumbent provider, may submit an election to divest to the
95 15 board. The election shall be accompanied by the submittal of
95 16 a divestiture plan to the board, which shall review the plan.
95 17 By July 1, 2000, the board shall issue an order approving or
95 18 modifying the plan. The incumbent provider may revoke its
95 19 election within ninety days of the board's order approving or
95 20 modifying the plan. If the incumbent provider does not revoke
95 21 its election, the incumbent provider shall divest its
95 22 generation assets and contracts for power and energy in
95 23 accordance with the board's order. Such divestiture must be
95 24 completed by December 31, 2001, unless such time is extended
95 25 for good cause as determined by the board.

95 26 If an incumbent provider makes an election to divest, the
95 27 incumbent provider shall divest of all generation assets and
95 28 contracts for power and energy that are included in the
95 29 incumbent provider's most recent board-determined Iowa revenue
95 30 requirement except to the extent such divestiture is found by
95 31 a court of proper jurisdiction to be impermissible. All
95 32 generation assets and contracts for power and energy not
95 33 included in the incumbent provider's most recent board-
95 34 determined Iowa revenue requirement shall be subject to a
95 35 determination by the board as to whether divestiture is in the
96 1 public interest, except to the extent such divestiture is
96 2 found by a court of proper jurisdiction to be impermissible.

96 3 The board shall not allow any supply contracts, for which
96 4 bids are sought as part of the divestiture plan to satisfy an
96 5 incumbent provider's standard offer service obligation
96 6 pursuant to section 476B.8, to extend beyond December 31,
96 7 2005.

96 8 The board may allow the divestiture plan to include
96 9 transfer of the decommissioning responsibility for any nuclear
96 10 generation asset to the purchaser if such transfer of
96 11 responsibility is deemed by the board to be in the public
96 12 interest.

96 13 For each incumbent provider electing divestiture under this
96 14 subsection, the board shall determine the sum of the following

96 15 amounts:

96 16 a. The net of an incumbent provider's generation-related
96 17 regulatory assets and liabilities.

96 18 b. The difference between net plant investment associated
96 19 with an incumbent provider's generation assets and the market
96 20 value of the generation assets.

96 21 c. The difference between future contract payments and the
96 22 market value of an incumbent provider's purchased power
96 23 contracts.

96 24 When determining the market value of generation assets and
96 25 existing purchase power contracts, the board shall rely solely
96 26 on the market information resulting from the sale of the
96 27 generation assets and the rights to energy and demand under
96 28 contracts held by the incumbent provider including the supply
96 29 contracts to meet the incumbent provider's standard offer
96 30 service obligation.

96 31 To the extent that the divestiture realizes an amount less
96 32 than the sum of the amounts determined in paragraphs "a", "b",
96 33 and "c," beginning no later than May 1, 2002, the board shall
96 34 provide an incumbent provider a reasonable opportunity to
96 35 recover all costs not recovered through the sale of generation
97 1 assets and the contracts for energy and demand through
97 2 nonbypassable charges. This cost recovery opportunity must be
97 3 equal to the incumbent provider's opportunity to recover costs
97 4 before the effective date of this chapter.

97 5 To the extent that the divestiture realizes an amount
97 6 greater than the sum of the amounts determined in paragraphs
97 7 "a", "b", and "c", such difference shall be applied to reduce
97 8 end-use consumers' responsibility for nuclear decommissioning
97 9 costs held by the incumbent provider after divestiture. To
97 10 the extent that the divestiture realizes an amount greater
97 11 than the sum of the amounts determined in paragraphs "a", "b",
97 12 and "c", and no responsibility for nuclear decommissioning
97 13 costs remains with the incumbent provider, the incumbent
97 14 provider shall be entitled to retain the remaining amounts.

97 15 Nothing in this chapter shall be construed to give an
97 16 incumbent provider a greater or lesser opportunity to recover
97 17 all costs than existed prior to the effective date of this
97 18 chapter.

97 19 This subsection, including the treatment of proceeds from
97 20 divestiture, shall not be construed to apply to any other
97 21 provision of this chapter or to any regulatory or legal
97 22 proceeding not pertaining to this specific subsection.

97 23 All costs that are afforded recovery as a result of
97 24 generation asset divestiture pursuant to this subsection shall
97 25 qualify for securitization as set forth in section 476B.17.
97 26 All savings from this securitization shall flow back to end-
97 27 use consumers through a reduction in the nonbypassable charge
97 28 required under this subsection.

97 29 3. REGULATORY ASSETS AND LIABILITIES.

97 30 a. Regulatory assets and regulatory liabilities exist
97 31 because regulators have allowed recovery of certain costs in
97 32 different time periods than normally recognized under
97 33 generally accepted accounting principles, with assurances to
97 34 an incumbent provider that is an electric company of ultimate
97 35 recovery. An incumbent provider that is an electric company
98 1 shall be permitted, but not required, to recover all of its
98 2 net regulatory assets attributable to electric operations in
98 3 this state. For purposes of this subsection, net regulatory
98 4 assets equals regulatory assets less regulatory liabilities.
98 5 For the purpose of this paragraph, regulatory assets shall
98 6 include but not be limited to the costs of programs offered
98 7 under section 476.6, subsections 17 and 19, and the costs of
98 8 contracts or arrangements entered into under section 476.43.

98 9 b. Recovery of net regulatory assets shall be accomplished
98 10 through charges on all delivery services within the electric
98 11 company's assigned service area, including electricity

98 12 delivered under rates or charges charged pursuant to section
98 13 476B.8. The rates or charges may vary by type of delivery
98 14 service to the extent such variation is just, reasonable, and
98 15 based upon relevant cost factors. The board may require that
98 16 such charges be nonbypassable. Collection of the net
98 17 regulatory asset charges shall commence on May 1, 2002.

98 18 c. An electric company electing to recover net regulatory
98 19 assets shall annually file with the board its estimates of the
98 20 unamortized amount of regulatory assets and liabilities. The
98 21 initial estimates shall be filed with the initial unbundled
98 22 rate filing pursuant to section 476B.4, followed by annual
98 23 filings until the amortization of these net assets is
98 24 completed. Such filing shall include a proposed amortization
98 25 period or periods over which the net assets are to be
98 26 recovered, estimated sales in kilowatt-hours in its assigned
98 27 service area during the first year of the proposed
98 28 amortization period, and any proposed variation in charges by
98 29 type of delivery service. The electric company shall also
98 30 file supporting documentation for its proposals. If it does
98 31 not approve the electric company's filing, the board after
98 32 notice and opportunity for hearing shall determine the
98 33 regulatory assets and regulatory liabilities of the electric
98 34 company eligible for recovery; the appropriate periods over
98 35 which net regulatory assets shall be recovered, which shall
99 1 not exceed fifteen years; and the charges applicable to each
99 2 type of delivery service. In determining net regulatory
99 3 assets, the board shall not combine or net assets or
99 4 liabilities that would be recorded on the electric company's
99 5 books absent regulation or that would cause violation of the
99 6 normalization provisions of the Internal Revenue Code. The
99 7 board shall issue its decision regarding the regulatory asset
99 8 filing at the time it issues its order regarding the initial
99 9 unbundled rates filed under section 476B.4. Charges approved
99 10 by the board shall be posted on its website starting on
99 11 November 1, 2001.

99 12 4. START-UP COSTS OF DELIVERY SERVICE PROVIDERS. The
99 13 board shall permit a delivery service provider that is an
99 14 electric company to recover one hundred percent of its
99 15 reasonable start-up costs caused by the transition to
99 16 competition, including the reasonable costs associated with
99 17 implementing the requirements of this chapter and the board
99 18 orders issued and rules adopted pursuant to this chapter.
99 19 Start-up costs to be considered by the board shall include,
99 20 but are not limited to, costs associated with new computer
99 21 information systems, changes in computer information systems,
99 22 new and existing metering, and costs incurred pursuant to
99 23 section 476B.24. The board may require that recoverable
99 24 start-up costs be amortized over a period not to exceed ten
99 25 years. Start-up cost charges under this subsection shall not
99 26 be applicable to the rates for electric service provided under
99 27 section 476B.8.

99 28 An electric company electing to recover start-up costs
99 29 shall file estimates of the start-up costs and a tariff for
99 30 recovery of the costs with the board at the time it files its
99 31 initial unbundled rates pursuant to section 476B.4. The board
99 32 shall issue its decision regarding the start-up cost filing at
99 33 the time it issues its order regarding the initial unbundled
99 34 rate filing. Charges approved by the board shall be posted on
99 35 its website starting on November 1, 2001. Collection of
100 1 start-up cost charges shall commence on May 1, 2002. Electric
100 2 companies shall file annually with the board a reconciliation
100 3 of start-up costs actually collected versus estimated start-up
100 4 costs. The first reconciliation filing shall be made no later
100 5 than March 31, 2003, reflecting costs and revenues for the
100 6 period ending December 31, 2002. The board shall allow the
100 7 electric company to adjust its cost recovery factors to
100 8 reflect any differences, with the intent of allowing one

100 9 hundred percent recovery of reasonable costs incurred. The
100 10 board shall have ninety days to issue its decision on the
100 11 reconciliation factors.

100 12 5. CONSUMER-OWNED UTILITY TRANSITION COSTS.

100 13 a. ELECTRIC COOPERATIVES. The local governing body of an
100 14 electric cooperative shall determine the nature and amount of
100 15 transition costs which shall be paid by its respective
100 16 members. The local governing body shall have the sole
100 17 authority to determine the manner, rates, charges, terms, and
100 18 conditions of recovery. A member electric cooperative is
100 19 authorized, but not required, to collect the transition costs
100 20 through nonbypassable charges on all end-use consumers in its
100 21 assigned service area. The calculation of transition costs by
100 22 an electric cooperative shall consider the market value of
100 23 capacity and energy. The transition cost recovery shall be
100 24 reconciled periodically.

100 25 b. MUNICIPAL UTILITIES. The local governing body of a
100 26 municipal utility shall determine the nature and amount of
100 27 transition costs which shall be paid through nonbypassable
100 28 charges by the end-use consumers in its assigned service area.
100 29 The local governing body shall have the sole authority to
100 30 determine the manner, rates, charges, terms, and conditions of
100 31 recovery. Each municipal utility is authorized, but not
100 32 required, to collect the transition costs on all end-use
100 33 consumers in its assigned service area. The calculation of
100 34 transition costs by a municipal utility shall consider the
100 35 market value of capacity and energy. The transition cost
101 1 recovery shall be reconciled periodically.

101 2 Sec. 16. NEW SECTION. 476B.16 NUCLEAR DECOMMISSIONING.

101 3 1. RECOVERY OF NUCLEAR DECOMMISSIONING CHARGES. An
101 4 incumbent provider or electric cooperative, and its successors
101 5 or assigns, owning an interest in or having responsibility as
101 6 a matter of contract, statute, or energy purchase agreement
101 7 for the nuclear decommissioning costs of the Duane Arnold
101 8 energy center, Quad Cities nuclear power station, Cooper
101 9 nuclear station, or La Crosse boiling water reactor shall be
101 10 allowed to recover nuclear decommissioning costs. An electric
101 11 company shall be allowed to recover nuclear decommissioning
101 12 costs allocated to Iowa through nonbypassable charges,
101 13 including charges on service provided pursuant to section
101 14 476B.8. The tariffs of an electric company for the nuclear
101 15 decommissioning charges shall conform to subsection 2. An
101 16 electric company shall file its nuclear decommissioning
101 17 tariffs with the board as part of the filing of initial
101 18 unbundled rates under section 476B.4. The local governing
101 19 body of each consumer-owned utility shall determine the amount
101 20 of and method and timing for recovery of nuclear
101 21 decommissioning costs and shall post that information as
101 22 provided in section 476B.4. All nuclear decommissioning
101 23 tariffs of electric companies under this section and the
101 24 initial charges under such tariffs shall become effective May
101 25 1, 2002.

101 26 2. DESIGN OF NUCLEAR DECOMMISSIONING TARIFF FOR ELECTRIC
101 27 COMPANIES. The nuclear decommissioning tariffs of an
101 28 incumbent provider that is an electric company shall provide
101 29 for the nonbypassable charges to be collected from each end-
101 30 use consumer within the incumbent provider's assigned service
101 31 area and in each assigned service area in Iowa of any
101 32 affiliated incumbent provider. The decommissioning charges
101 33 shall be a surcharge upon unbundled distribution service rates
101 34 and rates charged pursuant to section 476B.8. Decommissioning
101 35 charges shall be billed to each end-use consumer, directly or
102 1 through a competitive electric service provider, commencing
102 2 with bills issued on and after May 1, 2002. The allocation of
102 3 decommissioning charges among end-use consumers shall be
102 4 subject to approval by the board. The decommissioning charges
102 5 in such tariffs shall be set at a level that will ensure the

102 6 incumbent provider recovery of its nuclear decommissioning
102 7 costs, with the objective of achieving full recovery as of the
102 8 date on which decommissioning is commenced for a unit or
102 9 units. The decommissioning charges shall be adjusted
102 10 periodically to reflect increases or decreases in the
102 11 estimated costs of decommissioning the nuclear unit or units,
102 12 irrespective of any increases or decreases in other costs or
102 13 revenues of the incumbent provider or delivery service
102 14 provider. The decommissioning charges shall cease when the
102 15 nuclear plant is fully decommissioned or the incumbent
102 16 provider no longer has a responsibility for nuclear
102 17 decommissioning costs. All revenues collected under the
102 18 tariff shall be contributed to appropriate decommissioning
102 19 trust funds to be used to decommission the nuclear unit or
102 20 units or to reduce the amounts to be charged under such
102 21 tariffs in the future. All material changes to the trust fund
102 22 agreements, including a change in the trustee, shall be filed
102 23 with the board for approval. Decommissioning charges in such
102 24 tariffs shall be considered the equivalent of "cost of
102 25 service" amounts for purposes of determining contributions
102 26 deductible by the incumbent provider pursuant to section 468A
102 27 of the Internal Revenue Code.

102 28 3. ADJUSTMENT OF CHARGES FOR ELECTRIC COMPANIES. Nuclear
102 29 decommissioning tariffs filed with the board under this
102 30 section by an electric company shall provide that no increase
102 31 in charges under the decommissioning tariffs may take effect
102 32 until approved by the board. Notice to end-use consumers and
102 33 competitive electric service providers served under delivery
102 34 service tariffs or with whom the delivery service provider has
102 35 delivery service contracts, whether or not written, shall not
103 1 be required. The board may suspend the filing and hold
103 2 hearings as provided in section 476B.9, subsection 5.

103 3 Sec. 17. NEW SECTION. 476B.17 SECURITIZATION.

103 4 1. FINDINGS. The general assembly finds and declares all
103 5 of the following:

103 6 a. Securitization is a common financing technique which
103 7 has been used by other states as an effective tool to mitigate
103 8 transition costs.

103 9 b. It is in the state's interest to allow securitization
103 10 because it will help incumbent providers manage their costs
103 11 without increasing rates paid by end-use consumers.

103 12 c. Securitization will not create obligations of the state
103 13 or any of its political subdivisions.

103 14 2. DEFINITION. For purposes of this section, "incumbent
103 15 provider" includes a delivery service provider who was an
103 16 incumbent provider prior to May 1, 2002.

103 17 3. ISSUANCE OF TRANSITIONAL FUNDING ORDERS.

103 18 a. Upon application of an incumbent provider, the board is
103 19 authorized to issue transitional funding orders to create,
103 20 establish, and grant rights in, to, and under intangible
103 21 transition property in and to any grantee, incumbent provider,
103 22 issuer, or assignee in accordance with the terms of such
103 23 application.

103 24 b. After the effective date of this chapter, an incumbent
103 25 provider may file any number of applications for transitional
103 26 funding orders. An application for a transitional funding
103 27 order shall contain the incumbent provider's detailed proposal
103 28 for all of the following:

103 29 (1) The assignment, sale, pledge, or other transfer of, or
103 30 the establishment, creation, and granting of rights in, to, or
103 31 under intangible transition property.

103 32 (2) The issuance of transitional funding instruments.

103 33 (3) The amount of transitional funding instruments to be
103 34 issued which amount shall not exceed four hundred million
103 35 dollars in the aggregate for any incumbent provider.

104 1 (4) The method for calculating the amount of instrument
104 2 funding charges to be collected.

104 3 (5) The method for allocating such instrument funding
104 4 charges among classes of responsible consumers.

104 5 (6) The time to maturity for the transitional funding
104 6 instruments.

104 7 (7) The incumbent provider's planned use of the proceeds
104 8 from the issuance.

104 9 c. After notice, the board shall hold a hearing to
104 10 determine whether the application and requested transitional
104 11 funding order are in compliance with this section. The board
104 12 shall complete its review of the application and issue its
104 13 final transitional funding order no later than ninety days
104 14 after the filing of such application. The order shall create
104 15 and establish the proposed intangible transition property and
104 16 approve the proposed sale, pledge, assignment, or other
104 17 transfer of, or the establishment, creation, and granting of
104 18 rights in, to, or under intangible transition property; the
104 19 proposed issuance of transitional funding instruments; and the
104 20 proposed imposition and collection of the corresponding
104 21 instrument funding charges. Such transitional funding order
104 22 shall be issued if the board finds that each of the following
104 23 conditions are met:

104 24 (1) The application provides that the incumbent provider
104 25 will apply all savings not to exceed two million dollars
104 26 annually, from the issuance of the transitional funding
104 27 instruments during the term of the transitional funding
104 28 instruments to reduce the funding surcharges for the low-
104 29 income programs established under section 476B.13, subsection
104 30 1. If savings exceed two million dollars annually, the
104 31 incumbent provider shall use the amounts in excess of two
104 32 million dollars to compensate the incumbent provider for
104 33 transition costs associated with generation assets and
104 34 contracts for power and energy not recovered under section
104 35 476B.15, subsection 1, and if a savings remain during the
105 1 period ending December 31, 2005, to use the remaining savings
105 2 to first reduce charges under section 476B.15, subsection 4,
105 3 and second to reduce charges under section 476B.15, subsection
105 4 3. Any remaining savings may be retained by the incumbent
105 5 provider and used for any lawful purpose. If the incumbent
105 6 provider issues transitional funding instruments prior to May
105 7 1, 2002, any savings associated with the period prior to May
105 8 1, 2002, shall be amortized in equal annual amounts in
105 9 accordance with the above purposes over the period from May 1,
105 10 2002, through the remaining term of the transitional funding
105 11 instruments. Incumbent providers choosing to divest their
105 12 generation assets under section 476B.15, subsection 2, shall
105 13 first use the savings from securitization to compensate
105 14 themselves for any losses which may result from divestiture,
105 15 with any remaining savings to be allocated to the purposes,
105 16 and in the order provided, as set forth in this subparagraph.

105 17 (2) The expected maturity date for the transitional
105 18 funding instruments, and the final date on which the incumbent
105 19 provider, grantee, or assignee is entitled to charge and
105 20 collect instrument funding charges, shall each be set to occur
105 21 no later than December 31, 2011, subject to subsection 4,
105 22 paragraph "m".

105 23 (3) The instrument funding charges authorized in such
105 24 order will be deducted and stated separately from eligible
105 25 rates, all as provided in subsection 4, paragraph "d", and in
105 26 a manner conforming to the allocation of the instrument
105 27 funding charges implemented pursuant to subparagraph (4).

105 28 (4) The proposed method for allocating such instrument
105 29 funding charges among all classes of responsible consumers is
105 30 just and reasonable.

105 31 (5) The issuance of the transitional funding instruments
105 32 will not cause eligible rates to increase over the rates which
105 33 would otherwise be chargeable from time to time in the absence
105 34 of such issuance.

105 35 (6) Use of transitional funding proceeds shall not result
106 1 in the common equity component of the incumbent provider's
106 2 capital structure, exclusive of the portion of its capital
106 3 structure that consists of obligations representing
106 4 transitional funding instruments, as measured by the most
106 5 recently available thirteen-month average when adjusted for
106 6 the use of proceeds, being reduced below the lesser of forty-
106 7 two and one-half percent or the common equity percentage as of
106 8 December 31, 1998. The incumbent provider shall not use the
106 9 proceeds from transitional funding instruments to repay or
106 10 retire obligations incurred by any affiliate of the incumbent
106 11 provider without the consent of the board. However, consent
106 12 is not required to repay or retire debt or equity securities
106 13 of the incumbent provider which are held by the parent company
106 14 of the incumbent provider. A disbursement out of retained
106 15 earnings from the incumbent provider to its parent will not be
106 16 treated as repayment or retirement of an obligation of an
106 17 affiliate for purposes of this section.

106 18 (7) The incumbent provider will use the net proceeds of
106 19 the sale and issuance of the transitional funding instruments
106 20 to repay or refinance debt and equity, or to replenish cash
106 21 used for such purposes.

106 22 d. A transitional funding order issued by the board shall
106 23 become effective in accordance with its terms only after the
106 24 incumbent provider files with the board its written consent to
106 25 all terms and conditions of such order. After the issuance of
106 26 a transitional funding order, the incumbent provider, grantee,
106 27 or assignee shall retain sole discretion regarding whether to
106 28 cause transitional funding instruments to be issued, including
106 29 the right to defer or postpone such issuance or to change the
106 30 terms of such instruments as allowed by such order.

106 31 4. TERMS AND PROVISIONS OF TRANSITIONAL FUNDING ORDERS.

106 32 a. CREATION OF INTANGIBLE TRANSITION PROPERTY. A
106 33 transitional funding order shall create intangible transition
106 34 property in favor of an incumbent provider or grantee
106 35 representing the right to impose and collect instrument
107 1 funding charges necessary to pay principal and interest on the
107 2 transitional funding instruments authorized in the order
107 3 together with premium, servicing fees and other fees, costs,
107 4 and charges related to such funding instruments, and to fund
107 5 or maintain any required reserves, after giving effect to
107 6 delays in bill collections and uncollectibles. The party in
107 7 whose favor such rights are granted and any assignee of such
107 8 rights shall be granted the power to levy general tariffs on
107 9 responsible consumers of an incumbent provider or any other
107 10 person required to pay an instrument funding charge in order
107 11 to collect the instrument funding charges authorized in such
107 12 order and in order to facilitate the issuance of transitional
107 13 funding instruments authorized in such order. The board may
107 14 create, establish, and grant such rights under this paragraph
107 15 in and to such party with or without receiving consideration
107 16 from such party.

107 17 b. BASIC TERMS. The transitional funding order shall
107 18 authorize the establishment, creation, and granting of rights
107 19 in and to intangible transition property; any requested sale,
107 20 pledge, assignment, or other transfer of such rights; the
107 21 issuance of a specific dollar amount of transitional funding
107 22 instruments by or on behalf of an incumbent provider,
107 23 assignee, issuer, or grantee, as the case may be in an amount
107 24 not exceeding the limits set forth in subsection 3, paragraph
107 25 "b"; and the imposition and collection of instrument funding
107 26 charges projected to be sufficient to pay when due the
107 27 principal of and interest on the corresponding transitional
107 28 funding instruments, in each case, together with premium,
107 29 servicing fees and other fees, costs, and charges related to
107 30 such funding instruments, and to fund or maintain any required
107 31 reserves. The transitional funding order shall require that

107 32 the proceeds from the issuance of transitional funding
107 33 instruments be used for the purposes set forth in subsection
107 34 3, paragraph "c". Except where this section specifically
107 35 requires otherwise, the collection of instrument funding
108 1 charges and the allocation of any such collections as among
108 2 holders, assignees, issuers, grantees, and any other parties
108 3 entitled to receive portions of such collections, may be
108 4 accomplished according to the applicable transitional funding
108 5 order, or, if the order is silent on any such matters,
108 6 according to the documents relating to the pertinent
108 7 transitional funding instruments.

108 8 c. FLEXIBILITY CREDIT AND COLLECTION POLICIES. The
108 9 board, in a transitional funding order, shall afford
108 10 flexibility in establishing the terms and conditions of the
108 11 transitional funding instruments including repayment
108 12 schedules, collateral, required debt service and other
108 13 reserves, interest rates and other financing costs, and the
108 14 ability of the incumbent provider, at its option, to effect a
108 15 series of issuances of transitional funding instruments and
108 16 correlated assignments, sales, pledges, or other transfers of
108 17 intangible transition property. At the request of an
108 18 incumbent provider, the board in its transitional funding
108 19 order may establish such terms with respect to credit and
108 20 collection policies to be followed by persons collecting
108 21 instrument funding charges as the incumbent provider may
108 22 reasonably demonstrate are likely to be required for at least
108 23 two nationally recognized statistical rating agencies to rate
108 24 the transitional funding instruments in the highest rating
108 25 category assigned by such agencies to securities of comparable
108 26 maturities.

108 27 d. TARIFFS. Concurrently with the issuance of
108 28 transitional funding instruments, an incumbent provider,
108 29 grantee, issuer, or an assignee shall begin to impose and
108 30 collect the specified instrument funding charges from
108 31 responsible consumers, classes of responsible consumers, and
108 32 any other persons or groups of persons as set forth in the
108 33 relevant transitional funding order and shall file tariffs in
108 34 accordance with this paragraph. As a precondition to the
108 35 imposition of any instrument funding charges, an incumbent
109 1 provider shall file tariffs directing that the amount of such
109 2 instrument funding charges be deducted, stated, and collected
109 3 separately from the amounts otherwise billed by such incumbent
109 4 provider for eligible rates as set forth in the transitional
109 5 funding order. Upon the effectiveness of such tariffs, the
109 6 amounts of instrument funding charges thereby deducted and to
109 7 be deducted become intangible transition property as specified
109 8 in the transitional funding order and the rights to such
109 9 intangible transition property shall constitute a current
109 10 property right. The board shall not review such tariffs
109 11 except to confirm that the instrument funding charges
109 12 authorized in the transitional funding order have been
109 13 deducted and stated separately from eligible rates in effect
109 14 at such time, and the filing of any such tariff shall not be
109 15 suspended for any other reason. Deductions referred to in
109 16 this paragraph shall not be construed as a change in or
109 17 otherwise require a recalculation of the authorized amounts of
109 18 eligible rates. Instrument funding charges shall be
109 19 recoverable with respect to services for which the deductions
109 20 provided in this paragraph have become effective and such
109 21 deductions shall not be effective with respect to any services
109 22 or power in respect of which instrument funding charges have
109 23 not been so authorized and imposed.

109 24 e. PERIODIC ADJUSTMENTS. The board shall provide in any
109 25 transitional funding order for a procedure for periodic
109 26 adjustments to the instrument funding charges to ensure
109 27 adequate revenues from such instrument funding charges for
109 28 repaying principal of the transitional funding instruments in

109 29 accordance with their expected amortization schedule, for
109 30 paying interest and related fees and expenses, and for funding
109 31 and maintaining required reserves on a timely basis. If so
109 32 requested by an incumbent provider in an application for a
109 33 transitional funding order, the transitional funding order may
109 34 specify a dollar or percentage amount of variation from the
109 35 projected revenues within which no such adjustment will be
110 1 required, set forth a maximum adjustment amount for the
110 2 instrument funding charges, or both. If an adjustment
110 3 described in this paragraph is required, such adjustment shall
110 4 be implemented by the incumbent provider, grantee, assignee,
110 5 or issuer, as applicable, with prior written notice to the
110 6 board. Any such adjustment shall be calculated to include
110 7 amounts necessary for recovery of any additional costs
110 8 incurred by the incumbent provider, grantee, assignee, or
110 9 issuer as a result of the relevant delay in collections of
110 10 instrument funding charges. If any such adjustment would
110 11 cause the amount of any instrument funding charge to exceed
110 12 the eligible rates from which such instrument funding charge
110 13 is to be deducted, the relevant incumbent provider may ratably
110 14 allocate the deficiency to other responsible consumers as part
110 15 of the adjustment mechanism set forth in this paragraph and in
110 16 the relevant transitional funding order. If, as a result of
110 17 any adjustment, the amount of any instrument funding charge,
110 18 as adjusted, will exceed an amount greater than the amount of
110 19 the instrument funding charge initially authorized by the
110 20 board in its transitional funding order, the relevant
110 21 incumbent provider shall be obligated to file amendatory
110 22 tariffs in compliance with paragraph "f".

110 23 f. AMENDATORY TARIFFS. If an adjustment under paragraph
110 24 "e" results in the amount of any instrument funding charge as
110 25 so adjusted exceeding the amount of the instrument funding
110 26 charge initially authorized by the board in its transitional
110 27 funding order, the relevant incumbent provider shall file
110 28 amendatory tariffs reducing the amounts otherwise billed by
110 29 such incumbent provider for eligible rates by the amount of
110 30 such excess. Such amendatory tariff shall be subject to the
110 31 provisions of paragraph "d", except that the failure of such
110 32 amendatory tariff to become effective for any reason shall not
110 33 delay or impair the effectiveness of the adjustments required
110 34 under paragraph "e" and the obligation of responsible
110 35 consumers and other persons or groups of persons to pay
111 1 instrument funding charges as so adjusted shall not be subject
111 2 to any defense, counterclaim, or right of setoff arising as a
111 3 result of failure by the incumbent provider to comply with
111 4 this paragraph. This paragraph does not restrict any
111 5 responsible end-use consumer or other person from bringing any
111 6 suit in any court or from exercising any other legal or
111 7 equitable remedy against an incumbent provider for any failure
111 8 by such incumbent provider to comply with this paragraph.

111 9 g. NONRECOURSE STATUS NO DEFENSE, COUNTERCLAIM, OR
111 10 SETOFF. Except as otherwise specifically set forth in the
111 11 transitional funding order, the transitional funding
111 12 instruments issued pursuant to such order shall be nonrecourse
111 13 to the credit or to any assets of the incumbent provider other
111 14 than any assets comprising intangible transition property.
111 15 The obligation of responsible consumers and other persons to
111 16 pay instrument funding charges shall be contingent upon the
111 17 receipt by such responsible consumers and other persons of
111 18 delivery service or other services related to the provision of
111 19 electric power for which eligible rates may be assessed, but
111 20 the transitional funding order shall specifically provide that
111 21 such instrument funding charges will not be subject to any
111 22 defense, counterclaim, or right of set-off arising as a result
111 23 of failure by the incumbent provider, upon whose application
111 24 the intangible transition property was created, to perform or
111 25 provide past, present, or future services.

111 26 h. TRANSFER AND SERVICING. On such conditions as the
111 27 board may approve in the relevant transitional funding order,
111 28 the interest of any party in intangible transition property
111 29 may be assigned, sold or otherwise transferred, in whole or in
111 30 part, and may, in whole or in part, be pledged or assigned as
111 31 security to or for the benefit of a holder or holders. To the
111 32 extent that any such interest or portion of such interest is
111 33 assigned, sold, pledged, or otherwise transferred or is
111 34 established, created, and granted to a party other than the
111 35 incumbent provider, the board, in the relevant transitional
112 1 funding order, shall authorize the incumbent provider or any
112 2 affiliate of the incumbent provider to contract with any owner
112 3 or pledgee of such intangible transition property and any
112 4 holders of the relevant transitional funding instruments to
112 5 collect the applicable instrument funding charges for the
112 6 benefit and account of such persons, and such incumbent
112 7 provider or affiliate shall, except as otherwise specified in
112 8 the transitional funding order, account for and remit the
112 9 applicable instrument funding charges, without the obligation
112 10 to remit any investment earnings on such charges, to or for
112 11 the account of the relevant persons. The obligation of such
112 12 incumbent provider or affiliate to collect and remit the
112 13 applicable instrument funding charges shall continue
112 14 irrespective of whether such incumbent provider is providing
112 15 the services to which such instrument funding charges relate.
112 16 If the documents creating the transitional funding instruments
112 17 so provide, such obligations, in the event of a default by the
112 18 incumbent provider or affiliate in performing such
112 19 obligations, shall be undertaken and performed by any other
112 20 entity selected by the grantee, assignee or any holder, group
112 21 of holders or trustee or agent on behalf of such holder or
112 22 holders, as the case may be. However, a failure by the
112 23 designated party to perform such obligations shall not affect
112 24 the existence of the intangible transition property or the
112 25 instrument funding charges or the validity or enforceability
112 26 of the instrument funding charges in accordance with their
112 27 terms.

112 28 i. REPORTING. An incumbent provider shall file a
112 29 statement of the final terms of the issuance of any series of
112 30 transitional funding instruments with the board within ninety
112 31 days of the receipt of proceeds from such issuance. In
112 32 addition, the board may require an incumbent provider to file
112 33 periodic reports on its use of the proceeds at intervals of
112 34 not less than one year.

112 35 j. REFINANCING. Any adjustment to instrument funding
113 1 charges that is necessary due to subsequent refinancing of
113 2 transitional funding instruments shall be authorized by the
113 3 board in a supplemental order. Unless specifically requested
113 4 by the incumbent provider in the application for such
113 5 supplemental order, no refinancing of previously issued
113 6 transitional funding instruments shall be deemed a new
113 7 issuance to be counted towards the dollar limitations set
113 8 forth in subsection 3, paragraph "b".

113 9 k. NO REDUCTION, POSTPONEMENT, IMPAIRMENT, OR TERMINATION.
113 10 A transitional funding order, the intangible transition
113 11 property created and established by such order, or the
113 12 instrument funding charges authorized to be imposed and
113 13 collected under such order, shall not be subject to reduction,
113 14 postponement, impairment, or termination by any subsequent
113 15 action of the board. However, a party to the board's
113 16 proceeding relating to the transitional funding order may seek
113 17 judicial review of such transitional funding order in
113 18 accordance with the provisions of other applicable law.

113 19 l. ONGOING VALIDITY. A transitional funding order shall
113 20 remain valid notwithstanding the invalidation of any portion
113 21 of this chapter. A transitional funding instrument,
113 22 instrument funding charge, intangible transition property,

113 23 lien, or other right established pursuant to a transitional
113 24 funding order is valid and binding in accordance with terms of
113 25 such order, notwithstanding that such order or any portion of
113 26 this chapter is later vacated, modified, or otherwise held to
113 27 be wholly or partly invalid.

113 28 m. CONTINUATION OF INTANGIBLE TRANSITION PROPERTY. The
113 29 intangible transition property created under a transitional
113 30 funding order and the authority of the grantee, assignee,
113 31 issuer, incumbent provider, or other person authorized under
113 32 such order to impose and collect instrument funding charges
113 33 and to exercise its rights under a transitional funding order,
113 34 including the right to make periodic adjustments pursuant to
113 35 paragraph "e", shall continue beyond the final date set forth
114 1 in the applicable transitional funding order until such time
114 2 as all transitional funding instruments authorized in such
114 3 order have been paid in full. Upon the later of the final
114 4 date set forth in the applicable transitional funding order
114 5 for the imposition and collection of instrument funding
114 6 charges or the repayment in full of any transitional funding
114 7 instruments, as applicable, authorized in such order, the
114 8 authority to impose and collect the related instrument funding
114 9 charges shall cease and any instrument funding charges
114 10 collected in excess of the amount required for the repayment
114 11 of the transitional funding instruments shall be paid to the
114 12 owner of such intangible transition property, and the relevant
114 13 incumbent provider shall be entitled to file tariffs revoking
114 14 any deductions from eligible rates which were granted in
114 15 connection with such instrument funding charges pursuant to
114 16 paragraph "d" or "f". The board shall not review such tariffs
114 17 except to determine that the rates and charges resulting from
114 18 such revocation do not exceed the applicable eligible rates
114 19 which would otherwise have been in effect at the time of such
114 20 revocation had no instrument funding charges ever been
114 21 deducted from such rates.

114 22 5. RELATIONSHIP TO STATE AND OTHER LAW.

114 23 a. The state pledges to, and agrees with, the holders of
114 24 any transitional funding instruments who may enter into
114 25 contracts with an incumbent provider, grantee, assignee, or
114 26 issuer pursuant to this section that the state will not in any
114 27 way limit, alter, impair, or reduce the value of intangible
114 28 transition property created by, or instrument funding charges
114 29 approved by, a transitional funding order so as to impair the
114 30 terms of any contract made by such incumbent provider,
114 31 grantee, assignee, or issuer with such holders or in any way
114 32 impair the rights and remedies of such holders until the
114 33 pertinent transitional funding instruments and interest,
114 34 premium and other fees, costs, and charges related to such
114 35 funding instruments, are fully paid and discharged. An
115 1 incumbent provider, grantee, or issuer is authorized to
115 2 include these pledges and agreements of the state in any
115 3 contract with the holders of transitional funding instruments
115 4 or with any assignees pursuant to this section, and any
115 5 assignees are similarly authorized to include these pledges
115 6 and agreements of the state in any contract with any issuer,
115 7 holder, or any other assignee. This section shall not
115 8 preclude the state from requiring adjustments as may otherwise
115 9 be allowed by law to eligible rates, so long as any such
115 10 adjustment does not directly affect or impair any instrument
115 11 funding charges previously authorized by a transitional
115 12 funding order issued by the board.

115 13 b. A transitional funding instrument issued under this
115 14 section does not constitute debt or liability of the state or
115 15 of any political subdivision, and transitional funding orders
115 16 authorizing such issuance do not constitute a pledge of the
115 17 full faith and credit of the state or of any political
115 18 subdivision. The issuance of transitional funding instruments
115 19 shall not directly, indirectly, or contingently obligate the

115 20 state or any political subdivision to levy or to pledge any
115 21 form of taxation or to make any appropriation for the payment
115 22 of such funding instruments. A transitional funding
115 23 instrument shall be payable solely from the intangible
115 24 transition property or from such other proceeds or property as
115 25 may be pledged for such funding instrument. This section
115 26 shall not be construed to prevent the state or any political
115 27 subdivision from owning any interest in a grantee, assignee,
115 28 or issuer or to prevent any incumbent provider, grantee,
115 29 issuer, or assignee from selling, pledging, or assigning
115 30 intangible transition property or from providing recourse or
115 31 guarantees or any other third-party credit enhancement in
115 32 connection with such sale, pledge, or assignment.

115 33 c. The procedures set forth in this section shall
115 34 constitute the sole procedures by which rights in, to, or
115 35 under intangible transition property may be created,
116 1 established, and granted, and no other approvals shall be
116 2 required under other law for such creation, establishment,
116 3 grant, or for the issuance of transitional funding
116 4 instruments. The rights of incumbent providers, grantees,
116 5 assignees, and holders in and to any such intangible
116 6 transition property shall be interpreted in accordance with
116 7 this section, which shall supersede any other law, rule, or
116 8 regulation to the contrary.

116 9 6. SECURITY INTERESTS IN INTANGIBLE TRANSITION PROPERTY.

116 10 a. Intangible transition property or any right, title, or
116 11 interest in such intangible transition property shall not
116 12 constitute property in which a security interest may be
116 13 created under the uniform commercial code. Additionally, such
116 14 property, or any such right, title, or interest in such
116 15 property shall not be deemed proceeds of any property which is
116 16 not intangible transition property. For purposes of this
116 17 paragraph, the terms "account" and "general intangible", as
116 18 defined under section 554.9106 of the uniform commercial code,
116 19 and the term "instrument", as used in the uniform commercial
116 20 code, shall be deemed to exclude any such intangible
116 21 transition property or any right, title, or interest in such
116 22 intangible transition property.

116 23 b. The granting, perfection, and enforcement of security
116 24 interests in intangible transition property shall be governed
116 25 by this section and not by the uniform commercial code.

116 26 c. A valid and enforceable security interest in intangible
116 27 transition property shall attach and be perfected only as
116 28 follows:

116 29 (1) To the extent a transitional funding instrument is
116 30 purported to be secured by intangible transition property as
116 31 specified in the applicable transitional funding order, the
116 32 lien of the transitional funding instrument shall attach
116 33 automatically to such intangible transition property from the
116 34 time of issuance of the transitional funding instrument. Such
116 35 lien shall be a valid and enforceable security interest in the
117 1 intangible transition property securing the transitional
117 2 funding instruments and shall be continuously perfected if,
117 3 before the date of issuance of the applicable transitional
117 4 funding instrument or within no more than ten days after such
117 5 issuance, a filing has been made by or on behalf of the holder
117 6 with the executive secretary of the board stating that such
117 7 transitional funding instrument has been or is to be issued.
117 8 Any such filing made with the board in respect to such
117 9 transitional funding instrument shall take precedence over any
117 10 subsequent filing except as may otherwise be provided in the
117 11 applicable transitional funding order.

117 12 (2) A lien under this paragraph is enforceable against the
117 13 incumbent provider, any grantee, issuer, or assignee, and any
117 14 third party, including a judicial lien creditor, subject only
117 15 to the rights of a third party holding a security interest in
117 16 the intangible transition property previously perfected in the

117 17 manner described in this subsection if value has been given by
117 18 the purchaser of a transitional funding instrument. A
117 19 perfected lien in intangible transition property is a
117 20 continuously perfected security interest in all then existing
117 21 or future revenues and proceeds arising with respect to the
117 22 associated intangible transition property whether or not the
117 23 electric power and related services included in the
117 24 calculation of such revenues and proceeds have been provided.
117 25 A lien created under this paragraph is perfected, and ranks
117 26 prior to any other lien, including a judicial lien, which
117 27 subsequently attaches to the intangible transition property
117 28 and to any other rights created by the transitional funding
117 29 order or any revenues or proceeds of the foregoing. The
117 30 relative priority of a lien created under this subsection is
117 31 not defeated or adversely affected by changes to the
117 32 transitional funding order or to the instrument funding
117 33 charges payable by a responsible consumer, class of
117 34 responsible consumers, or other person or group of persons
117 35 obligated to pay such charges.

118 1 (3) The relative priority of a lien created under this
118 2 subsection is not defeated or adversely affected by the
118 3 commingling of revenues arising with respect to intangible
118 4 transition property with funds of the incumbent provider or
118 5 other funds of the assignee, issuer, or grantee.

118 6 (4) If a default occurs under a transitional funding
118 7 instrument, the holders of such instrument or their authorized
118 8 representative, as secured parties, may foreclose or otherwise
118 9 enforce the lien in the intangible transition property
118 10 securing the transitional funding instrument, subject to the
118 11 rights of any third parties holding prior security interests
118 12 in the intangible transition property previously perfected as
118 13 provided in this subsection. Upon application by a holder or
118 14 such holder's authorized representative, without limiting any
118 15 other remedies, the board shall order the sequestration and
118 16 payment to such holder or authorized representative of
118 17 revenues arising with respect to the intangible transition
118 18 property pledged to the holder. An order under this
118 19 subsection shall remain in full force and effect
118 20 notwithstanding any bankruptcy, reorganization, or other
118 21 insolvency proceeding with respect to the incumbent provider,
118 22 grantee, assignee, or issuer.

118 23 (5) The board shall maintain segregated records which
118 24 reflect the date and time of receipt of all filings made under
118 25 this subsection. The board may provide that transfers of
118 26 intangible transition property be filed in accordance with the
118 27 same system.

118 28 7. TRUE SALE CHARACTERIZATION OF TRANSFER. A sale,
118 29 assignment, grant, or other transfer of intangible transition
118 30 property in a transaction approved in a transitional funding
118 31 order, unless otherwise provided in the documents governing
118 32 such transaction, shall be irrevocable as against the
118 33 incumbent provider requesting such transitional funding order
118 34 and shall be treated as an absolute transfer of all of the
118 35 transferor's right, title, and interest in, to, and under such
119 1 intangible transition property, or, in the case of a grant to
119 2 a grantee, as an absolute vesting of such property in the name
119 3 of the grantee. Any such sale, assignment, grant, or other
119 4 transfer is perfected as against third persons, including
119 5 judicial lien creditors, when the sale, assignment, grant, or
119 6 other transfer has become effective as between the parties,
119 7 and shall place such intangible transition property beyond the
119 8 reach of the transferor or incumbent provider and their
119 9 respective creditors, as in a true sale, and not as a pledge
119 10 or other financing, of such intangible transition property.
119 11 The characterization of a sale, assignment, grant, or other
119 12 transfer as an absolute transfer or vesting and the
119 13 corresponding characterization of the grantee's or

119 14 transferee's property interest shall not be defeated or
119 15 adversely affected by, among other things, any of the
119 16 following: the commingling of revenues arising with respect
119 17 to intangible transition property with funds of the incumbent
119 18 provider or other funds of the assignee, issuer, or grantee;
119 19 the granting to holders of transitional funding instruments a
119 20 preferred right to the intangible transition property, whether
119 21 direct or indirect; the provision by the incumbent provider,
119 22 grantee, assignee, or issuer of any recourse, collateral, or
119 23 credit enhancement with respect to transitional funding
119 24 instruments; the retention by the assigning party of a partial
119 25 interest in any intangible transition property, whether direct
119 26 or indirect, or whether subordinate or otherwise; or the
119 27 incumbent provider's responsibilities for collecting
119 28 instrument funding charges and any retention of bare legal
119 29 title for the purpose of such collection activities. The
119 30 treatment of any such sale, assignment, grant, or other
119 31 transfer for federal tax purposes shall be governed by
119 32 applicable law without regard to this section.

119 33 8. TREATMENT OF TRANSITIONAL FUNDING INSTRUMENTS IN
119 34 REGULATED RATES. The debt associated with a transitional
119 35 funding instrument shall not be included in the regulated
120 1 capital structure for the purpose of determining regulated
120 2 rates for any service.

120 3 9. ACTIONS WITH RESPECT TO INTANGIBLE TRANSITION PROPERTY
120 4 AND RELATED INSTRUMENT FUNDING CHARGES.

120 5 a. The board shall have exclusive jurisdiction over any
120 6 dispute arising out of the obligations to impose and collect
120 7 instrument funding charges. This section does not prevent a
120 8 holder from bringing an action in any court or from exercising
120 9 any other legal or equitable remedy against an incumbent
120 10 provider for failure to distribute collections of instrument
120 11 funding charges or for any other failure by the incumbent
120 12 provider to perform the contractual obligations agreed to by
120 13 the incumbent provider under any documents pertaining to, or
120 14 executed in connection with, a transitional funding instrument
120 15 issued by or on behalf of the incumbent provider.

120 16 b. An incumbent provider, issuer, assignee, grantee, or
120 17 holder is expressly permitted to bring an action against a
120 18 responsible consumer or other person for nonpayment of any
120 19 instrument funding charges constituting a part of the
120 20 intangible transition property then held by the incumbent
120 21 provider, issuer, assignee, grantee, or holder. Any such
120 22 action shall be subject to any and all applicable consumer
120 23 credit protection laws and other laws relating to origination,
120 24 collection, and reporting of consumer credit obligations.

120 25 10. TAXATION OF TRANSFERS OF INTANGIBLE TRANSITION
120 26 PROPERTY. A sale, grant, pledge, assignment, or other
120 27 transfer of intangible transition property is exempt from any
120 28 state or local sales, income, transfers, gains, receipts, or
120 29 similar taxes. A transfer of intangible transition property
120 30 shall be treated as a pledge or other financing for state tax
120 31 purposes, including state and local income and franchise
120 32 taxes, unless the documents governing such transfer
120 33 specifically state that the transfer is intended to be treated
120 34 otherwise.

120 35 Sec. 18. NEW SECTION. 476B.18 RECIPROCITY.

121 1 A person with an assigned service area in this state,
121 2 including an affiliate of such person, shall not offer
121 3 competitive power supply services within another person's
121 4 assigned service area in this state until the former person
121 5 allows the latter person a reasonable opportunity to offer
121 6 competitive power supply services in the former person's
121 7 assigned service area in this state. If the board suspends
121 8 the dates for commencement of the option to choose competitive
121 9 electric service pursuant to section 476B.7, the board shall
121 10 determine the manner and extent to which this section applies.

121 11 Sec. 19. NEW SECTION. 476B.19 APPLICABILITY OF AUTHORITY
121 12 CONSUMER-OWNED UTILITIES.

121 13 An electric cooperative and a municipal utility are not
121 14 subject to regulation by the board except as specifically
121 15 provided in this chapter.

121 16 Sec. 20. NEW SECTION. 476B.20 REMEDIES AND PENALTIES.

121 17 1. The board, after notice and opportunity for hearing,
121 18 may impose the following penalties and remedies for the
121 19 following violations:

121 20 a. The board may impose a civil penalty of up to two
121 21 thousand dollars for each nonmaterial violation of a licensing
121 22 requirement, including all board rules and orders, governing a
121 23 competitive electric service provider. The maximum aggregate
121 24 penalty per person pursuant to this paragraph shall not exceed
121 25 twenty thousand dollars per calendar year.

121 26 b. The board may impose a civil penalty of up to ten
121 27 thousand dollars for each material violation of a licensing
121 28 requirement, including all board rules and orders, governing a
121 29 competitive electric service provider. The maximum aggregate
121 30 penalty per person pursuant to this paragraph shall not exceed
121 31 two hundred thousand dollars per calendar year.

121 32 c. The board may impose a civil penalty of up to twenty-
121 33 five thousand dollars for each repeat violation of a licensing
121 34 requirement, including all board rules and orders, governing a
121 35 competitive electric service provider if the board finds the
122 1 violation to be substantial. The maximum aggregate penalty
122 2 per person under this paragraph shall not exceed one million
122 3 dollars per calendar year.

122 4 d. For repeat violations of licensing requirements,
122 5 including board rules and orders, governing a competitive
122 6 electric service provider, the board may by order prohibit the
122 7 competitive electric service provider or any other person
122 8 acting on behalf of the competitive electric service provider
122 9 from billing charges directly associated with the violation.

122 10 e. For repeat substantial violations under paragraph "c"
122 11 occurring within a twenty-four-month period, the board may
122 12 revoke the competitive electric service provider's license if
122 13 the board determines that no less severe remedy is likely to
122 14 correct the competitive electric service provider's conduct.
122 15 A repeat violation for the purpose of this paragraph means
122 16 that the occurrence of the second applicable violation takes
122 17 place subsequent to the date the board has issued a notice of
122 18 violation in a contested case on the initial violation, and
122 19 the board finds that the same provision of this chapter, or
122 20 the same requirement of a board rule or order, has been
122 21 violated in both contested cases. The written notice of
122 22 violation given by the board under this paragraph shall
122 23 specify an appropriate and reasonable time for compliance.

122 24 f. The board may issue a cease and desist order if the
122 25 board finds a competitive electric service provider has
122 26 engaged in conduct to monopolize in the relevant competitive
122 27 market, including, but not limited to predatory pricing as
122 28 defined by applicable law. The board's determination of
122 29 predatory pricing shall be given no weight in any legal action
122 30 brought in court, except with respect to judicial review of a
122 31 ruling brought pursuant to section 476B.23. For a repeat
122 32 violation of a cease and desist order issued pursuant to this
122 33 paragraph, the board may revoke a competitive electric service
122 34 provider's license if the board determines that no less severe
122 35 remedy is likely to result in a change in the competitive
123 1 electric service provider's conduct. This paragraph shall not
123 2 be construed as creating an exemption from federal or state
123 3 antitrust laws.

123 4 g. If a competitive electric service provider
123 5 substantially defaults on its obligations such that a control
123 6 area operator or other person provides emergency supply to
123 7 serve a customer of the defaulting competitive electric

123 8 service provider, the board may impose a monetary penalty on
123 9 the competitive electric service provider which does not
123 10 exceed three times the cost of the emergency supply and may
123 11 also revoke a competitive electric service provider's license
123 12 if the board determines that no less severe remedy is likely
123 13 to result in a change in the competitive electric service
123 14 provider's conduct.

123 15 h. The board may issue a cease and desist order if any
123 16 competitive electric service provider has engaged or is
123 17 engaging in any act or practice in violation of this chapter
123 18 or rule or order of the board. Such order is effective when
123 19 issued unless otherwise specified in the order. For a
123 20 violation of a cease and desist order issued pursuant to this
123 21 paragraph, the board may revoke a competitive electric service
123 22 provider's license if the board determines that no less severe
123 23 remedy is likely to result in a change of the competitive
123 24 electric service provider's conduct.

123 25 i. The board may impose a civil penalty of up to five
123 26 thousand dollars for each nonmaterial violation of this
123 27 chapter, or a board rule or order, governing delivery service
123 28 providers. The maximum aggregate penalty to which a delivery
123 29 service provider may be subject pursuant to this paragraph
123 30 shall not exceed twenty thousand dollars per calendar year.

123 31 j. The board may impose a civil penalty of up to ten
123 32 thousand dollars for a material violation of this chapter, or
123 33 a board rule or order, by a delivery service provider. The
123 34 maximum aggregate penalty to which a delivery service provider
123 35 may be subject pursuant to this paragraph shall not exceed two
124 1 hundred thousand dollars per calendar year.

124 2 k. The board may impose a civil penalty of up to twenty-
124 3 five thousand dollars for each repeat violation of this
124 4 chapter, or a board rule or order, by a delivery service
124 5 provider if the board finds the violation to be substantial.
124 6 The maximum aggregate penalty to which a delivery service
124 7 provider may be subject pursuant to this paragraph shall not
124 8 exceed one million dollars per calendar year.

124 9 l. For a violation of this chapter, or a board rule or
124 10 order, by a delivery service provider, in addition to the
124 11 penalties and remedies in this subsection, the board may issue
124 12 a cease and desist order and disallow cost recovery of any
124 13 associated costs in electric company rate proceedings. Such
124 14 cease and desist order is effective when issued unless
124 15 otherwise specified in the order.

124 16 2. The board may issue a cease and desist order in an
124 17 emergency, without hearing or notice, if the board receives a
124 18 written verified complaint or affidavit showing that a person
124 19 is selling competitive electric services without being duly
124 20 licensed or is engaging in conduct that creates an immediate
124 21 danger to the public safety or reliability of the delivery
124 22 system or is reasonably expected to cause significant,
124 23 imminent, and irreparable public injury. An emergency cease
124 24 and desist order is effective immediately and continues in
124 25 force and effect until further order of the board or until
124 26 stayed by a court of competent jurisdiction. A hearing shall
124 27 be held by the board within ten business days of the issuance
124 28 of the emergency cease and desist order in which the board
124 29 shall in a final order affirm, modify, or set aside the
124 30 emergency cease and desist order.

124 31 3. The board, after notice and opportunity for hearing,
124 32 may order restitution for a person injured by a violation of
124 33 any board rule including, but not limited to, rules concerning
124 34 deceptive, abusive, and unfair sales practices, and the
124 35 provision of safe, reliable, and prompt delivery services and
125 1 competitive electric services. The board shall not have
125 2 authority to order special, incidental, consequential, or
125 3 punitive damages.

125 4 4. The board, after written notice and opportunity for

125 5 hearing, may impose a civil penalty of up to twenty-five
125 6 thousand dollars per occurrence upon a delivery service
125 7 provider for an excessive number of delivery-related outages,
125 8 excessive outage durations, or failure to undertake reasonable
125 9 and prudent maintenance measures to avoid outages. For
125 10 purposes of this subsection, an occurrence does not mean per
125 11 day or per consumer affected by an occurrence. The board
125 12 shall adopt rules specifying the circumstances under which
125 13 penalties would apply and shall give due consideration to
125 14 conditions within and beyond the control of the delivery
125 15 service provider. Delivery service providers that are
125 16 electric companies shall not include such civil penalties in
125 17 regulated rates. The initial rules shall be proposed by
125 18 November 1, 2001.

125 19 5. A person, after previously having been found by the
125 20 board to have violated a provision of this chapter or a rule
125 21 or order of the board, who willfully violates the same
125 22 provision of this chapter, the same rule or provision of an
125 23 order, shall after notice and opportunity for hearing be
125 24 subject to a civil penalty of up to twenty-five thousand
125 25 dollars per violation. For the purposes of this subsection,
125 26 "willful" means knowing and deliberate, with a specific intent
125 27 to violate.

125 28 6. Except as provided in subsection 4, each violation is a
125 29 separate offense, and in the case of a continuing violation,
125 30 each day a violation continues, after a reasonable time
125 31 specified for compliance in the written notice by the board,
125 32 is a separate and distinct offense. A civil penalty assessed
125 33 under this section may be compromised below the maximum by the
125 34 board. In determining the amount of the penalty, or the
125 35 amount agreed upon in the compromise, the board may consider
126 1 the appropriateness of the penalty in relation to the
126 2 financial resources of the person being penalized, the gravity
126 3 of the violation, the good faith of the person in attempting
126 4 to achieve compliance following notification of a violation,
126 5 and any other relevant factors. The board shall not impose a
126 6 civil penalty for any single violation in excess of fifty
126 7 thousand dollars and for any continuing violation in excess of
126 8 five hundred thousand dollars.

126 9 7. Civil penalties collected by the board under this
126 10 section shall be forwarded to the treasurer of state.

126 11 8. The board may apply to the district court of any county
126 12 of the state to enforce any order made or action taken by the
126 13 board pursuant to this section or to have a violation stopped
126 14 or prevented by injunction, mandamus, or other appropriate
126 15 remedy.

126 16 9. The board may award costs of litigation, including
126 17 reasonable attorney and expert witness fees, actually incurred
126 18 by a person found by the board to have materially contributed
126 19 to the enforcement of the remedies or penalties provided for
126 20 in this section. Litigation costs, in an amount approved by
126 21 the board and not to exceed twenty-five thousand dollars,
126 22 shall be paid by the person or persons found by the board to
126 23 be in violation of this chapter. In determining the award,
126 24 the board may consider the financial resources of such person.

126 25 10. A person who suffers harm as a result of a violation
126 26 of this chapter or of any rule or order lawfully issued by the
126 27 board pursuant to this chapter shall have a right to bring an
126 28 action in the courts of this state to recover any damages
126 29 caused by such violation.

126 30 Sec. 21. NEW SECTION. 476B.21 REHEARINGS BEFORE THE
126 31 BOARD.

126 32 Notwithstanding chapter 17A, a party, as defined in the
126 33 rules adopted by the board, to a contested case before the
126 34 board may within twenty days after the issuance of the final
126 35 decision apply for a rehearing. The board shall either grant
127 1 or refuse an application for rehearing within thirty days

127 2 after the filing of the application or, after giving the
127 3 interested parties notice and opportunity to be heard and
127 4 after consideration of all the facts, including those arising
127 5 since the making of the order, may abrogate or modify its
127 6 order. A failure by the board to act upon the application for
127 7 rehearing within the thirty-day period shall be deemed a
127 8 denial of the application. Neither the filing of an
127 9 application for rehearing nor the granting of the application
127 10 shall stay the effectiveness of an order unless the board so
127 11 directs.

127 12 Sec. 22. NEW SECTION. 476B.22 JUDICIAL REVIEW.

127 13 1. Notwithstanding chapter 17A, the district court for
127 14 Polk county has exclusive venue for the judicial review under
127 15 chapter 17A of actions of the board pursuant to section
127 16 476B.4, subsection 1, section 476B.8, subsections 1, 2, and 3,
127 17 and section 476B.9, subsections 5 and 7.

127 18 2. Upon the filing of a petition for judicial review
127 19 pursuant to subsection 1, the clerk of the district court
127 20 shall notify the chief justice of the supreme court for
127 21 purposes of assignment of a district judge under section
127 22 602.1212. The judicial review proceeding shall be heard by
127 23 the district judge appointed by the supreme court under
127 24 section 602.1212, but in the court of venue under subsection
127 25 1.

127 26 3. Notwithstanding chapter 17A, if a delivery service
127 27 provider that is an electric company seeks judicial review of
127 28 an order approving rates for the delivery service provider,
127 29 the level of rates that may be collected, under bond and
127 30 subject to refund, while the judicial review proceeding is
127 31 pending is limited to the level of the temporary rates set by
127 32 the board, or the level of the final rates set by the board,
127 33 whichever is greater. During the period the judicial review
127 34 proceeding is pending, the board shall retain jurisdiction to
127 35 determine the rate of interest to be paid on any refunds
128 1 eventually required on rates collected during judicial review.

128 2 Sec. 23. NEW SECTION. 476B.23 CONTRACT RIGHTS.

128 3 Except as provided in this section, this chapter shall not
128 4 affect the rights and duties of parties under a contract for
128 5 electric service in effect on the effective date of this
128 6 chapter. Notwithstanding a provision in a contract to the
128 7 contrary, contracts for bundled electric service executed
128 8 before the effective date of this chapter between an incumbent
128 9 provider and a nonresidential end-use consumer that uses fewer
128 10 than one hundred thousand kilowatt-hours in 2001 or a
128 11 residential end-use consumer may be terminated without penalty
128 12 by the consumer on or after May 1, 2002, upon thirty days'
128 13 prior written notice.

128 14 Sec. 24. NEW SECTION. 476B.24 UTILITY EMPLOYEE
128 15 TRANSITION SERVICES AND BENEFITS.

128 16 1. The general assembly finds, based on experience in
128 17 other industries that have undergone similar transitions, that
128 18 the introduction of competition into the state's electric
128 19 utility industry may result in workforce reductions by
128 20 electric companies which may adversely affect persons who have
128 21 been employed by this state's electric utilities in functions
128 22 important to the public convenience and welfare. The general
128 23 assembly further finds that the impacts on employees and their
128 24 communities of any necessary reductions in the utility
128 25 workforce caused by this restructuring of the electric
128 26 industry shall be mitigated to the extent practicable through
128 27 such means as offers of voluntary severance, retraining, early
128 28 retirement, outplacement, and related benefits. Therefore,
128 29 before any such reduction in the workforce during the period
128 30 between the effective date of this chapter and January 1,
128 31 2006, an electric utility shall present to its employees or
128 32 their representatives a workforce reduction plan outlining the
128 33 means by which the electric utility intends to mitigate the

128 34 impact of such workforce reduction on its employees. For the
128 35 purpose of this section, the term "electric utility" means the
129 1 electric delivery service operations in Iowa and the electric
129 2 generating operations and units located in Iowa of incumbent
129 3 providers other than consumer-owned utilities.

129 4 2. In the event of a sale, purchase, or any other transfer
129 5 of ownership by an electric utility, during the period from
129 6 the effective date of this chapter to January 1, 2006, of one
129 7 or more Iowa divisions, business units, generating stations,
129 8 or generating units located in Iowa, the electric utility's
129 9 contract or agreement with the acquiring person shall require
129 10 that the acquiring person hire a sufficient number of
129 11 nonsupervisory employees to operate and maintain the station,
129 12 division, or unit by initially making offers of employment to
129 13 the nonsupervisory workforce of the electric utility's
129 14 division, business unit, generating stations, or generating
129 15 unit at no less than the wage rates and substantially
129 16 equivalent fringe benefits and terms and conditions of
129 17 employment that are in effect at the time of transfer of
129 18 ownership of the division, business unit, generating station,
129 19 or generating units. The wage rates and substantially
129 20 equivalent fringe benefits and terms and conditions of
129 21 employment shall continue for at least thirty months from the
129 22 time of the transfer of ownership unless the parties mutually
129 23 agree to different terms and conditions of employment within
129 24 that thirty-month period. The electric utility shall offer a
129 25 transition plan to those nonsupervisory employees who are not
129 26 offered jobs by the acquiring person because that person has a
129 27 need for fewer workers. If there is litigation concerning the
129 28 sale or other transfer of ownership of the electric utility's
129 29 divisions, business units, generating stations, or generating
129 30 units, the thirty-month period will begin on the date the
129 31 acquiring person takes control or management of the divisions,
129 32 business units, generating stations, or generating units of
129 33 the electric utility.

129 34 3. If an electric utility transfers ownership of one or
129 35 more of its divisions, business units, generating stations, or
130 1 generating units located in Iowa to an affiliate, during the
130 2 period from the effective date of this chapter to January 1,
130 3 2006, that affiliate shall comply with the transition
130 4 provisions in subsection 2. If ownership of the affiliate is
130 5 subsequently sold or transferred to another person during the
130 6 transition period, the transition provisions in subsection 2
130 7 shall continue to apply.

130 8 Sec. 25. NEW SECTION. 476B.25 REPORTS TO GENERAL
130 9 ASSEMBLY.

130 10 1. After providing an opportunity for public input, the
130 11 board shall submit to the secretary of the senate and the
130 12 chief clerk of the house of representatives for transmittal to
130 13 the Iowa senate and house of representatives a report on or
130 14 before January 10, 2005, which includes both of the following:

130 15 a. An evaluation of the effectiveness of competition in
130 16 the market for each competitive electric service.

130 17 b. Recommendations, if any, that the general assembly
130 18 should consider to increase the effectiveness of competition
130 19 in the markets for all competitive electric services.

130 20 2. On or before January 10, 2005, the consumer advocate
130 21 shall provide a written report to the general assembly that
130 22 sets forth the consumer advocate's conclusions regarding the
130 23 effectiveness of competition in the market for competitive
130 24 electric services. The report may include any recommendations
130 25 which the consumer advocate believes the general assembly
130 26 should consider in light of the conclusions.

130 27 Sec. 26. NEW SECTION. 28F.15 POWERS CONFLICTING
130 28 PROVISIONS.

130 29 In addition to the powers conferred elsewhere in this
130 30 chapter, an electric power agency may exercise all other

130 31 powers reasonably necessary or appropriate for or incidental
130 32 to the effectuation of its authorized purposes including
130 33 without limitation, the powers enumerated in chapters 6A and
130 34 6B for purposes of constructing or acquiring electric power
130 35 facilities within this state. The failure of a city to comply
131 1 with requirements of section 28F.1, relating to joining an
131 2 electric power agency for the purpose of financing electric
131 3 power facilities, shall not limit the ability of that electric
131 4 power agency to jointly finance open access transmission
131 5 facilities pursuant to this subchapter. An electric power
131 6 agency may exercise in connection with its property and
131 7 affairs, and in connection with property within its control,
131 8 any and all powers which might be exercised by a natural
131 9 person or a private corporation in connection with similar
131 10 property and affairs. The enumeration of specific powers and
131 11 functions in this subchapter is not a limitation of the powers
131 12 of a public agency or an electric power agency as otherwise
131 13 provided by law. For purposes of this subchapter, open access
131 14 transmission facilities are those available for use by others
131 15 in a manner comparable to the use of transmission facilities
131 16 of a public utility subject to the federal Power Act.

131 17 Sec. 27. NEW SECTION. 28F.16 ISSUANCE OF BONDS AND NOTES
131 18 PURPOSES.

131 19 An electric power agency may from time to time issue its
131 20 bonds or notes in such principal amounts as the electric power
131 21 agency deems necessary to provide sufficient funds to carry
131 22 out the following corporate purposes and powers:

131 23 1. The construction of open access transmission facilities
131 24 to be owned or leased by the electric power agency, or the
131 25 acquisition of any interest or any right to capacity in such
131 26 facilities constructed on or after July 1, 1999.

131 27 2. The funding or refunding of the principal of, or
131 28 interest or redemption premiums on, any bonds or notes issued
131 29 by the electric power agency whether or not the bonds or notes
131 30 or interest to be funded or refunded has become due.

131 31 3. The establishment or increase of reserves to secure or
131 32 to pay the bonds or notes, or interest on such bonds or notes.

131 33 4. The payment of all other costs or expenses of the
131 34 electric power agency incident to and necessary to carry out
131 35 the foregoing corporate purposes and powers.

132 1 Sec. 28. NEW SECTION. 28F.17 BONDS AND NOTES AUTHORIZED
132 2 BY RESOLUTION OF BOARD TERMS.

132 3 1. Bonds or notes of an electric power agency shall be
132 4 authorized by resolution of its board of directors and may be
132 5 issued under the resolution or under a trust indenture or
132 6 other security agreement, in one or more series, which shall
132 7 include all of the following:

- 132 8 a. Date of issue.
- 132 9 b. Date of maturity.
- 132 10 c. Rate of interest.
- 132 11 d. Amount of denomination.

132 12 2. The terms and conditions in the resolution, trust
132 13 indenture, or other security agreement shall provide for all
132 14 of the following:

- 132 15 a. The form of the bond or note, either coupon or
132 16 registered.
- 132 17 b. Conversion, registration, and exchange privileges.
- 132 18 c. Rank or priority.
- 132 19 d. Execution requirements.
- 132 20 e. Medium and place of payment.
- 132 21 f. Terms of redemption with or without premium.
- 132 22 g. Such other terms and conditions as the resolution,
132 23 trust indenture, or other security agreement may provide.

132 24 3. Bonds and notes issued pursuant to this subchapter
132 25 shall not be restricted by any other law limiting the amounts,
132 26 maturities, interest rates, or other terms of obligation of
132 27 public agencies or private persons. Chapter 75 shall not

132 28 apply to such bonds or notes.

132 29 Sec. 29. NEW SECTION. 28F.18 BONDS AND NOTES PAYABLE
132 30 SOLELY FROM AGENCY REVENUES OR FUNDS.

132 31 The principal of and interest upon any bonds or notes
132 32 issued by an electric power agency shall be payable solely
132 33 from the revenues or funds pledged or available for their
132 34 payment as authorized in this subchapter. Each bond and note
132 35 shall contain a statement that the principal or interest
133 1 associated with such bond or note is payable solely from
133 2 revenues or funds of the electric power agency, and that the
133 3 state, any political subdivision of the state other than the
133 4 electric power agency, or any public agency which is a member
133 5 of the electric power agency is not obligated to pay the
133 6 principal or interest and that the full faith and credit or
133 7 the taxing power of the state, any political subdivision of
133 8 the state, or any such public agency is not pledged to the
133 9 payment of the principal of or the interest on the bonds or
133 10 notes.

133 11 Sec. 30. NEW SECTION. 28F.19 BONDS AND NOTES TYPES
133 12 SOURCES FOR PAYMENT SECURITY.

133 13 Except as may be otherwise expressly provided by this
133 14 subchapter or by the electric power agency, every issue of
133 15 bonds or notes of the electric power agency shall be payable
133 16 out of any revenues or funds of the electric power agency,
133 17 subject only to any agreements with the holders of particular
133 18 bonds or notes pledging any particular revenues or funds. An
133 19 electric power agency may issue types of bonds or notes as it
133 20 may determine, including bonds or notes as to which the
133 21 principal and interest are payable exclusively from the
133 22 revenues from one or more projects, or from an interest in
133 23 such projects or a right to capacity of such projects, or from
133 24 one or more revenue-producing contracts made by the electric
133 25 power agency with any person, or from its revenues generally.
133 26 Any bonds or notes may be additionally secured by a pledge of
133 27 any grant, subsidy, or contribution from any public agency or
133 28 other person, or a pledge of any income or revenues, funds, or
133 29 moneys of the electric power agency from any source
133 30 whatsoever.

133 31 Sec. 31. NEW SECTION. 28F.20 BONDS, NOTES, AND RATES FOR
133 32 DEBT SERVICE NOT SUBJECT TO STATE APPROVAL.

133 33 Bonds or notes of an electric power agency may be issued
133 34 under this subchapter, and rents, rates, and charges may be
133 35 established pursuant to section 28F.5 and pledged for the
134 1 security of bonds or notes, and interest and redemption
134 2 premiums on such bonds or notes, without obtaining the consent
134 3 of any department, division, commission, board, bureau, or
134 4 agency of the state and without any other proceeding or the
134 5 happening of any other condition or occurrence except as
134 6 specifically required by this subchapter.

134 7 Sec. 32. NEW SECTION. 28F.21 BONDS AND NOTES TO BE
134 8 NEGOTIABLE.

134 9 All bonds and notes of an electric power agency shall be
134 10 negotiable within the meaning and for all the purposes of the
134 11 uniform commercial code, subject only to any registration
134 12 requirement.

134 13 Sec. 33. NEW SECTION. 28F.22 VALIDITY OF BONDS AND NOTES
134 14 AT DELIVERY TEMPORARY BONDS.

134 15 Any bonds or notes may be issued and delivered,
134 16 notwithstanding that one or more of the officers executing
134 17 them shall have ceased to hold office at the time when the
134 18 bonds or notes are actually delivered. Pending preparation of
134 19 definitive bonds, an electric power agency may issue temporary
134 20 bonds which shall be exchanged for the definitive bonds.

134 21 Sec. 34. NEW SECTION. 28F.23 PUBLIC OR PRIVATE SALE OF
134 22 BONDS AND NOTES.

134 23 Bonds or notes of an electric power agency may be sold at
134 24 public or private sale for a price and in a manner as

134 25 determined by the agency.

134 26 Sec. 35. NEW SECTION. 28F.24 BONDS AND NOTES SUITABLE
134 27 INVESTMENTS FOR GOVERNMENTAL UNITS, FINANCIAL INSTITUTIONS,
134 28 AND FIDUCIARIES.

134 29 A bank, trust company, savings bank, building and loan
134 30 association, savings and loan association, credit union,
134 31 investment company, insurance company, insurance association,
134 32 executor, guardian, trustee, and other fiduciaries responsible
134 33 for the investment of funds, may legally invest any debt
134 34 service funds, money, or other funds belonging to them or
134 35 within their control in any bonds or notes issued pursuant to
135 1 this subchapter, and the bonds or notes shall be authorized
135 2 security for any and all public deposits.

135 3 Sec. 36. NEW SECTION. 28F.25 RESOLUTION, TRUST
135 4 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
135 5 PROVISIONS.

135 6 1. The resolution, trust indenture, or other security
135 7 agreement under which any bonds or notes are issued shall
135 8 constitute a contract with the holders of the bonds or notes,
135 9 and may contain provisions, among others, prescribing any of
135 10 the following:

135 11 a. The terms and provisions of the bonds or notes.

135 12 b. The mortgage or pledge of and the grant of a security
135 13 interest in any real or personal property and all or any part
135 14 of the revenue from any project or any revenue-producing
135 15 contract made by the electric power agency with any person to
135 16 secure the payment of bonds or notes, subject to any
135 17 agreements with the holders of bonds or notes which might then
135 18 exist.

135 19 c. The custody, collection, securing, investment, and
135 20 payment of any revenues, assets, money, funds, or property
135 21 with respect to which the electric power agency may have any
135 22 rights or interest.

135 23 d. The rates or charges for electric energy sold by, or
135 24 services rendered by, the electric power agency, the amount to
135 25 be raised by the rates or charges, and the use and disposition
135 26 of any or all revenue.

135 27 e. The creation of reserves or debt service funds and the
135 28 regulation and disposition of such reserves or funds.

135 29 f. The purposes to which the proceeds from the sale of any
135 30 bonds or notes to be issued may be applied, and the pledge of
135 31 the proceeds to secure the payment of the bonds or notes.

135 32 g. Limitations on the issuance of any additional bonds or
135 33 notes, the terms upon which additional bonds or notes may be
135 34 issued and secured, and the refunding of outstanding bonds or
135 35 notes.

136 1 h. The rank or priority of any bonds or notes with respect
136 2 to any lien or security.

136 3 i. The creation of special funds or moneys to be held in
136 4 trust or otherwise for operating expenses, payment, or
136 5 redemption of bonds or notes, reserves or other purposes, and
136 6 the use and disposition of moneys held in these funds.

136 7 j. The procedure by which the terms of any contract with
136 8 or for the benefit of the holders of bonds or notes may be
136 9 amended or abrogated, the amount of bonds or notes the holders
136 10 of which must consent to such amendment or abrogation, and the
136 11 manner in which consent may be given.

136 12 k. The definition of the acts or omissions to act which
136 13 shall constitute a default in the duties of the electric power
136 14 agency to holders of its bonds or notes, and the rights and
136 15 remedies of the holders in the event of default including, if
136 16 the electric power agency so determines, the right to
136 17 accelerate the due date of the bonds or notes or the right to
136 18 appoint a receiver of the property or revenues subject to the
136 19 lien of the resolution, trust indenture, or other security
136 20 agreement.

136 21 l. Any other or additional agreements with or for the

136 22 benefit of the holders of bonds or notes or any covenants or
136 23 restrictions necessary or desirable to safeguard the interests
136 24 of the holders.

136 25 m. The custody of any of its properties or investments,
136 26 the safekeeping of such properties or investments, the
136 27 insurance to be carried on such properties or investments, and
136 28 the use and disposition of insurance proceeds.

136 29 n. The vesting in a trustee, within or outside the state,
136 30 of such properties, rights, powers, and duties in trust as the
136 31 electric power agency may determine; or the limiting or
136 32 abrogating of the rights of the holders of any bonds or notes
136 33 to appoint a trustee, or the limiting of the rights, powers,
136 34 and duties of such trustee.

136 35 o. The appointment of, and the establishment of the duties
137 1 and obligations of, any paying agent or other fiduciary within
137 2 or outside the state.

137 3 Sec. 37. NEW SECTION. 28F.26 MORTGAGE OR TRUST DEED TO
137 4 SECURE BONDS.

137 5 For the security of bonds or notes issued, or to be issued,
137 6 by an electric power agency, the electric power agency may
137 7 mortgage or execute deeds of trust of the whole or any part of
137 8 its property.

137 9 Sec. 38. NEW SECTION. 28F.27 NO PERSONAL LIABILITY ON
137 10 BONDS OR NOTES.

137 11 An official, director, or member of an electric power
137 12 agency, or any person executing bonds or notes pursuant to
137 13 this subchapter shall not be liable personally on the bonds or
137 14 notes or be subject to any personal liability or
137 15 accountability by reason of the issuance of such bonds or
137 16 notes.

137 17 Sec. 39. NEW SECTION. 28F.28 REPURCHASE OF SECURITIES.

137 18 An electric power agency may purchase, out of any funds
137 19 available for such purchase, bonds or notes, and may hold,
137 20 pledge, cancel, or resell the bonds or notes, subject to and
137 21 in accordance with any agreements with the holders.

137 22 Sec. 40. NEW SECTION. 28F.29 PLEDGE OF REVENUE AS
137 23 SECURITY.

137 24 An electric power agency may pledge its rates, rents, and
137 25 other revenues, or any part of such rates, rents, or other
137 26 revenues, as security for the repayment, with interest and
137 27 redemption premiums, if any, of the moneys borrowed by it or
137 28 advanced to it for any of its authorized purposes and as
137 29 security for the payment of amounts due and owed by it under
137 30 any contract.

137 31 Sec. 41. Section [384.24](#), subsection 4, Code 1999, is
137 32 amended by adding the following new paragraph:

137 33 NEW PARAGRAPH. j. The acquisition of competitive electric
137 34 services, as defined in chapter 476B, to meet the demands of
137 35 city residents.

138 1 Sec. 42. Section [384.84](#), subsection 1, Code Supplement
138 2 1999, is amended to read as follows:

138 3 1. The governing body of a city utility, combined utility
138 4 system, city enterprise, or combined city enterprise may
138 5 establish, impose, adjust, and provide for the collection of
138 6 rates and charges to produce gross revenues at least
138 7 sufficient to pay the expenses of operation and maintenance of
138 8 the city utility, combined utility system, city enterprise, or
138 9 combined city enterprise. When revenue bonds or pledge orders
138 10 are issued and outstanding pursuant to this division, the
138 11 governing body shall establish, impose, adjust, and provide
138 12 for the collection of rates to produce gross revenues at least
138 13 sufficient to pay the expenses of operation and maintenance of
138 14 the city utility, combined utility system, city enterprise, or
138 15 combined city enterprise, and to leave a balance of net
138 16 revenues sufficient to pay the principal of and interest on
138 17 the revenue bonds and pledge orders as they become due and to
138 18 maintain a reasonable reserve for the payment of principal and

138 19 interest, and a sufficient portion of net revenues must be
138 20 pledged for that purpose. Rates must be established by
138 21 ordinance of the council or by resolution of the trustees,
138 22 published in the same manner as an ordinance. However, prices
138 23 for electric services subject to direct competition under
138 24 chapter 476B may be changed in accordance with a policy that
138 25 has been adopted in the same manner as rates.

138 26 Sec. 43. Section 388.6, Code 1999, is amended to read as
138 27 follows:

138 28 388.6 DISCRIMINATION IN RATES.

138 29 A city utility or a combined utility system may not provide
138 30 use or service at a discriminatory rate, except to the city or
138 31 its agencies, as provided in section 384.91. However, the
138 32 pricing of competitive electric services, as defined in
138 33 section 476B.3, at market rates is not prohibited.

138 34 Sec. 44. Section 474.9, Code 1999, is amended by striking
138 35 the section and inserting in lieu thereof the following:

139 1 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

139 2 1. The board shall have broad general powers to effect the
139 3 purposes of this chapter and chapters 476, 476A, 476B, 478,
139 4 479, 479A, and 479B. The board may issue subpoenas and pay
139 5 the same fees and mileage as are payable to witnesses in the
139 6 courts of record of general jurisdiction. The board shall
139 7 adopt rules pursuant to chapter 17A to govern the exercise of
139 8 its powers and duties, the practice and procedure before it,
139 9 and to govern the form, contents, and filing of reports,
139 10 documents, and other papers as required.

139 11 2. The board shall employ at rates of compensation
139 12 consistent with current standards in industry, such
139 13 professionally trained economists, engineers, accountants,
139 14 attorneys, and skilled examiners and inspectors, secretaries,
139 15 clerks, and other employees as it may find necessary for the
139 16 full and efficient discharge of its duties and
139 17 responsibilities as required by this chapter and chapters 476,
139 18 476A, 476B, 478, 479, 479A, and 479B.

139 19 3. The board may intervene in any proceedings before the
139 20 federal energy regulatory commission or any other federal or
139 21 state regulatory body when it finds that any decision of the
139 22 commission would adversely affect the costs of regulated or
139 23 competitive utility services within this state.

139 24 4. The board shall have authority to inquire into the
139 25 management of the business of all public utilities and
139 26 delivery service providers that are electric companies, and
139 27 shall keep itself informed as to the manner and method in
139 28 which the same is conducted, and may obtain from any public
139 29 utility or delivery service provider all necessary information
139 30 to enable the board to perform its duties.

139 31 5. To the maximum extent fair and equitable, the board
139 32 shall directly charge its expenses and those of the consumer
139 33 advocate to the person causing the board or consumer advocate
139 34 to incur those expenses in accomplishing the purposes of the
139 35 board. No part of such expenses shall be charged to persons,
140 1 who without expanding the scope of the proceeding, intervene
140 2 in good faith in a board proceeding initiated by an entity
140 3 subject to the board's rate and licensing jurisdiction, the
140 4 consumer advocate, or the board on its own motion. For
140 5 allocations in complaint proceedings, the board may consider
140 6 the financial resources of the parties and the contribution to
140 7 the public interest.

140 8 6. a. In order to carry out the duties imposed upon it by
140 9 law, the board may allocate the expenses attributable to such
140 10 duties to the parties to proceedings before the board or to
140 11 persons participating in other matters before the board. The
140 12 board shall ascertain the certified expenses incurred by the
140 13 consumer advocate division of the department of justice in the
140 14 performance of its duties under the law and may allocate those
140 15 expenses that are directly chargeable.

140 16 b. The board shall ascertain the total of the division's
140 17 expenditures during each year that is reasonably attributable
140 18 to the performance of its duties under the law. The board
140 19 shall add to this total the certified expenses of the consumer
140 20 advocate as provided under section 475A.6 and shall deduct all
140 21 amounts chargeable directly to any person under any law. The
140 22 remainder may be assessed by the board to all entities
140 23 providing service over which the board has jurisdiction. The
140 24 assessment shall be in proportion to the respective gross
140 25 operating revenues of such entities during the last calendar
140 26 year from intrastate operations over which the board has
140 27 jurisdiction. The board shall not assess the same transaction
140 28 twice. If any portion of the remainder can be identified with
140 29 a specific type of utility service, the board may allocate
140 30 those expenses to the corresponding entities over which the
140 31 board has jurisdiction. Assessments may be made quarterly
140 32 based upon estimates of the expenditures for the fiscal year
140 33 of the utilities division and the consumer advocate. Not more
140 34 than ninety days following the close of the fiscal year, the
140 35 utilities division shall conform the amount of the prior
141 1 fiscal year's assessments to the requirements of this section.
141 2 The total amount that may be assessed to an entity under
141 3 authority of this paragraph shall not exceed six-tenths of one
141 4 percent of the total gross operating revenues during the
141 5 calendar year derived from intrastate operations over which
141 6 the board has jurisdiction. For public utilities exempted
141 7 from board rate regulation pursuant to chapter 476 and
141 8 delivery service providers that are incumbent provider
141 9 consumer-owned utilities pursuant to chapter 476B, the
141 10 assessments under this paragraph shall be computed at one-half
141 11 the rate used in computing the assessment for other utilities
141 12 and delivery service providers that are electric companies.
141 13 c. A person subject to assessment shall pay the division
141 14 the amount assessed against it within thirty days from the
141 15 time the division mails notice to it of the amount due unless
141 16 it shall file with the board objections in writing setting out
141 17 the grounds upon which it claims that such assessment is
141 18 excessive, erroneous, unlawful, or invalid. Upon the filing
141 19 of such objections the board shall set the matter down for
141 20 hearing and issue its order in accordance with its findings in
141 21 such proceeding, which order shall be subject to review as
141 22 provided in this chapter. All amounts collected by the
141 23 division pursuant to this section shall be deposited with the
141 24 treasurer of state and credited to the general fund of the
141 25 state.
141 26 d. Whenever the board deems it necessary in order to carry
141 27 out the duties imposed by law, the board may expend additional
141 28 sums beyond those sums appropriated. However, the authority
141 29 to add additional personnel or contract for additional
141 30 assistance must first be approved by the director of the
141 31 department of management. The costs of any additional
141 32 employees and contract services shall be assessed and paid in
141 33 the same manner as other expenses are paid under this section.
141 34 There is appropriated out of any funds in the state treasury
141 35 not otherwise appropriated, such sums as may be necessary to
142 1 enable the board to hire additional staff and contract for
142 2 services under this section. The authority to hire additional
142 3 temporary or permanent staff that is granted to the board by
142 4 this section shall not be subject to limitation by an
142 5 administrative or executive order or decision that restricts
142 6 the number of state employees or the filling of employee
142 7 vacancies, and shall not be subject to limitation by any law
142 8 of this state that restricts the number of state employees or
142 9 the filling of employee vacancies unless that law is made
142 10 applicable by express reference to this section. Fees paid to
142 11 the utilities division shall be deposited in the general fund
142 12 of the state. These funds, upon appropriation by the general

142 13 assembly, shall be used for payment of the expenses of the
142 14 utilities division and the consumer advocate division.
142 15 Subject to this section, the utilities division or the
142 16 consumer advocate division may keep on hand with the treasurer
142 17 of state funds in excess of the current needs of the utilities
142 18 division or the consumer advocate division.

142 19 e. The administrator and consumer advocate shall account
142 20 for receipts and disbursements according to the separate
142 21 duties imposed upon the utilities division and the consumer
142 22 advocate division by the laws of this state and each separate
142 23 duty shall be fiscally self-sustaining.

142 24 f. All fees and other moneys collected under this section
142 25 shall be deposited into the general fund of the state and
142 26 expenses required to be paid under this section shall be paid
142 27 from funds appropriated for those purposes. Moneys deposited
142 28 into the general fund of the state pursuant to this section
142 29 shall be used in accordance with section 8.60.

142 30 Sec. 45. Section [476.1](#), subsection 1, Code 1999, is
142 31 amended to read as follows:

142 32 1. Furnishing gas by piped distribution system

~~or~~

142 33

~~electricity~~

- to the public for compensation.

142 34 Sec. 46. Section [476.1](#), Code 1999, is amended by adding
142 35 the following new subsection:

143 1 NEW SUBSECTION. 4. Furnishing electricity to the public
143 2 for compensation, except to the extent inconsistent with
143 3 chapter 476B, as follows:

143 4 a. (1) Until May 1, 2002, for an electric company, as
143 5 defined in section 476B.3.

143 6 (2) Until the date selected by the governing body of each
143 7 consumer-owned utility, as defined in section 476B.3.

143 8 b. Except as provided in paragraph "c", after the dates
143 9 specified in paragraph "a", an electric company and a
143 10 consumer-owned utility, as so defined, shall not be subject to
143 11 this chapter.

143 12 c. The dates specified in paragraph "a" shall be adjusted,
143 13 if necessary, consistent with an action of the board
143 14 suspending the dates for commencement of the option to choose
143 15 competitive electric services pursuant to section 476B.7,
143 16 subsection 4.

143 17 Sec. 47. Section [476A.6](#), Code 1999, is amended to read as
143 18 follows:

143 19 476A.6 DECISION CRITERIA.

143 20 The board shall render a decision on the application in an
143 21 expeditious manner. A certificate shall be issued to the
143 22 applicant if the board finds

~~all~~

- ~~both~~ of the following:

143 23

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

143 24

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

143 25

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

143 26

~~2.~~

~~1.~~ The applicant is willing to perform such services
143 27 and construct, maintain, and operate the facility pursuant to
143 28 the provisions of the certificate and this chapter.
143 29

~~3.~~

~~2.~~ The construction, maintenance, and operation of the
143 30 facility will cause minimum adverse land use, environmental,
143 31 and aesthetic impact and are consonant with reasonable
143 32 utilization of air, land, and water resources

~~for beneficial~~

~~143 33~~

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

~~143 34~~

~~available alternatives~~

~~143 35~~

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

~~144 1~~

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

~~144 2~~

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

~~144 3~~

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

~~144 4~~

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

~~144 5~~

~~notwithstanding the existence of the comprehensive energy~~

~~144 6~~

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

~~144 7~~

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

~~144 8~~

~~minimum the following:~~

~~144 9~~

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

~~144 10~~

~~service programs, where cost effective.~~

144 11

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

144 12

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

144 13

~~have available capacity.~~

144 14

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

144 15

~~renewable energy services and programs.~~

144 16

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

144 17

~~procedures.~~

144 18

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

144 19

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

144 20

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

144 21

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

144 22

~~owned by other persons.~~

144 23

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

144 24

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

144 25

~~proposed facility including nongeneration alternatives; has~~

144 26

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

144 27

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

144 28

~~is necessary notwithstanding the implementation of these~~

144 29

~~alternatives.~~

144 30 Sec. 48. Section [476A.7](#), subsection 1, paragraph b, Code
144 31 1999, is amended to read as follows:

144 32 b.

~~Gives~~

~~To the extent the applicant proves the location~~

144 33 ~~of generation at the site is required to maintain or enhance~~

144 34 ~~the reliability of the delivery system serving the public,~~

144 35 ~~gives~~ the applicant the power of eminent domain

~~to the extent~~

145 1

~~and~~

~~under such conditions as the board may approve, prescribe,~~

145 2 and find necessary

~~for the public convenience, use and~~

145 3

~~necessity,~~

~~proceeding in the manner of works of internal~~

145 4 improvement under chapter 6B. The burden of proving the

145 5 necessity for the exercise of the power of eminent domain

145 6 shall be on the person

~~issued~~

~~seeking~~ the certificate.

145 7 Sec. 49. Section [476A.15](#), Code 1999, is amended to read as
145 8 follows:

145 9 [476A.15](#) WAIVER.

145 10 The board, if it determines that the public interest would

145 11 not be adversely affected, may waive any of the requirements

145 12 of this chapter

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

145 13

~~or fewer megawatts~~

145 14 Sec. 50. Section [478.3](#), subsection 1, paragraph h, Code
145 15 1999, is amended to read as follows:

145 16 h. An allegation that the proposed construction is

145 17 necessary to serve a public use. This allegation may be

145 18 satisfied by the filing of an order of the federal energy

145 19 regulatory commission or its successor directing that the

145 20 project be constructed.

145 21 Sec. 51. NEW SECTION. [478.34](#) RELATIONSHIP TO COMPETITIVE
145 22 SERVICES.

145 23 The rights and powers conferred under this chapter,

145 24 including the right of eminent domain, shall be interpreted

145 25 and exercised in a manner consistent with the provisions of

145 26 chapter 476B.

145 27 Sec. 52. Section [499.14A](#), Code 1999, is amended to read as
145 28 follows:

145 29 499.14A ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS.
145 30 An electric

~~generation and transmission~~
- cooperative

145 31 association may have one or more classes of members.
145 32 Qualifications, requirements, methods of acceptance, terms,
145 33 conditions, termination, and other incidents of membership
145 34 shall be set forth in the bylaws of the association.

~~An~~

145 35

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

146 1

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

146 2

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

146 3

~~bylaws.~~

146 4 Sec. 53. Section [499.30](#), subsection 5, Code 1999, is
146 5 amended to read as follows:

146 6 5. Notwithstanding an association's articles of
146 7 incorporation, for each taxable year of the association, the
146 8 association shall allocate all remaining net earnings to the
146 9 account of each member, including subscribers described in
146 10 section 499.16, ratably in proportion to the business the
146 11 member did with the association during that year. The
146 12 directors shall determine, or the articles of incorporation or
146 13 bylaws of the association may specify, the percentage or the
146 14 amount of the allocation to be currently paid in cash.

146 15 However, for a cooperative association, other than an electric
146 16 cooperative association

~~other than a public utility as defined~~

146 17

~~in section 476.1~~

-, the amount to be currently payable in cash
146 18 shall not exceed twenty percent of the allocation during any
146 19 period when unpaid local deferred patronage dividends of
146 20 deceased members for prior years are outstanding.
146 21 Notwithstanding the twenty percent allocation limitation, the
146 22 directors of a cooperative association or the articles of
146 23 incorporation or bylaws of the association may specify any
146 24 percentage or amount to be currently paid in cash to the
146 25 estates of deceased natural persons who were members. All the
146 26 remaining allocation not paid in cash shall be transferred to
146 27 a revolving fund as provided in section 499.33 and credited to
146 28 the members and subscribers. The credits in the revolving
146 29 fund are referred to in this chapter as deferred patronage
146 30 dividends.

146 31 Sec. 54. Section [499.33](#), subsection 2, paragraphs a and b,
146 32 Code 1999, are amended to read as follows:

146 33 a. Prior to other payments of deferred patronage dividends
146 34 or redemption of preferred stock held by members, the
146 35 directors of a cooperative association, other than

~~—a~~

— an

147 1 electric cooperative association

~~— which is a public utility as~~

147 2

~~— defined in section 476.1~~

—, shall pay local deferred patronage

147 3 dividends and redeem local deferred patronage preferred stock
147 4 of deceased natural persons who were members, and may pay
147 5 deferred patronage dividends or may redeem preferred stock of
147 6 deceased natural persons who were members or of members who
147 7 become ineligible, without reference to the order of priority.
147 8 b. The directors of

~~—a~~

— an electric cooperative association

147 9

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

— may pay

147 10 deferred patronage dividends and redeem preferred stock of
147 11 deceased natural persons who were members, and may pay all
147 12 other deferred patronage dividends or redeem preferred stock
147 13 of members without reference to priority.

147 14 Sec. 55. STATUTORY CONSTRUCTION. This Act shall not be
147 15 construed to invalidate any proceedings under statutes
147 16 existing prior to the effective date of this Act.

147 17 Additionally, this Act shall not affect any action,
147 18 litigation, or appeal pending prior to the effective date of
147 19 this Act.

147 20 Sec. 56. DIRECTIONS TO CODE EDITOR. The Code editor shall
147 21 codify sections 28F.15 through 28F.29, as enacted in this Act,
147 22 as a separate subchapter of chapter 28F.

147 23 Sec. 57. EFFECTIVE DATE. This Act takes effect on June 1,
147 24 2000.

147 25

EXPLANATION

147 26 This bill creates new Code chapter 476B, which provides for
147 27 restructuring of portions of the electric utility industry and
147 28 related matters. Generally, the bill provides that all
147 29 consumers will be given the option to choose an electric
147 30 supplier at some future date as determined in the bill.

147 31 New Code section 476B.1 establishes the title of the
147 32 chapter as the "Electric Choice and Competition Act".

147 33 New Code section 476B.2 sets forth legislative findings
147 34 concerning restructuring.

147 35 New Code section 476B.3 establishes definitions for key
148 1 terms used in the new Code chapter.

148 2 New Code section 476B.4 provides for the unbundling of
148 3 rates and charges by electric companies and consumer-owned
148 4 utilities (electric cooperatives and municipal utilities).
148 5 The bill directs the electric companies and consumer-owned
148 6 utilities to post such rates and charges on the utilities
148 7 board's website. The section also provides for the posting of
148 8 all tariffs for transmission service and ancillary services
148 9 applicable to competitive electric service provider and end-
148 10 use consumer transactions by delivery service providers
148 11 providing transmission service and by control area operators.

148 12 New Code section 476B.5 provides that within 90 days of the
148 13 effective date of new Code chapter 476B, the board is to
148 14 convene a meeting of persons interested in participating in
148 15 the development of a consumer education program. Such
148 16 education program is to consist of two steps including message
148 17 development and message dissemination. The board is to
148 18 determine the method of message dissemination for electric

148 19 companies, and each local governing body is to determine the
148 20 method of message dissemination for consumer-owned utilities.
148 21 The bill provides that the total cost of message development
148 22 and dissemination shall not exceed \$6 million. The program is
148 23 to be funded through the imposition of a nonbypassable charge
148 24 on bills issued for electric service, with collection to be
148 25 completed by May 1, 2002.

148 26 New Code section 476B.6 establishes consumer protections,
148 27 as well as defining the rights of consumers with respect to
148 28 competitive electric services. The section prohibits a person
148 29 from providing or offering to provide competitive electric
148 30 services to an end-use consumer, or from aggregating end-use
148 31 consumers for the acquisition of competitive electric services
148 32 without first obtaining a license from the board. The section
148 33 authorizes the board to adopt rules to require a competitive
148 34 electric service provider to disclose to residential end-use
148 35 consumers information regarding service prices, terms, and
149 1 conditions. The board is authorized to adopt additional
149 2 licensing requirements regarding adequate notice to end-use
149 3 consumers prior to automatic contract renewal; circumstances
149 4 under which an end-use consumer has the right to terminate a
149 5 competitive electric service contract; and other reasonable
149 6 conditions or restrictions on a license. The board is
149 7 directed to maintain, and make available upon request, a list
149 8 of all licensed providers of competitive electric services.
149 9 The bill exempts from the licensing requirement an incumbent
149 10 provider that is a consumer-owned utility who chooses to
149 11 provide competitive electric services only within its assigned
149 12 service area.

149 13 The section provides that an end-use consumer shall have
149 14 access to competitive electric services and regulated delivery
149 15 services as provided in the new Code chapter. The section
149 16 sets forth rights of consumers under the bill.

149 17 New Code section 476B.7 provides that an end-use consumer
149 18 located in the assigned service area of an electric company
149 19 will have the option to choose competitive electric services
149 20 from competitive electric service providers and unbundled
149 21 delivery services from the delivery service provider beginning
149 22 on May 1, 2002. An end-use consumer located in the assigned
149 23 service area of a consumer-owned utility will have the option
149 24 to choose such services on a date as determined by the
149 25 consumer-owned utility's local governing body, but in no event
149 26 prior to May 1, 2002, or after October 1, 2002. The section
149 27 provides that the board may suspend the dates for commencement
149 28 of the option to choose if the board determines that essential
149 29 deadlines cannot reasonably be met or there is a threat to
149 30 service reliability or the public safety.

149 31 New Code section 476B.8 provides for standard offer
149 32 service. Standard offer service will be available for
149 33 nonresidential end-use consumers that purchased fewer than
149 34 25,000 kilowatt-hours of electric service in 2001 and
149 35 subsequent calendar years and residential end-use consumers
150 1 who do not chose a competitive electric service provider. The
150 2 service will be provided by the incumbent provider and shall
150 3 be regulated. Such service shall continue until the earlier
150 4 of the end-use consumer making a choice of competitive
150 5 electric service, the end-use consumer no longer qualifies to
150 6 receive standard offer service, or January 1, 2006.
150 7 Termination of standard offer service on January 1, 2006, is
150 8 conditioned upon the board making certain findings. The
150 9 section provides for transitional service for certain end-use
150 10 consumers and for universal service protections and provides
150 11 that low-income consumers receiving universal service are
150 12 protected from disconnection of service from November 1
150 13 through April 1.

150 14 New Code section 476B.9 sets forth the responsibilities and
150 15 rights of delivery service providers. A delivery service

150 16 provider is required to provide safe, reliable, and prompt
150 17 delivery services and facilities. The board is given general
150 18 oversight responsibility for delivery service safety
150 19 requirements and inspection and maintenance activities for all
150 20 delivery service providers. The section provides that
150 21 unbundled delivery service must be provided on a
150 22 nondiscriminatory and comparable service basis. The section
150 23 provides that an incumbent provider and a delivery service
150 24 provider do not have any obligation to provide competitive
150 25 electric services to an end-use consumer that has an option to
150 26 choose competitive electric services. The section also
150 27 provides for assigned service areas for delivery service
150 28 providers, certificates of authority to furnish delivery
150 29 service to end-use consumers already receiving delivery
150 30 service; the obligation to extend delivery service facilities;
150 31 delivery service rate regulation; and rate complaints filed by
150 32 the consumer advocate. The section also provides that a
150 33 delivery service provider that is an electric company shall
150 34 not directly or indirectly include in distribution service
150 35 rates or charges any costs or expenses attributable to the
151 1 sale, lease, or other conveyance of commercial and residential
151 2 electric appliances, interior lighting systems or fixtures, or
151 3 electric heating, ventilating, or air conditioning systems and
151 4 component parts, or the servicing, repair, or maintenance of
151 5 such equipment.

151 6 New Code section 476B.10 sets forth the responsibilities
151 7 and rights of competitive electric service providers.

151 8 New Code section 476B.11 provides that a delivery service
151 9 provider shall install, own, and maintain metering as deemed
151 10 necessary by the delivery service provider. The section also
151 11 provides that an end-use consumer may install metering not
151 12 owned by the delivery service provider on the consumer's side
151 13 of the main disconnect, subject to reasonable connection
151 14 requirements of the delivery service provider and board rules.

151 15 New Code section 476B.12 sets forth billing requirements
151 16 associated with electric services. The section provides that
151 17 an end-use consumer is entitled to request a single
151 18 consolidated bill for competitive electric services, delivery
151 19 services, and control area services. Unless otherwise agreed
151 20 by the affected service providers, such consolidated billing
151 21 is the responsibility of the competitive electric service
151 22 provider selling competitive billing services.

151 23 New Code section 476B.13 sets forth the low-income
151 24 affordability and energy efficiency programs. These programs
151 25 are to be administered by the division of community action
151 26 agencies within the department of human rights.

151 27 New Code section 476B.14 provides that a competitive
151 28 electric service provider, a delivery service provider, and a
151 29 control area operator must develop and post on the board's
151 30 website the procedures for filing a complaint regarding their
151 31 services and operations. The board is authorized to hear all
151 32 complaints.

151 33 New Code section 476B.15 provides for the imposition and
151 34 collection of transition charges. Such charges are for the
151 35 purpose of allowing electric companies to recover a portion of
152 1 their transition costs associated with electric generation.
152 2 Transition charges are to be billed commencing with service
152 3 rendered on May 1, 2002, and concluding with service rendered
152 4 on December 31, 2005. The section also provides that the
152 5 board may permit, but not require, an incumbent provider that
152 6 is an electric company to divest itself of its generation
152 7 assets and contracts for power and energy.

152 8 New Code section 476B.16 provides for the decommissioning
152 9 of nuclear generating facilities and the recovery of costs
152 10 associated with such decommissioning.

152 11 New Code section 476B.17 provides for securitization, or
152 12 the issuance of transitional funding instruments. The board

152 13 is authorized to issue transitional funding orders which
152 14 create intangible transition property in favor of an incumbent
152 15 provider or grantee representing the right to impose and
152 16 collect instrument funding charges necessary to pay the
152 17 principal and interest on the transitional funding
152 18 instruments. The section establishes the permissible uses of
152 19 the proceeds from such instruments. Such instruments do not
152 20 create an obligation on the part of the state.

152 21 New Code section 476B.18 prohibits a person with an
152 22 assigned service area in this state from offering competitive
152 23 power supply services within another person's assigned service
152 24 area in this state until the offering person allows the latter
152 25 person a reasonable opportunity to offer competitive power
152 26 supply services in the offering person's assigned service area
152 27 in this state.

152 28 New Code section 476B.19 provides that an electric
152 29 cooperative and a municipal utility are not subject to
152 30 regulation by the board except as specifically provided in
152 31 this chapter.

152 32 New Code section 476B.20 grants authority to the board to
152 33 impose civil remedies and penalties for certain violations.

152 34 New Code section 476B.21 provides for rehearings before the
152 35 board after the issuance of a final decision by the board.

153 1 New Code section 476B.22 provides for judicial review of
153 2 board decisions.

153 3 New Code section 476B.23 establishes certain contractual
153 4 rights and provides that certain end-use consumers may
153 5 terminate a contract for electric service in effect before the
153 6 effective date of the new Code chapter.

153 7 New Code section 476B.24 provides for certain benefits for
153 8 electric utility employees adversely affected as a result of
153 9 restructuring.

153 10 New Code section 476B.25 provides for reports to be
153 11 prepared by the board and the consumer advocate and submitted
153 12 to the general assembly.

153 13 New Code sections 28F.15 through 28F.29 provide for the
153 14 funding of construction of open access transmission facilities
153 15 to be owned or leased by an electric power agency. An
153 16 electric power agency is defined in new Code chapter 476B as a
153 17 political subdivision that acquires or finances electric
153 18 facilities pursuant to Code chapter 28E or 28F.

153 19 The bill makes certain conforming and transitional
153 20 amendments to existing Code sections.

153 21 The bill takes effect June 1, 2000.

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