

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>CERTIFICATES OF FRANCHISE AUTHORITY FOR CABLE AND VIDEO SERVICE [199 IAC CHAPTER 44]</p>	<p>DOCKET NO. RMU-07-5</p>
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ORDER ADOPTING AMENDMENT

(Issued November 1, 2007)

Pursuant to Iowa Code §§ 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554, the Utilities Board (Board) adopts the amendment adding new chapter 199 IAC 44 as described in the "Adopted and Filed" notice attached hereto and incorporated herein by reference. On August 1, 2007, a "Notice of Intended Action" with the proposed amendment was published in the Iowa Administrative Bulletin at IAB Vol. XXX, No. 3 (8/01/2007) p. 268, as ARC 6124B.

I. BACKGROUND

The rules included in the new chapter are intended to implement 2007 Iowa Acts, Senate File 554 (S.F. 554 or "the Act"), which became effective upon enactment on May 29, 2007. Entitled "An Act Relating to Franchises for the Provision of Cable Service or Video Service Including Providing for Fees and Providing an Effective Date," the Act requires that providers of cable or video service have a franchise and states that the franchise can be issued either by the Board or a

municipality. The Act specifies procedures for applying for a certificate of franchise authority from the Board, prescribes the content of a certificate of franchise authority, and provides that the certificates shall be for a term of ten years, renewable, nonexclusive, and transferable. The Act directs the Board to adopt rules to administer the new statute.

As proposed, the rules define terms relating to certificates of franchise authority to be issued by the Board; prescribe the content of an initial application for a certificate of franchise authority; and establish procedures for applying for a certificate of franchise authority, modifying a service area, and transferring or terminating certificates of franchise authority. The proposed rules require competitive providers to notify affected municipalities and the incumbent cable provider at least 30 days before providing service. The proposed rules also establish filing fees for applications, modifications, transfers, and terminations. As proposed, the rules reflect the Act's provision that allows an incumbent cable provider to convert an existing municipal franchise to a Board-issued franchise.

Written comments addressing the proposed amendment were filed by Mr. N.E. Thornsberry of Waterloo, Iowa; Public Access Television, Inc. (PATV); the Rural Iowa Independent Telephone Association (RIITA); the City of Iowa City, Iowa (Iowa City); the Iowa Telecommunications Association (ITA); and the Iowa Cable & Telecommunications Association, Inc. (Iowa Cable).

An oral comment presentation was held September 20, 2007. The following persons participated by telephone: Mr. Thornsberry; Mr. Drew Shaffer for the City of Iowa City, City Manager's Office; Mr. Mike Brau for the City of Iowa City; Mr. Joshua Goding of PATV; Mr. Hans Hoerschelman of the Iowa City Telecommunications Commission; and, from Qwest, Mr. Robert Brigham, Mr. Mark Soltes, and Ms. Mary Ferguson LaFave. Representatives of RIITA, Iowa Cable, Qwest, and ITA participated in person at the oral presentation.

At the oral presentation, the Board indicated it would allow interested persons to file additional written comments. On September 21, 2007, the Board issued an order allowing interested persons to file additional comments by October 1, 2007. Additional written comments were received from Iowa City, Iowa Cable, and the Consumer Advocate Division of the Department of Justice (Consumer Advocate).

The Board will adopt the amendment as proposed with revisions based upon the comments summarized below and a final review. The amendment will become effective on December 26, 2007.

II. SUMMARY OF COMMENTS

A. Mr. Thornsberry

Mr. Thornsberry identified certain issues he has with the Act, stating it lacks the safeguard of allowing the Board to include in certificates requirements previously negotiated between local franchising authorities and service providers. Mr. Thornsberry stated that without these requirements, there are no checks and

balances to protect subscribers. Mr. Thornsberry urged the Board to offer some additional protection to subscribers, suggesting that the Board create a bureau to administer requirements relating to billing; service; programming; funding of public, educational, and government (PEG) channels; and basic rates; and to oversee a subscriber complaint process.

B. PATV

PATV, the public access cable channel for Iowa City and Coralville, Iowa, stated that legislation similar to S.F. 554 has been passed in many states and has had detrimental effects on PEG channels. PATV was primarily concerned about the effect the new franchising system will have on operating budgets of PEG channel operators.

C. RIITA

RIITA, a non-profit association of rural independent telephone companies, explained in its written comments that it represents approximately 130 Iowa incumbent local exchange carriers (ILECs) and that many RIITA members offer or anticipate offering cable and video service in addition to their service as ILECs. RIITA's position is that the Act gives the Board no enforcement authority or regulatory tasks beyond reviewing applications for and issuing certificates. RIITA cautioned the Board that broad rules would give the impression the Board has more authority than it actually has, misdirecting people to look to the Board for enforcement efforts.

With respect to the Board's authority under federal law, RIITA asserted that the Act limited the Board's authority and federal law cannot give the Board authority the Iowa Legislature has not given the Board. RIITA noted the Act does not give the Board authority to deal with consumer complaints. RIITA stressed the importance of minimizing the Board's role in the process to facilitate easy entry into cable and video services in Iowa and to comply with the Act's restrictions.

RIITA suggested several revisions to the proposed rules, most of which are intended to clarify RIITA's position that the Board has no enforcement authority and that its role is primarily ministerial. For example, RIITA recommended that the Board not adopt proposed subrule 44.3(3)"f," which requires that applicants provide a telephone number for customer service contact. RIITA noted this requirement is not found in the Act and gives the impression that the Board has some authority over customer service or service quality. RIITA also objected to the final unnumbered paragraph of proposed subrule 44.3(3), which relates to details about a provider's proposed service area. RIITA stated the Act does not contain a requirement about how boundary descriptions are to be made, nor does it require the Board to ascertain the boundaries, and descriptions of local exchange boundaries are not necessary under the statute. RIITA argued the implication of this language is that cable and video service providers must meet exacting standards imposed on local exchange carriers.

RIITA objected to the requirement in proposed subrule 44.3(5) that a certificate holder give the Board at least 14 days notice before changing a service area. RIITA stated the statute only requires prior notice.

With respect to proposed subrule 44.3(6) regarding transfers of certificates, RIITA stated that S.F. 554 specifically limits the Board's discretion regarding transfers. RIITA argued the requirement of notice to the affected municipality should be deleted because such notice does not concern the Board, nor can it be controlled by the Board. RIITA also objected to the requirement providing for an effective date of 14 days after filing the notice of transfer with the Board unless the certificate holder files a notice of rescheduling, arguing that the notice's effectiveness operates as a matter of law under the statute and that the statute does not provide for a notice of rescheduling.

RIITA stated the last sentence of proposed subrule 44.3(8) should be deleted because there is no 14-day requirement for notification of updates. RIITA argued that proposed rule 44.4 should not be adopted because none of the notices affect the Board or are within the Board's control or jurisdiction. According to RIITA, the Board has no enforcement power over notices to cities and other companies and cannot demand that forms related to notice be filed with the Board and cannot determine what delays are appropriate following notice.

Regarding the proposed filing fees, RIITA claimed that although the Board has authority to charge fees in certain circumstances, the Legislature specifically

prohibited fees associated with the certificates or modification of certificates by stating that no additional requirements could be imposed by the Board. RIITA's position is that charging the fees would be imposing an additional requirement on the application process, which is not allowed under the Act.

D. City of Iowa City, Iowa City City Manager's Office, City of Iowa City Telecommunications Association

Iowa City's view of the proposed rules, as expressed in written and oral comments, is that they appear to have been developed without any consideration of the Board's duty as the new franchising authority to enforce federal law. Iowa City explained that since adoption of the 1984 Cable Act, the Federal Communications Commission (FCC) has had a policy of "deliberately structured dualism" regarding the enforcement of federal cable regulations. According to Iowa City, this policy is intended to place enforcement responsibilities at the government level closest to the customers and local franchising authorities are given broad authority to enforce FCC regulations. Iowa City stated the most important areas for which franchising authorities are responsible are customer service requirements; construction-related requirements; review of a franchisee's financial, technical and legal qualifications; and regulation of basic tier rates.

Iowa City faulted the Board's proposed rules for failing to establish a procedure for the Board to assume responsibility to enforce federal regulations. Iowa City noted that while franchising authorities are not required to enforce FCC regulations, federal law presumes a dual regulatory structure. Iowa City suggested

that the Board needs to be aware of its obligation under federal law and the fact that its action or inaction regarding enforcement of federal law will create public policy.

On the issue of consumer protection, Iowa City cited 47 U.S.C. § 552 as the source of a franchising authority's ability to establish and enforce customer service requirements. Iowa City stated that the FCC expects franchising authorities to enforce federal standards, quoting from a June 2000 FCC cable television fact sheet which provides that

local franchising authorities are responsible for adopting and enforcing customer service standards. Franchising authorities may also adopt more stringent or additional standards with the consent of the cable operator or through enactment of a state or municipal law.¹

Iowa City cautioned the Board that a backlash from consumers is likely if cable operators franchised by the Board do not meet federal standards.

Iowa City acknowledged that S.F. 554 provides that the Board shall not impose any additional requirements or regulations upon an applicant, but stated it does not believe the Act prevents the Board from enforcing federal cable law. Iowa City asserted that where the Legislature meant to limit the Board's role as a franchising authority, it specifically did so, as in the provision which gives responsibility for enforcing provisions regarding PEG channels to the courts, not the

¹ "Statement of Position" of Dale Helling, Iowa City, Iowa, Interim City Manager, August 16, 2007, unnumbered page 6, Docket No. RMU-07-5, quoting FCC Fact Sheet, June 2000. Available at <http://www.fcc.gov/mb/facts/csgen.html>.

Board.² Iowa City suggested the Board mistakenly reads the Act's statement that the Board cannot impose additional requirements or regulations on applicants to mean that the Board cannot adopt rules necessary to administer the franchises. Iowa City argued that the intent of the restriction is to limit terms contained in franchise agreements to those expressly stated in the Act.

Iowa City stated that the most significant shortcoming in the proposed rules is the lack of specificity regarding the 30-day notice to municipalities of intent to provide service. Iowa City recommended that the proposed rules be amended to include a deadline by which new entrants must act on the 30-day notice to provide service. According to Iowa City, failing to impose a deadline by which service must actually begin creates a loophole and leads to unintended consequences contrary to the Act. Iowa City explained that without a deadline by which service must start, a potential provider could claim an intent to provide service but not follow through, triggering the right of the incumbent cable operator to terminate its existing franchise agreement. According to Iowa City, this result would be contrary to the Act's provision that absent a new entrant competing within a franchise area, an incumbent provider must operate under the existing municipal franchise agreement until it expires before seeking a state-issued franchise from the Board.

In response to the Board's questioning at the oral presentation, Iowa City recommended in supplemental written comments that the rules should provide that if

² Senate File 554, Section 7, provides that a court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement of the section of the Act relating to PEG channels.

a competitive provider does not begin to offer service 45 days after giving the 30-day notice to a municipality, that notice is void. Iowa City's position is that a competitive provider should be able to provide service when it gives the notice and a requirement that service must begin within 45 days allows an additional 15 days if unforeseen circumstances arise. Iowa City suggested further that if a competitive provider's 30-day notice is voided for failure to provide service within 45 days, an incumbent's certificate of franchise authority (which would have been automatically granted on the day the competitive provider filed the 30-day notice) would also be void.

Another shortcoming in the rules identified by Iowa City is the lack of any requirement for reporting of subscriber counts. Iowa City cited S.F. 554, Section 8, to explain that any financial support for PEG channels and institutional networks required of incumbent operators shall also be required of new entrants at the same rate for the duration of the incumbent's franchise agreement. Iowa City stated that to administer this provision, the Board will need to know subscriber counts in affected municipalities, but has not established any reporting requirements to get that information. Iowa City argued that without subscriber count information, there would be no way of determining what each provider owes to support the PEG channels.

Another concern for Iowa City was the Board's failure to establish minimum expectations for an operator's informal complaint resolution process. At the oral presentation, the Board asked Iowa City what those expectations should be. Iowa City responded in its additional written comments by explaining that it routinely

receives complaints from subscribers regarding issues such as rates, channel offerings, performance problems, burial of cable lines, outages, or billing problems. Other complaints involve disputed facts, such as what a customer service representative may have told a subscriber about a repair appointment or details about pricing or service. Iowa City recommended that the proposed rules be revised to require a certificate holder to submit for Board approval a written plan describing its informal complaint process. Iowa City suggested that the plans should require that performance-related complaints or complaints involving disputed facts be referred to designated personnel instead of general customer service representatives and that complaints must be documented. Also, the plans should require that written reports be prepared detailing the operator's position, the facts, the names of company personnel involved, and any attempts at resolution, and that the written reports be maintained and available to the complainant and any municipality in the event of mediation. Iowa City suggested that these rules would encourage resolution of complaints before they escalate to mediation.

Mr. Drew Shaffer participated in the oral presentation on behalf of the City of Iowa City's City Manager's Office. Mr. Shaffer suggested that the Act and proposed rules will not resolve customer complaints but will cause anger and frustration on the part of citizens and that an informal, non-binding complaint resolution process will not produce satisfactory results.

Mr. Shaffer noted that the rules lack any clear guidelines regarding how service areas should be described in the application process. Mr. Shaffer stated he sees nothing in the rules to prevent a provider from stating it plans to serve the entire state and that this result would be contrary to the intent of the Act. Also, Mr. Shaffer explained that the Act provides that a municipality must make a written request to a provider to receive a franchise fee, but the proposed rules do not address when or how often such a request must be made.

Finally, Mr. Shaffer acknowledged that the Board does not believe it can regulate rates or mandate build out. Mr. Shaffer stated that Iowa City regulates basic service rates and has the lowest basic rates in the state. Mr. Shaffer predicted that deregulating the lowest tier of services will harm the populations that cannot afford higher levels of service. Without build out requirements, Mr. Shaffer stated, providers will serve only those customers they want to serve. Mr. Shaffer stated he believes the Act is morally and ethically wrong and will damage Iowa cities and citizens.

At the oral presentation, the City of Iowa City Telecommunications Association observed that the rules lack any provision for recourse for consumers. The Association asked the Board what it is going to do to take over consumer protection responsibilities previously handled by cities. The Association identified a gap in accountability to consumers and stated that the idea that competition is going to fix everything is absurd.

E. ITA

ITA observed that the primary purpose of the Act is to promote competitive entry into cable and video service markets, thereby increasing customer choice. According to ITA, the Act encourages competition by streamlining the franchising process and establishing uniform, competitively neutral franchise regulations. ITA's position is that the Board's rules should serve three goals: encouraging competitive entry into existing cable and video markets; encouraging roll-out of new and expanded cable and video service in unserved or underserved markets; and providing customers with additional choice. ITA supports the Legislature's policy of encouraging and relying on competition as much as possible to increase innovation, choice, and service quality, and disagrees with comments suggesting the Board has either the responsibility or authority to impose or enforce additional requirements.

ITA asserted the Board has limited or no authority to regulate cable and video service or to adjudicate disputes between providers, customers, and local franchising authorities. ITA stated the Board's authority under the Act is limited to identifying whether a service provider is entitled to apply for a certificate, establishing procedures for processing applications, and issuing certificates and subsequent modifications.

ITA urged the Board not to read the Act to create new or expanded franchising jurisdiction for Iowa municipalities or to impose franchise obligations on providers serving unincorporated franchise service areas. According to ITA, a county should

not be considered a municipality with franchise authority for purposes of imposing new or additional franchise regulations on cable or video service providers, regardless of whether a service provider holds or applies for a certificate covering a service area that includes unincorporated areas within that county.³ ITA argued that the Board should not construe the Act to grant counties the same authority as cities with respect to franchise fees, PEG programming, and institutional network requirements. ITA's view is that giving franchising powers to counties would impede rapid deployment of competitive services, especially in unincorporated service areas. ITA explained that under the Act, only municipalities with independent franchising authority with respect to a service area are entitled to notice of a service provider's application for a certificate and to request payment of a franchise fee and that cities are currently the only municipalities with independent local franchising authority under Iowa law.

ITA acknowledged it is confusing for the Legislature to have included counties in the definition of municipality while also providing alternative franchise routes either through the Board or a municipality, with specific reference to Iowa Code § 364.2, a provision that applies only to cities. ITA explained that some of its members currently operate in county areas and that it does not believe the Legislature meant to upset existing relationships between existing service providers in a county and that county as a franchising authority. At the oral presentation, ITA stated its position is that

³ The Board notes that "municipality" is defined in Senate File 554, Section 2, as a county or a city.

unincorporated areas are outside the reach of a county as a franchising authority. According to ITA, unincorporated areas would be within the reach of the Board and a provider could receive a franchise from the Board to serve an unincorporated area of a county, but would not have the option of obtaining a franchise from a local government authority. ITA is not aware of any county that is currently exercising franchising authority under existing law and stated it thinks it is necessary to clarify the franchise alternatives and obligations of existing providers operating in both cities and unincorporated areas.

ITA noted that because the Act does not directly define an "incumbent" video service provider, all video service providers are classified as "competitive" providers, even though video service providers with current operations might be operating as "incumbent" video service providers in their service areas. ITA asserted that, consistent with the purpose of the Act of encouraging competition and providing greater choice, the right to convert to a Board-issued certificate should extend to incumbent video service providers and to all competitive cable and video service providers serving communities pursuant to a municipal franchise, provided such conversion rights are triggered only when another service provider in the same service area applies for a Board-issued certificate. According to ITA, the franchise conversion rights were intended to be technology- and competition-neutral, giving any provider facing competition from a Board-certificated competitor the same opportunity to convert a municipal franchise to a Board-issued certificate. To that end, ITA urged

the Board to interpret the term "incumbent cable provider" broadly to include any cable service or video service provider serving a service area at the time any other service provider applies for a certificate to serve all or part of the same service area. ITA made specific suggestions for revisions to the proposed rules to expand conversion rights.

Under proposed subrule 44.3(6), a notice of transfer is effective 14 business days after filing the notice unless the certificate holder files a notice of rescheduling. ITA suggested that, given issues of timing likely to be involved in a business transaction involving the transfer of a certificate, the Board should not impose a requirement that might be interpreted as requiring that the notice of transfer be filed precisely 14 days prior to the effective date. Instead, ITA proposed that a certificate holder have the option to designate an effective date of transfer, provided such date is not less than 14 business days after the date the notice of transfer is actually filed. Any transfer would be effective as of the later of (1) 14 business days after the date of filing the notice of transfer or (2) the effective date of the transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the Board. ITA proposed to revise proposed subrule 44.3(6) as follows:

Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of

business and the names and titles of the successor's principal executive officers. A notice of transfer shall be effective on the date which is the later of (i) 14 business days after the date of filing the notice of transfer with the board or (ii) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate.

ITA stated at the oral presentation that its suggested approach is more effective than the rule as proposed in that it allows a provider to notify the Board that a certificate will be transferred and to provide the Board with the closing date.

In response to a question from the Board about the Board's obligations under federal law, ITA stated that nothing in federal law or the Act is intended to give or require the Board to assume responsibility for enforcing federal cable law, other than certain provisions expressly included in the Act. ITA stated that its reading of the Board's proposed rules is that certain requirements were not addressed in the rules because they are clear in the Act.

F. Qwest

Qwest stated at the oral presentation that the Legislature intended that the franchising process would be easy and would not involve much regulation. Further, Qwest stated the Legislature intended that the process would encourage competition, consumer choice, and industry investment.

G. Iowa Cable

Iowa Cable, the trade association of Iowa cable television operators, programmers, and suppliers, stated it represents Iowa's largest cable television operators, smaller multiple system operators, smaller cable providers including some rural independent telephone companies, and a few municipal utilities. Generally, Iowa Cable's position is that the proposed rules carefully follow the statute and are necessary for the orderly administration of state franchises. Iowa Cable observed that the proposed fees are not exorbitant and would not impact the cap on franchise fees set forth in 47 U.S.C. § 542(g) in that the fees are incidental to the award and enforcement of franchises and thus do not constitute a franchise fee.

Iowa Cable noted that the distinction made in the Act and the rules between cable service and video service is a "distinction without a difference." Iowa Cable proposed that the rules define both cable and video service to be included in the provision of video service to Iowa customers by coaxial cable, copper wire, fiber optic cable, or any other wired mechanism and that the rules apply to both in a consistent manner. In response to a question from the Board about what the Legislature meant by distinguishing between cable and video service providers, Iowa Cable suggested that the point of the distinction was to ensure that video service would be covered by the Act, even though it might be delivered in ways that are not presently known.

Iowa Cable urged the Board to refrain from adopting rules that go beyond the text and purpose of the Act. Specifically, in response to suggestions from some

participants at the oral presentation, Iowa Cable stated that the Board is not authorized to adopt provisions regarding complaint procedures, programming, and build out requirements. Iowa Cable stressed that the Legislature specified in the Act exactly how customer complaints are to be handled and that no franchising authority (either the state or a local government) can regulate programming. According to Iowa Cable, regulation of programming is not necessary when competition exists.

Iowa Cable stated that one issue in need of clarification concerns communities in which competition already exists. Iowa Cable explained that because of the way "incumbent cable operator" is defined in the Act, if one of its member operators faces competition and is the smaller of two operators, it would be treated as a competitive provider, notwithstanding that it has an existing municipal franchise on the effective date of the Act. Iowa Cable suggested it is logically inconsistent for such an existing provider not to be able to convert its municipal franchise when its competitor does. Iowa Cable asserted that the statute's purpose of fostering competition can best be achieved by allowing an existing cable operator who serves fewer customers than its competitors to apply for a certificate from the Board when a competitor makes the change.

Iowa Cable emphasized the significance of problems created by the Act and rules for smaller, non-incumbent operators in a market, stating that the Act and rules give the smaller operators no protection. Iowa Cable recommended that the Board give smaller operators some protection by acknowledging that they are incumbent

operators. Specifically, Iowa Cable recommended that proposed subrule 44.3(1) be amended by adding language expanding conversion rights to non-incumbent cable service providers.

Also, Iowa Cable asserted that a rule specifying that the smaller operator in an existing market is a competitive provider is necessary because municipalities may otherwise claim that the smaller operators are not competitive providers and thus cannot seek state franchises. Iowa Cable explained this is particularly important in markets where the cable operator is competing with a municipal utility. According to Iowa Cable, specifying that the smaller, non-incumbent operator is a competitive provider would prevent that provider from being regulated by the same government with which it is competing. Iowa Cable suggested that the Board revise proposed rule 44.3(1) by adding the following language:

A cable service provider already providing service in a municipality on the effective date of the act, but which does not meet the definition of an incumbent cable provider, is a competitive cable provider as defined in the Act, and, shall accordingly enjoy all the rights, benefits and responsibilities of competitive cable providers under these rules.

Another important issue for Iowa Cable is that of notice. Iowa Cable asked the Board to enforce the notice requirement, arguing that if the Board has the right to grant franchises, it has corresponding enforcement rights if Board requirements are not met. Iowa Cable asserted that if a new entrant fails to give the required notice, it should not have the right to serve an area. According to Iowa Cable, the proposed rules lack teeth to enforce the requirement that a competitive provider give 30 days'

notice. In its initial written comments, Iowa Cable suggested that proposed subrule 44.4(1) be amended to add the following language:

If, on complaint of a cable provider, consumer, the Consumer Advocate, or the Board's own motion, it is determined that a competitive cable service provider or competitive video service provider provides service without having given the required notice, the Board may issue an order enjoining the competitive provider from providing service until the rule has been complied with; and may assess civil penalties if applicable under section 476.51.

H. Consumer Advocate

Consumer Advocate did not file initial written comments but attended the oral presentation and provided supplemental written comments. Consumer Advocate's position is that the proposed rules comply with S.F. 554. According to Consumer Advocate, S.F. 554 gives the Board the authority and duty to perform the ministerial act of issuing a certificate and denies the Board other authority with respect to cable and video service.

Consumer Advocate acknowledges that other participants have encouraged the Board to adopt additional rules to enforce federal law, but asserts the Board may not do so unless the Iowa Legislature amends the statute to expand the Board's authority to enforce federal law. Consumer Advocate noted that federal law permits, but does not require, a state franchising authority to administer aspects of federal cable law. Further, Consumer Advocate stated that federal law does not compel the Legislature to grant a franchising authority all of the enforcement authority permitted by federal law. Consumer Advocate's view is that absent statutory authorization from

the Legislature, the Board cannot administer federal law regarding cable and video service. Consumer Advocate likened the Board's authority over cable and video service to authority the Board has over rates for most wireline telecommunication local exchange services, in that federal law allows state regulation of these rates, but the Iowa General Assembly has deregulated the rates.

In response to the suggestion that the Board adopt rules to protect an existing cable service provider that did not serve the largest number of cable subscribers in a franchise service area on January 1, 2007 (a non-incumbent cable provider), Consumer Advocate stated the definitions of "incumbent cable provider" and "competitive cable service provider" are clear, unambiguous, and complete. Consumer Advocate stated the Board has no authority to alter the explicit classifications of cable providers included in the statute. According to Consumer Advocate, the Board cannot lawfully adopt a rule classifying all cable providers in a franchise area as of January 1, 2007, as incumbent providers or a rule giving the smaller cable operators the same rights as the incumbent cable provider because such rules would conflict with the explicit statutory distinctions between the incumbent cable provider and competitive service providers.

III. DISCUSSION

The Board has considered the comments of all participants. For purposes of discussing whether any changes should be made to the proposed rules in light of the

written and oral comments received, the Board will focus on the six issues identified below.

A. Should the Board revise the proposed rules to assert enforcement authority over provisions of federal cable law?

Commenters representing various agencies of Iowa City stated the Board has failed to assume its responsibility to enforce federal cable law. In the context of discussing the Board's role as the franchising authority, commenters identified shortcomings in the proposed rules relating to PEG channels and to consumer protection issues, such as the complaint resolution process. Several suggestions were made as to how the Board should revise the proposed rules to assert its alleged oversight responsibilities as the franchising authority. Specifically, Iowa City suggested that the Board revise the proposed rules to require service providers to report subscriber line count information to the Board so that the Board can ensure appropriate financial support for PEG channels. Iowa City also asked the Board to require certificate holders to submit for Board approval written plans describing how their informal complaint process will be implemented.

The Board has considered the concerns identified in these comments regarding the issue of how consumers will be affected by the new franchising process and the viability of PEG channels, but will not adopt the suggested revisions to the proposed rules. The Board does not find sufficient support in the Act to revise the proposed rules to assert authority over consumer protection issues, including the consumer complaint process, or issues relating to PEG channels. The Act is silent

on the issue of the Board's authority over consumer protection and other issues relating to enforcement of federal requirements, giving the Board no direction that it should attempt to exercise optional federal authority. Further, the Act specifies that a court shall have exclusive jurisdiction to enforce PEG channel requirements, making it clear that issues regarding funding of PEG channels are outside the Board's jurisdiction.

The Board agrees with Consumer Advocate's assertion that the Board cannot adopt additional rules to enforce federal law until the Legislature provides specific direction for the Board to do so. In the absence of specific direction and clarification from the Legislature on issues relating to consumer protection, the Board will not assume it has authority based on the Legislature's silence.

B. Should the Board revise the definition of competitive service provider and extend conversion rights to non-incumbent (but existing) providers?

Iowa Cable urged the Board to address the status of the smaller, non-incumbent cable operators in existing markets, claiming that a rule specifying that non-incumbent operators are competitive service providers is necessary in order to preclude municipalities from asserting these providers are not competitive providers and thus cannot seek franchises from the Board. The Board does not agree it is necessary or appropriate to make this clarification by rule when the statute is so specific. Existing, non-incumbent providers are included in the definitions of competitive cable service provider and competitive video service provider.

Upon further review of the proposed rules, however, the Board finds there is room for clarification regarding the 30-day notice requirement and its application to existing, non-incumbent providers. The Board intends for the notice requirement to apply to both new entrants and existing providers. A new entrant must comply with the requirement in subrule 44.4(1) to provide at least 30 days' notice to affected municipalities and the incumbent cable provider that the new entrant (a competitive provider) will provide service. Likewise, an existing, non-incumbent provider (also a competitive provider) that chooses to apply for a certificate of franchise authority from the Board upon expiration of an existing municipal franchise must also provide at least 30 days' notice to affected municipalities and the incumbent cable provider that the existing, non-incumbent provider will provide service pursuant to a Board-issued certificate of franchise authority. To that end, the Board will revise proposed subrule 44.4(1) as follows:

44.4(1) At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

Both Iowa Cable and ITA argued that the Board should revise the definition of incumbent cable service provider to include non-incumbent providers. ITA believes the franchise conversion rights that are presently available only to incumbent cable providers should extend on the same terms to all incumbent and competitive cable or video service providers competing in a given service area. ITA argues this change is consistent with the pro-competitive purpose of the Act. Iowa Cable offered a similar recommendation.

The Board will not change the statutory definition of incumbent cable service provider or make any other change which extends conversion rights beyond incumbent cable providers. The Board agrees with Consumer Advocate's position that the Board cannot change the statutory distinctions between incumbent cable providers and all other providers. The Legislature explicitly granted the right to convert an existing municipal franchise to incumbent cable providers, not incumbent video service providers or competitive cable or video service providers. The Board cannot ignore that clear distinction.

C. Municipal franchise issues

The status of municipalities, counties, and unincorporated areas under the Act is confusing. The Act defines "municipality" to include both cities and counties. Elsewhere, in a section explaining that a person providing cable or video service must have a franchise and that the franchise can be issued either by the Board or a municipality, the Act refers to only Iowa Code § 364.2, which applies only to cities.

Further clouding the issue is S.F. 554, Section 5, which provides that to the extent required for purposes of 47 U.S.C. §§ 521-561, only the State of Iowa shall constitute the exclusive franchising authority for competitive cable service providers and competitive video service providers in Iowa.

ITA argued that the Act should not be construed to grant counties the same authority as cities with respect to franchise fees, PEG programming, and institutional network requirements. According to ITA, giving these franchising rights to counties would impede rapid deployment of competitive services. In its initial written comments, ITA stated that any service provider serving an unincorporated area of a county prior to July 1, 2007, should be deemed to have uninterrupted and continuing franchise authority throughout the unincorporated areas of that county without applying for a Board-issued certificate or municipal franchise. In comments at the oral presentation, ITA stated that unincorporated areas would be within the reach of the franchising authority of the Board, but outside the reach of municipal franchising authorities. The Board agrees with ITA that it would be helpful to clarify the franchise alternatives and obligations of existing providers operating in both cities and unincorporated areas. However, at this time the Board will not make any changes to the proposed rules as they affect municipal franchising authority because the statute does not allow that action.

D. Should the Board revise the proposed rules to impose a deadline by which service must begin after a competitive provider files the required 30-day notice?

Iowa City argued that without a deadline by which service must actually begin, the 30-day notice is meaningless. Iowa City proposed that the Board revise the proposed rules to state that if a competitive provider does not begin to offer service within 45 days after providing 30 days' notice to a municipality, the notice becomes void and a certificate of franchise authority granted by the Board to an incumbent cable provider in response to the 30 days' notice is also void.

The Board recognizes Iowa City's objectives, but will not adopt the proposed revision. The proposed rules already require a reasonable measure of certainty regarding the date by which service must begin. Short of imposing a deadline for service to begin, proposed subrule 44.4(1) requires an applicant to specify when service is expected to begin. Further, proposed subrule 44.4(3) provides that if the competitive provider determines that its entry into the market will be delayed, no further notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin. The Board expects that these provisions will give the Board an adequate mechanism to monitor whether competitive providers are applying for certificates of franchise authority from the Board without a genuine intent to actually provide service.

E. Information about principal executive officers

In the "Order Commencing Rule Making," the Board invited comments about proposed forms which were posted on the Board's Web site. After reviewing the posted forms, ITA suggested that the Board revise the proposed application form to clarify that the requirement for listing names and titles of an applicant's principal executive officers be limited to those officers with responsibility for and authority over the applicant's cable or video service operations. ITA stated this change would reduce the potential for inadvertent provider oversight in filing updated reports in response to name changes and titles as required by the Board's proposed rules. The content of the application is specified in proposed subrule 44.3(3) and proposed paragraph 44.3(3)"e" requires an applicant to specify the names and titles of the applicant's principal executive officers. The Board agrees with ITA's suggestion and will revise proposed subrule 44.3(3) as follows:

e. the address of the applicant's principal place of business and the names and titles of the applicant's principal executive officers with direct authority over and responsibility for the applicant's cable or video operations.

The Board will also revise the proposed subrule regarding transfers in order to have the same information for successors.

F. Transfer of certificates

Under proposed subrule 44.3(6), a notice of transfer is effective 14 business days after filing the notice unless the certificate holder files a notice of rescheduling

the transfer. This subrule is based on the provision in the Act that a notice of transfer shall be effective 14 business days after submission to the Board.

ITA suggested that the Board should not impose a requirement that could be interpreted as requiring that the notice of transfer be filed precisely 14 days before the effective date. ITA proposed changing the proposed rule to give the certificate holder the option of designating an effective date of transfer, provided such date is not less than 14 business days after the date the notice of transfer is actually filed. Under ITA's proposal, the transfer would be effective as of the later of (1) 14 business days after the date of filing the notice of transfer, or (2) the effective date of the transfer designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the Board.

The Board will revise proposed subrule 44.3(6) as suggested by ITA. The Board agrees with ITA that its version of the subrule will be easier for the Board to monitor. If the certificate holder is allowed to designate the effective date of transfer, it is more likely to be a date by which the transfer will actually be effective. The Board will adopt the following revised subrule 44.3(6), which also includes ITA's suggested change that the names and titles of principle executive officers be limited to those with direct authority over and responsibility for the successor's cable or video operations.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form

developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (i) 14 business days after the date of filing the notice of transfer with the board or (ii) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate.

Finally, the Board will not adopt any of the other suggested changes to the proposed rules. Specifically, the Board does not agree with RIITA's assertion that the proposed rules go beyond what was authorized by the Legislature in S.F. 554 and will not adopt any of RIITA's proposed revisions. The Board views these rules as an appropriate implementation of the Board's new responsibilities as a franchising authority. The Board agrees with the comments of various participants that the rules do not exceed the authority delegated to the Board by the Legislature.

Iowa Cable raised the issue of the Board's enforcement of the rules, arguing that if the Board has the authority to issue certificates of franchise authority, it has the corresponding authority to enforce the rules and issue penalties for violations of the rules governing the franchise process. At this point, because it is difficult to imagine any material violations of these rules, which are largely ministerial, the Board will not adopt any specific enforcement procedure or penalty provision relating to the rules.

Instead, if and when a material problem arises, the Board will consider its enforcement options in response to such problem. Enforcement options might include revoking the Board-issued certificate of franchise authority, going to district court to obtain injunctive relief, issuing a show cause order, or other remedies appropriate for the particular situation.

The Board will adopt the proposed amendment with the revisions described above. The official version of the amendment, which may contain non-substantive changes made by the Code Editor, will be published in the Iowa Administrative Bulletin (IAB) on November 21, 2007. The amendments will then be published in the Iowa Administrative Code (IAC) and become effective on December 26, 2007. Interested persons may access the IAB and IAC at <http://www.legis.state.ia.us/IowaLaw.html> for the exact wording of the amendment adopted in this rule making.

Application forms and other forms will be available on the Board's Web site and in the Board's Records and Information Center starting on or before December 26, 2007. The Board will identify documents associated with certificates of franchise authority with a docket designation of Video Cable Authority, or VCA, in the form VCA-XXXX-NNNN, where "XXXX" is the year and "NNNN" is a four-digit, sequentially assigned docket number. Payment for applications and subsequent modifications and transfers shall accompany the forms.

IV. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-07-5 is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 1st day of November, 2007.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554, the Utilities Board (Board) gives notice that on November 1, 2007, the Board issued an order in Docket No. RMU-07-5, In re: Certificates of Franchise Authority for Cable and Video Service [199 IAC Chapter 44], "Order Adopting Amendment." The order adopted an amendment which was published under Notice of Intended Action in IAB Vol. XXX, No. 3 (8/01/07) p. 268, as ARC 6124, with revisions described in the order.

The amendment is intended to implement 2007 Iowa Acts, Senate File 554 (S.F. 554 or "the Act"), which became effective upon enactment on May 29, 2007. Entitled "An Act Relating to Franchises for the Provision of Cable Service or Video Service Including Providing for Fees and Providing an Effective Date," the Act requires that providers of cable or video service have a franchise and states that the franchise can be issued either by the Board or a municipality. The Act directs the Board to adopt rules to administer the statute.

The rules define terms relating to certificates of franchise authority to be issued by the Board; prescribe the content of an initial application for a certificate of franchise authority; and establish procedures for applying for a certificate of franchise authority, modifying a service area, and transferring or terminating certificates of franchise authority. The rules require competitive providers to

notify affected municipalities and the incumbent cable provider at least 30 days before providing service. The rules establish filing fees for applications, modifications, transfers, and terminations. The rules reflect the Act's provision that allows an incumbent cable provider to convert an existing municipal franchise to a Board-issued franchise.

Written comments addressing the proposed amendment were filed by Mr. N.E. Thornsberry of Waterloo, Iowa; Public Access Television, Inc.; the Rural Iowa Independent Telephone Association; the City of Iowa City, Iowa; the Iowa Telecommunications Association; and the Iowa Cable & Telecommunications Association, Inc.

An oral comment presentation was held September 20, 2007. On September 21, 2007, the Board issued an order allowing interested persons to file additional comments by October 1, 2007. Additional written comments were received from the City of Iowa City, Iowa Cable & Telecommunications Association, Inc., and the Consumer Advocate Division of the Department of Justice.

The Board made three revisions to the amendment based on its final review of the comments. Specifically, changes have been made to paragraph "e" of subrule 44.3(3), subrule 44.3(6), and subrule 44.4(1). The Board's order adopting the revised amendment can be found on the Board's Web site, www.state.ia.us/iub.

This amendment will become effective December 26, 2007.

This amendment is intended to implement Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554.

The following amendment is adopted.

Adopt the following new chapter:

CHAPTER 44
CERTIFICATES OF FRANCHISE AUTHORITY
FOR CABLE AND VIDEO SERVICE

199—44.1(17A,476,82GA,SF554) Authority and purpose. These rules are intended to implement 2007 Iowa Acts, Senate File 554, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures and filing fees for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

199—44.2(17A,476,82GA,SF554) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"Board" means the utilities board within the utilities division of the department of commerce.

"Cable operator" means the same as defined in 47 U.S.C. Section 522.

"Cable service" means the same as defined in 47 U.S.C. Section 522.

"Cable system" means the same as defined in 47 U.S.C. Section 522.

"Certificate of franchise authority" means the certificate issued by the board authorizing the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Competitive cable service provider" means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.

"Competitive video service provider" means a person who provides video service other than a cable operator.

"Franchise" means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Franchise fee" means the fee imposed pursuant to 2007 Iowa Acts, Senate File 554, section 8.

"Incumbent cable provider" means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

"Municipality" means a county or a city.

"Public right-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "Public right-of-way" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

"Video programming" means the same as defined in 47 U.S.C. Section 522.

"Video service" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. "Video service" does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332 or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

199—44.3(17A,476,82GA,SF554) Certificate of franchise authority. As provided in 2007 Iowa Acts, Senate File 554, section 3, after July 1, 2007, a person shall not provide cable service or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board.

44.3(2) Municipal utilities. A municipal utility that provides cable service or video service in Iowa is not required to obtain a certificate of franchise authority in the municipality in which the provision of cable service or video service by the municipality was originally approved.

44.3(3) Initial application. Within 15 business days after receiving an application and affidavit from an applicant using a form developed by and available from the board, the board shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

a. A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa;

b. A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules;

c. A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered;

d. A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable;

e. The address of the applicant's principal place of business and the names and titles of the applicant's principal executive officers with direct authority over and responsibility for the applicant's cable or video operations; and

f. The telephone number for customer service contact.

The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant's proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.

44.3(4) Content of certificate. A certificate of franchise authority issued by the board shall contain all of the following:

a. A grant of authority to provide cable service or video service in the service area designated in the application;

b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of Iowa, including the police powers of the municipalities in which the service is delivered.

c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor; and

d. A statement that the franchise is for a term of ten years, is renewable, and is nonexclusive.

44.3(5) Modification of service area. At least 14 days before expanding cable service or video service to a previously undesignated service area or

making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board upon expansion or other change in service area using a form developed by and available from the board.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (i) 14 business days after the date of filing of the notice of transfer with the board or (ii) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate.

44.3(7) Termination of certificate of franchise authority. The holder of a certificate of franchise authority may terminate the certificate by providing written notice of termination to the board and to each affected municipality using a form developed by and available from the board.

44.3(8) Updates. The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by sending a letter to the board specifying the change and certificate number. The notice shall be provided within 14 days after the effective date of the change.

199—44.4(17A,476,82GA,SF554) Notice to municipality and incumbent cable provider. A competitive service provider shall notify affected municipalities and incumbent cable providers of its plan to offer service as provided in this rule.

44.4(1) At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service pursuant to a Board-issued certificate of franchise authority, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

44.4(2) The competitive cable service provider or competitive video service provider shall file a copy of the notice required by this rule with the board.

44.4(3) If the competitive cable service provider or competitive video service provider determines that its entry into the market will be delayed, no further

notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin.

199—44.5(17A,476,82GA,SF554) Conversion of municipal franchise by incumbent cable provider. If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality using an application form developed by the board and providing the information required in 44.3(3). The board shall automatically grant the incumbent's application, if complete, effective on the same day a competitive cable service provider or competitive video service provider files the 30 days' notice of offering service as required pursuant to 44.4(17A,476,82GA,SF554) if the incumbent cable provider files its application within 30 days of the day the competitive service provider provides the 30 days' notice. If the incumbent cable provider files its application more than 30 days after the date the competitive service provider provides the 30 days' notice, the board shall grant the incumbent's application, if complete, to be effective on the date the application is filed with the board.

199—44.6(17A,476,82GA,SF554) Filing fees. Each applicant shall submit one or more of the following fees, as applicable:

1. A filing fee of \$100 with an initial application; and
2. A filing fee of \$50 with a notice of modification or transfer; and
3. A filing fee of \$25 with a notice of termination.

These rules are intended to implement Iowa Code sections 17A.4 and 476.10
and 2007 Iowa Acts, Senate File 554.

November 1, 2007

/s/ John R. Norris
John R. Norris
Chairman