



**REPORT OF THE
IOWA ATTORNEY GENERAL
2007-2008**

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ATTORNEYS GENERAL OF IOWA

Name	Home County	Served Years
David C. Cloud	Muscatine	1853-1856
Samuel A. Rick	Mahaska	1856-1861
Charles C. Nourse	Polk	1861-1865
Isaac L. Allen	Tama	1865-1866
Frederick E. Bissell	Dubuque	1866-1867
Henry O'Connor	Muscatine	1867-1872
Marsena E. Cutts	Mahaska	1872-1877
John F. McJunkin	Washington	1877-1881
Smith McPherson	Montgomery	1881-1885
A.J. Baker	Appanoose	1885-1889
John Y. Stone	Mills	1889-1895
Milton Remley	Johnson	1895-1901
Charles W. Mullan	Black Hawk	1901-1907
Howard W. Byers	Shelby	1907-1911
George Cosson	Audubon	1911-1917
Horace M. Havner	Iowa	1917-1921
Ben J. Gibson	Adams	1921-1927
John Fletcher	Polk	1927-1933
Edward L. O'Connor	Johnson	1933-1937
John H. Mitchell	Webster	1937-1939
Fred D. Everett	Monroe	1939-1940
John M. Rankin	Lee	1940-1947
Robert L. Larson	Johnson	1947-1953
Leo A. Hoegh	Lucas	1953-1954
Dayton Countryman	Story	1954-1957
Norman A. Erbe	Boone	1957-1961
Evan Hultman	Black Hawk	1961-1965
Lawrence F. Scalise	Warren	1965-1967
Richard C. Turner	Pottawattamie	1967-1979
Thomas J. Miller	Clayton	1979-1991
Bonnie J. Campbell	Polk	1991-1995
Thomas J. Miller	Clayton	1995-

PERSONNEL OF THE

ATTORNEY GENERAL'S OFFICE

PERSONNEL 2007-2008

ADMINISTRATIVE SERVICES

Thomas J. Miller, 1-79-1/91, 1/95 Attorney General
JD, Harvard, 1969

Tam B. Ormiston, 8/89 Deputy Attorney General
JD, Iowa, 1974

Julie F. Pottorff, 7/79 Deputy Attorney General
JD, Iowa, 1978

Eric J. Tabor, 9/95 Deputy Attorney General
JD, Iowa, 1980

Thomas H. Miller, 10/85 Deputy Attorney General
JD, Iowa, 1975

Jeffrey S. Thompson, 6/08 Deputy Attorney General
JD, Houston Law Center, 1992

Brian J. Meyer, 11/02-1/07 Assistant Attorney General
JD, Drake, 2002

Matthew L. Gannon, 3/07 Assistant Attorney General
JD, Iowa 1998

Robert P. Brammer, 11/78 Executive Officer

William C. Roach, 9/95 Executive Officer

Karen A. Redmond, 10/80 Executive Officer

Julie Robinson Muckler, 7/06 Executive Officer

John W. Hugg, 2/99 ITS Specialist

John N. Boccella, 2/98 ITS Specialist

Jane Ambrozic, 10/76 Executive Secretary

Cathleen M. White, 2/89 Training Officer

Joelyn L. Gast, 4/06 Investigator

Vivone Abdel-Razeq, 3/00-10/07 HR Associate

Diane Dunn, 10/88-10/08 Administrative Assistant

Colleen F. Baker, 1/92 Legal Secretary

Grace Armstrong, 7/89 Accounting Clerk

Rebecca E. Crawford, 9/04 Clerk

Deborah A. Humphrey, 11/08 Receptionist

AREA PROSECUTIONS

Scott Brown, 8/97	Division Director
JD, Oklahoma City University, 1991	
Virginia D. Barchman, 10/86	Assistant Attorney General
JD, Iowa, 1979	
Douglas D. Hammerand, 8/96	Assistant Attorney General
JD, Drake, 1989	
James E. Kivi, 2/80	Assistant Attorney General
JD, Iowa, 1975	
Thomas E. Noonan, 6/89	Assistant Attorney General
JD, Iowa, 1982	
Charles N. Thoman, 7/84	Assistant Attorney General
JD, Creighton, 1976	
Robert J. Glaser, 7/86	Assistant Attorney General
JD, Creighton, 1978	
Denise A. Timmins, 10/99	Assistant Attorney General
JD, Drake, 1997	
Laura M. Roan, 8/06	Assistant Attorney General
JD, Drake, 1991	
Andrew B. Prosser, 8/00	Assistant Attorney General
JD, Drake, 1985	
A. Patricia Houlihan, 8/03-3/08	Assistant Attorney General
JD, Drake, 1982	
Becky S. Goettsch, 9/06	Assistant Attorney General
JD, Iowa, 1994	
Susan R. Krisko, 7/08	Assistant Attorney General
JD, Ohio Northern, 1996	
Mark J. Schouten, 6/04	Assistant Attorney General
JD, Iowa, 1978	
Shawn S. Wehde, 11/99	Assistant Attorney General
JD, Iowa, 1986	
Benjamin Stansberry, 4/04-4/07	Assistant Attorney General
JD, Iowa, 2003	
Emily K. Nydle, 6/89	Assistant Attorney General
JD, Iowa, 2004	
Nicole M. Proesch, 4/06	Assistant Attorney General
JD, Drake, 2004	
Melisa K. Zaehring, 1/06	Assistant Attorney General
JD, Washburn, 2000	
Candis J. Lockard, 10/97	Investigator
Michael J. Ferjak, 8/98	Investigator
Connie L. Lee, 12/76	Legal Secretary
Sonya M. Moon, 9/06	Paralegal

CIVIL RIGHTS

Teresa M. Baustian, 4/81 Assistant Attorney General
JD, Iowa, 1979

CONSUMER ADVOCATE

John R. Perkins, 10/01 Consumer Advocate
JD, Iowa, 1968

Jennifer Easler, 5/96 Utility Attorney
JD, Drake, 1993

Jack Dwyer, 1/97 Utility Attorney
JD, Iowa, 1969

Craig Graziano, 4/99 Utility Attorney
JD, Drake, 1975

Alice Hyde, 1/80 Utility Attorney
JD, Iowa, 1978

Ron Polle, 8/80 Utility Attorney
JD, Drake, 1979

Ben Stead, 8/81 Utility Attorney
JD, Kansas, 1974

Gary Stewart, 7/74 Utility Attorney
JD, Iowa, 1974

Mark Condon, 7/82 Utility Specialist

Fasil Kebede, 3/87 Utility Specialist

Shelia Parker, 6/88 Utility Specialist

Brian Turner, 7/82 Utility Specialist

Gregory Vitale, 8/85 Utility Specialist

Joyette Henry, 4/88 Senior Utility Analyst

Khosrow Khojasteh, 4/96 Senior Utility Analyst

Xiaochuan Shi, 3/90 Utility Reg Engineer

Christine Collister, 5/88-8/07 Utility Administrator

Charles Fuhrman, 9/81 Utility Administrator

Joe Murphy, 6/77-12/07 Utility Administrator

David Habr, 9/81-12/08 Utility Administrator

Ann, Kreager, 11/84 Secretary

Karen Goodrich-Finnegan, 7/76 Secretary

Kristine S. Koch, 12/06 Advanced Typist

CONSUMER PROTECTION

William L. Brauch, 7/87 Division Director
JD, Iowa, 1987

Steven M. St. Clair, 5/87 Assistant Attorney General
JD, Iowa, 1978

Benjamin E. Bellus, 3/97 Assistant Attorney General
JD, Drake, 1991

Jessica J. Whitney, 10/04 Assistant Attorney General
JD, Michigan, 2002

Patrick T. Madigan, 4/04 Assistant Attorney General
JD, Iowa, 1998

Charles Reynolds, 5/04 Assistant Attorney General
JD, Iowa, 1984

Kristie R. Orme, 9/06-7/07 Assistant Attorney General
JD, Kansas, 1997

Julia S. Kim, 9/08 Assistant Attorney General
JD, Wisconsin, 2003

Robert H. Meyers, 10/07 Assistant Attorney General
JD, St. Thomas, 2007

Kasey W. Kincaid, 5/08 Assistant Attorney General
JD, Drake, 1980

Debra A. Moore, 12/84 Executive Officer

Susan M. Kerr, 9/95 Investigator

Holly G. Merz, 10/88 Investigator

Stephen E. Switzer, 12/89 Investigator

Steven K. Olson, 8/05-1/07 Investigator

Alberto Perales, 11/06 Investigator

Martha L. Robovsky, 6/07 Investigator

Janice M. Bloes, 3/78 Administrative Assistant

Katherine N. M. Gray, 3/84 Legal Secretary

Helen K. Alessio, 9/01 Legal Secretary

Anna M. Cimino, 9/04 Secretary/Receptionist

Rickie Wickersham, 4/04 Secretary/Receptionist

CRIME VICTIM ASSISTANCE

Martha J. Anderson, 7/89	Program Director
Robert H. Wheeler, 3/05	Executive Officer
Virginia W. Beane, 6/89-1/07	Executive Officer
Kristi L. Etzel, 12/97	Accountant
Donna J. Phillips, 6/02	Program Planner
Amy M. Terrell, 9/06	Program Planner
Anne K. Thomas, 9/00	Program Planner
Janelle M. Melohn, 9/06	Program Planner
Carole D. Meade, 11/01-1/07	Investigator
Shonna K. Swain, 5/81	Investigator
Kimberly J. Kluxdal, 9/00	Investigator
Nicole D. Beauford, 3/01	Investigator
Katie K. Kuhr, 6/01-8/03	Investigator
Mary K. Bartine, 11/01	Investigator
Kirstin R. Isenhardt, 2/01	Investigator
Melissa J. Miller, 1/88	Investigator
Ruth C. Walker, 2/79	Investigator
Charles R. Grigsby, 8/03	Investigator
Lisa M. Bickelhaupt, 8/03	Investigator
Stacey A. Anderson, 9/98	Investigator
Monica A. VandenBranden, 3/07	Investigator
Jennifer S. Stimson, 8/07	Investigator
Kristin R. Meyers, 3/07-12/07	Investigator
Aaron W. Koch, 7/07	Investigator
Bethany E. Geiken, 7/07-8/08	Investigator
Grace M. Armstrong, 7/89	Accounting Clerk
Sharon K. Sherrill, 4/99-9/08	Legal Secretary
Edith M. Omlie, 6/89	Legal Secretary
Patricia Washington, 12/04	Legal Secretary
Natasha R. Drake, 10/08	Legal Secretary

CRIMINAL APPEALS

Mary E. Tabor, 8/93	Division Director
JD, Iowa, 1991	
Bridget A. Chambers, 2/90	Assistant Attorney General
JD, Iowa, 1985	
Richard J. Bennett, 6/86	Assistant Attorney General
JD, Iowa, 1978	

Martha E. Trout, 7/91 Assistant Attorney General
 JD, Notre Dame, 1991

Karen B. Doland, 7/90 Assistant Attorney General
 JD, Iowa 1989

Robert P. Ewald, 2/81-1/08 Assistant Attorney General
 JD, Washburn, 1980

Sharon K. Hall, 7/96 Assistant Attorney General
 JD, Drake, 1993

Sheryl A. Soich, 2/88 Assistant Attorney General
 JD, Drake, 1987

Thomas S. Tauber, 7/89 Assistant Attorney General
 JD, Drake, 1989

Jean C. Pettinger, 10/97 Assistant Attorney General
 JD, Iowa, 1994

Kevin R. Cmelik, 10/98 Assistant Attorney General
 JD, Drake, 1986

Thomas W. Andrews, 3/99 Assistant Attorney General
 JD, Yale, 1989

Cristen Gale Douglas, 7/90 Assistant Attorney General
 JD, Gonzaga, 1978

Darrel L. Mullins, 8/98 Assistant Attorney General
 JD, Colorado, 1996

Linda J. Hines, 10/98 Assistant Attorney General
 JD, Wisconsin, 1992

Reynoldson, Elisabeth S., 1/07 Assistant Attorney General
 JD, Iowa 1992

Kyle P. Hanson, 8/08 Assistant Attorney General
 JD, Drake, 2008

Christy J. Fisher, 1/67 Administrative Assistant

Mary L. Robertson, 3/92 Legal Secretary

Elizabeth A. Dickey, 3/08 Legal Secretary

Susan R. Crocker, 11/05-9/07 Legal Secretary

Shirlee S. Brown, 10/07-2/08 Legal Secretary

ENVIRONMENTAL LAW

David R. Sheridan, 5/87 Division Director
 JD, Iowa, 1978

Timothy D. Benton, 7/77 Assistant Attorney General
 JD, Iowa, 1977

David L. Dorff, 4/85 Assistant Attorney General
 JD, Drake, 1982

Michael H. Smith, 9/84- 3/08 Assistant Attorney General
 JD, Iowa, 1977
 David S. Steward, 7/99 Assistant Attorney General
 JD, Drake, 1994
 Jacob J. Larson, 8/08 Assistant Attorney General
 JD, Iowa, 2008
 Richard C. Heathcote, 9/89 Investigator
 Cynthia L. Jacobe, 8/84 Legal Secretary

FARM DIVISION

Stephen E. Reno, 7/89 Assistant Attorney General
 JD, Drake, 1981
 Stephen M. Moline, 7/90 Assistant Attorney General
 JD, Iowa, 1986
 Marc A. Wallin, 3/00 Investigator

LICENSING AND ADMINISTRATIVE LAW

Pamela D. Griebel, 4/91 Division Director
 JD, Iowa, 1977
 Heather L. Adams, 7/94 Assistant Attorney General
 JD, Iowa, 1994
 Grant K. Dugdale, 5/91 Assistant Attorney General
 JD, Iowa, 1987
 Scott M. Galenbeck, 1/84 Assistant Attorney General
 JD, Iowa, 1974
 Christie J. Scase, 7/85-8/08 Assistant Attorney General
 JD, Drake, 1985
 Jeffrey C. Peterzalek, 12/03 Assistant Attorney General
 JD, Iowa 1989
 Theresa O. Weeg, 10/81 Assistant Attorney General
 JD, Iowa, 1981
 Chantelle C. Smith, 3/00 Assistant Attorney General
 JD, Iowa, 1998
 Jeffrey W. Nelson, 8/00 Assistant Attorney General
 JD, Iowa, 1987
 Jeanie K. Vaudt, 10/98 Assistant Attorney General
 JD, Drake, 1991
 John R. Lundquist, 4/99 Assistant Attorney General
 JD, Iowa, 1997
 Shauna R. Shields, 11/98 Assistant Attorney General
 JD, Iowa, 1994

Emily Kimes-Schwiesow, 5/01 Assistant Attorney General
 JD, Drake, 2001

Robert K. Porter, 2/05-10/08 Assistant Attorney General
 JD, Iowa, 2001

David Van Compernelle, 3/06 Assistant Attorney General
 JD, Iowa, 1999

Kristin W. Ensign, 10/88 Assistant Attorney General
 JD, Drake, 1983

Susan J. Aden, 8/06 Assistant Attorney General
 JD, Iowa, 1979

Heather L. Palmer, 4/07-10/08 Assistant Attorney General
 JD, Drake, 1999

Julie J. Bussanmas, 9/07 Assistant Attorney General
 JD, Drake 2005

Matthew T. Oetker, 10/08 Assistant Attorney General
 JD, Drake, 1999

Jordan G. Esbrook, 10/08 Assistant Attorney General
 JD, Iowa 2006

Adam P. Humes, 11/08 Assistant Attorney General
 JD, Iowa 2007

Roxanna Dales, 9/89 Legal Secretary

Ruth Manning, 9/89 Legal Secretary

Valerie S. Naset, 2/98 Legal Secretary

Lisa A. Wittmus, 9/07 Legal Secretary

PROSECUTING ATTORNEYS TRAINING COUNCIL

Corwin R. Ritchie, 9/00 Division Director
 JD, Iowa, 1975

Peter J. Grady, 1/95 Assistant Attorney General
 JD, Iowa, 1984

Kevin B. Struve, 7/86 Assistant Attorney General
 JD, Iowa, 1979

Michael L. Bennett, 9/05 Assistant Attorney General
 JD, Iowa, 1992

Richard J. Early, 9/06 Assistant Attorney General
 JD, Drake, 1980

Peggy L. Baker, 9/94 Administrative Assistant

Susan K. Apple, 9/96 Legal Secretary

Kristle A. Finck, 12/04 Legal Secretary

REGENTS AND HUMAN SERVICES

Diane Stahle, 10/04 Division Director
JD, Iowa, 1979

George A. Carroll, 2/98 Assistant Attorney General
JD, Iowa, 1985

Paula K. DeAngelo, 6/06-3/08 Assistant Attorney General
JD, Iowa, 1993

David S. Gorham, 6/08 Assistant Attorney General
JD, Drake 1993

Daniel W. Hart, 7/85 Assistant Attorney General
JD, Iowa, 1983

Charles K. Phillips, 8/84 Assistant Attorney General
JD, Columbia, 1982

Bruce L. Kempkes, 4/94 Assistant Attorney General
JD, Iowa, 1980

Mary K. Wickman, 8/89 Assistant Attorney General
JD, Iowa, 1986

Barbara E. Galloway, 3/91 Assistant Attorney General
JD, Iowa, 1976

Kathrine Miller-Todd, 1/85 Assistant Attorney General
JD, Wake Forest, 1974

Tabitha J. Gardner, 6/98 Assistant Attorney General
JD, Drake, 1999

Janet L. Siegel, 8/94 Assistant Attorney General
JD, Iowa, 1990

Paul F. Kraus, 8/04 Assistant Attorney General
JD, Iowa, 2004

James B. Horn, 11/04 Assistant Attorney General
JD, Drake, 1994

Gretchen E. Kraemer, 12/06 Assistant Attorney General
JD, Villanova, 1999

Charles Roderick Reynolds, 5/04 Assistant Attorney General
JD, Iowa 1984

Kristi A. Taynor, 6/07 Assistant Attorney General
JD, Iowa, 1998

Patricia R. Hemphill, 2/83 Assistant Attorney General
JD, Drake, 1981

Kevin E. Kaufman, 4/96 Assistant Attorney General
JD, Creighton, 1986

Mark A. Haverkamp, 6/78 Assistant Attorney General
JD, Creighton, 1976

Michael J. Parker, 7/91 Assistant Attorney General
JD, Drake, 1989

Patricia A. McGivern, 9/95-11/07 Assistant Attorney General
JD, Iowa, 1977

Tamara A. Lorenz, 5/96 Assistant Attorney General
JD, Drake, 1991

Christina F. Hansen, 3/91 Assistant Attorney General
JD, Drake, 1987

William J. Jacobs, 3/01 Assistant Attorney General
JD, New York, 1991

Wayne J. Bergman, 1/01 Assistant Attorney General
JD, Iowa, 1995

Melissa L. Gross, 7/98 Assistant Attorney General
JD, Iowa, 1996

Jennifer L. Bennett, 9/03 Assistant Attorney General
JD, South Dakota, 1995

Jade C. Havermann, 1/04 Assistant Attorney General
JD, Iowa, 1997

Robert J. Forrest, 6/04 Assistant Attorney General
JD, Arkansas, 1996

Gary J. Otting, 6/04 Assistant Attorney General
JD, Minnesota, 1989

William A. Pepper, 4/04 Assistant Attorney General
JD, Iowa, 1996

Richard D. Arnold, 10/04 Assistant Attorney General
JD, Creighton, 2002

Amy M. Myres, 11/04 Assistant Attorney General
JD, South Dakota, 2003

Justin D. Walker, 9/04 Assistant Attorney General
JD, Nebraska, 2002

Scott M. Heckart, 5/05 Assistant Attorney General
JD, Drake, 2004

Cindy M. Herring, 8/05 Assistant Attorney General
JD, Iowa, 2004

Cynthia Weber-Blair, 7/05-3/07 Assistant Attorney General
JD, South Dakota, 1999

James A. Lally, 5/06 Assistant Attorney General
JD, Drake, 1978

Justin D. Nelson, 7/06 Assistant Attorney General
JD, Thomas M. Cooley, 2004

Onita S. Mohr, 12/06 Assistant Attorney General
JD, Iowa, 1987

Cheri L. Cummings, 3/06 Assistant Attorney General
 JD, Iowa, 2005

Jennifer S. Allison, 7/06 Assistant Attorney General
 JD, Iowa, 1996

Benjamin J. Smith, 5/05 Assistant Attorney General
 JD, Drake, 2006

Sarah J. Bradley, 7/07 Assistant Attorney General
 JD, Arizona, 2005

Stephan A. Brannen, 3/07 Assistant Attorney General
 JD, Creighton, 1979

Valerie L. Clay, 7/08 Assistant Attorney General
 JD, Maryland, 2006

Erin S. Eastman, 2/08 Assistant Attorney General
 JD, Drake, 2004

Kent W. Lewis, 7/08 Assistant Attorney General
 JD, Drake, 1975

Corenne M. Liabo, 7/08 Assistant Attorney General
 JD, Drake, 1980

Sherri S. Martin, 7/08 Assistant Attorney General
 JD, Iowa, 1987

Kara L. Minnihan, 11/08 Assistant Attorney General
 JD, Thomas Jefferson, 2003

Shannon L. Pagel, 5/07 Assistant Attorney General
 JD, Hamline, 2001

Lisa A. Peterson, 4/07-9/08 Assistant Attorney General
 JD, Drake, 2004

Shea M. Schreiber, 2/07 Assistant Attorney General
 JD, Drake, 2005

Merry C. Wiseman, 7/08 Assistant Attorney General
 JD, Iowa, 1977

Rhonda E. McLaughlin, 11/01 Paralegal

Betty Christensen, 7/99 Legal Secretary

Melissa M. Schipper, 9/04-9/07 Legal Secretary

Cheryl A. Smith, 10/04 Legal Secretary

Melissa J. Mincks, 10/07 Legal Secretary

REVENUE

Donald D. Stanley, Jr., 10/00 Division Director
 JD, Drake, 2000

James D. Miller, 10/86 Assistant Attorney General
 JD, Drake, 1977

Marcia E. Mason, 7/82 Assistant Attorney General
 JD, Iowa, 1982

Valencia V. McCown, 6/83 Assistant Attorney General
 JD, Iowa, 1983

Christopher E. James, 8/06-8/08 Assistant Attorney General
 JD, Drake, 2006

John B. McCormally, 4/08 Assistant Attorney General
 JD, Iowa, 2007

Bridget K. Rhodes, 10/08 Assistant Attorney General
 JD, Drake, 2008

Connie M. Larson, 6/89 Legal Secretary

SPECIAL LITIGATION

Scott J. Idleman, 9/05 Division Director
 JD, Whittier, 1993

Greg H. Knoploh, 5/87 Assistant Attorney General
 JD, Iowa, 1978

Joanne L. Moeller, 8/84 Assistant Attorney General
 JD, Iowa, 1984

Julie A. Burger, 7/93 Assistant Attorney General
 JD, Drake, 1991

Shirley A. Steffe, 9/79-6/08 Assistant Attorney General
 JD, Iowa, 1979

Charles S. Lavorato, 9/83-9/07 Assistant Attorney General
 JD, Drake, 1975

Deborah M. Stein, 4/00 Assistant Attorney General
 JD, Minnesota, 1993

Mark Hunacek, 7/82 Assistant Attorney General
 JD, Drake, 1981

Forrest A. Guddall, 7/94 Assistant Attorney General
 JD, Gonzaga, 1994

H. Loraine Wallace, 7/96 Assistant Attorney General
 JD, Iowa, 1983

Layne M. Lindebak, 7/79 Assistant Attorney General
 JD, Iowa, 1979

William A. Hill, 8/90 Assistant Attorney General
 JD, Drake, 1989

Jennifer S. Lampe, 12/07 Assistant Attorney General
 JD, Drake, 1996

E.A. Charlie Nichols, 11/08 Assistant Attorney General
 JD, Iowa, 2004

William F. Raisch, 2/07-2/08 Assistant Attorney General
 JD, Drake, 1974

Barrie J. Terrones, 5/08-8/08 Assistant Attorney General
 JD, Drake, 2004

Anne E. Updegraff, 6/07 Assistant Attorney General
 JD, Drake, 1996

Jennifer M. York, 9/07 Assistant Attorney General
 JD, Valparaiso, 2005

Marjorie A. Leeper, 7/82 Investigator

Cathleen L. Rimathe, 8/78 Investigator

David H. Morse, 3/78 Investigator

Pamela R. O'Brien, 11/98 Administrative Assistant

Stephanie A. Barker, 5/05 Paralegal

Marcia A. Jacobs, 8/82 Legal Secretary

Pamela R. O'Brien, 11/98 Administrative Assistant

Debra S. Caldbeck, 7/00-7/07 Legal Secretary

Janet Lemmermann, 4/06-1/07 Legal Secretary

Katrina M. Wilgenbusch, 1/07-5/07 Legal Secretary

Ashley M. Hager, 12/07 Legal Secretary

Sarah L. Thomas, 7/07 Legal Secretary

Jamie D. Kilgore, 3/07 Legal Secretary

TRANSPORTATION

Mark D. Lowe, 2/08 Division Director
 JD, Drake, 1993

Noel C. Hindt, 7/89 Assistant Attorney General
 JD, Iowa, 1983

Richard E. Mull, 9/84 Assistant Attorney General
 JD, Iowa, 1977

Robin Formaker, 4/84 Assistant Attorney General
 JD, Iowa, 1979

Carolyn J. Olson, 8/87- 12/07 Assistant Attorney General
 JD, Drake, 1984

Christine G. Blome, 10/06 Assistant Attorney General
 JD, Drake, 1986

Teresa K. Baumann, 2/08 Assistant Attorney General
 JD, Iowa, 2001

James M. Strohman, 2/88-1/07 Compliance Officer

Michael J. Raab, 1/85-6/08 Compliance Officer

Heather N. Schaffer, 3/07 Compliance Officer

Laura D. Wood, 8/08 Compliance Officer

Christina K. Crow, 6/07 Legal Secretary

Jeannie A. Stolee, 7/08 Legal Secretary

ATTORNEY GENERAL'S OFFICE
ADMINISTRATIVE DIVISIONS

CRIMINAL LAW

AREA PROSECUTIONS DIVISION

The primary mission of this division is to supplement local resources in the prosecution of major criminal offenses throughout the state. Prosecutors in this division assist local county attorneys in difficult, technical, or high-profile felony criminal cases that strain the resources of a local prosecutor's office. The division also frequently handles felony cases in which a conflict of interest or the appearance of a conflict precludes the county attorney from acting.

A large share of the division's cases are murder and sex abuse. Members of the division investigate and prosecute most of the serious, felony level public official misconduct and corruption allegations raised throughout the state. The division also represents the Commission on Judicial Qualifications, investigating the prosecuting complaints against Iowa judges and magistrates.

In addition to criminal cases, the division also has responsibility for enforcing Iowa's sexually violent predator (SVP) program. During the period, 21 SVP investigations were opened, and 22 civil commitments made.

To carry out its responsibilities, the division has eleven attorneys, one investigator, one paralegal, two victim-witness coordinators, and one secretary. Two of these attorneys each devote half time to SVP litigation. The SVP program is the primary responsibility for the investigator and one victim-witness coordinator, and the sole responsibility of the division's paralegal.

Seven of the attorneys are located at the Attorney General's office in Des Moines. Of the others, one is located in western Iowa, two in eastern Iowa, including one at the Iowa State Penitentiary in Fort Madison, and another is assigned full-time to the Medicare Fraud Control Unit at the Department of Inspections and Appeals. The division has at least one attorney with specialized training for each of the following areas: 1) violence against women cases; 2) environmental crimes; 3) obscenity; 4) crimes occurring in penal institutions; 5) tax violations including personal income tax, corporate income tax, sales tax, and motor fuel tax; 6) medicaid fraud, 7) criminal securities fraud, money laundering and other financial crimes; 8) judicial ethics and conduct and 9) sexual violent predator (SVP) commitments.

During the period of this report, 317 major criminal cases, including 45 homicides, were referred from all corners of the state and handled by the division's attorneys.

The division's two crime victim witness coordinators provide services to victims of crime and to persons who must appear as witnesses in criminal or SVP trials.

In addition to the criminal and SVP prosecutors, and in conjunction with the Iowa Division of Narcotics Enforcement and U.S. attorneys, the division has five attorneys who prosecute high profile drug cases under the High Intensity Drug Traffic Area program (HIDTA).

CRIMINAL APPEALS DIVISION

The Criminal Appeals Division represents the State of Iowa in all direct appeals from criminal convictions, all appeals from postconviction relief actions, and all federal habeas challenges to Iowa convictions. County attorneys generally prosecute criminal cases in the district court. After they obtain a conviction either by plea or trial, the appeals division works to keep the conviction in place by arguing the State's position before the Iowa Court of Appeals, Iowa Supreme Court, federal district courts, the Eighth Circuit Court of Appeals, and even the United States Supreme Court, if need be.

In 2007, offenders filed 737 notices of appeal in Iowa criminal and postconviction cases; offenders filed another 716 notices of appeal in 2008. The criminal appeals division filed a total of 697 briefs in the Iowa Supreme Court during the years 2007 and 2008. Attorneys from the division presented a total of 106 oral arguments before the Iowa Court of Appeals during 2007 and 2008. Attorneys from the division argued a total of 56 cases in the Iowa Supreme Court during those two years.

The Criminal Appeals Division also responds to scores of applications for discretionary review filed by defendants seeking to have the Iowa Supreme Court review a case in advance of final judgment. The division likewise files applications for discretionary review, petitions for certiorari and notices of appeal when the State is interested in challenging an adverse district court ruling. The division pursued 56 such affirmative appeals during 2007 and 2008. The Criminal Appeals Division also represents the State when an inmate seeks certiorari to the United States Supreme Court in a state criminal matter. The division filed one petition for certiorari with the United States Supreme Court in 2007.

Another function of the division is keeping registered victims informed of the progress and outcome of appeals. At least 429 victims received information from the division in 2007 and 2008.

In its federal practice, the division saw 82 new habeas corpus cases filed in the past two years. The division's federal attorneys appeared before the Eighth Circuit Court of Appeals several times during 2007 and 2008. The division also reviewed 92 extradition files from the governor's office during 2007 and another 89 files during 2008.

The division provides advice to trial-level prosecutors on an informal basis more or less daily and helps train prosecutors, law enforcement officers, prison officials, and victim workers from across the state. Attorneys from the division also offered continuing legal education

presentations for audiences of judges, magistrates and criminal defense attorneys during the past two years.

CRIME VICTIM ASSISTANCE DIVISION

The Crime Victim Assistance Division administers state and federal funds for state level programs that benefit crime victims including Crime Victim Compensation (CVC), Sexual Abuse Examination Payment (SAE), Victim Services Grant (VSG), IowaVINE, and Iowa Crisis response Team (ICRT) programs.

Funds for these programs and the operational costs of the division come primarily from fines and penalties paid by convicted criminals. No tax dollars are used for the CVC, SAE, IowaVINE, and ICRT programs which are supported with state and federal criminal fines and penalties, restitution, and civil suit recoveries from the perpetrator or others responsible for the crime.

Crime Victim Assistance Board. The Crime Victim Assistance Board was created by the 1989 legislature. Members are appointed by the Attorney General to three-year terms. The ten-member multi-disciplinary board has statutory responsibility for adoption of rules relating to CVAD programs. The board also receives and acts on program appeals filed by crime victims and service providers.

Crime Victim Compensation. In FY08, the program awarded a total of \$5,671,305 compensation to 2,974 new applicant victims and to 2,709 victims from previous fiscal years. Victims and their families were reimbursed for out-of-pocket expenses related to injury from crime. The average compensation awarded to all paid victims was \$998. Most payments in a fiscal year are made to the new applicant victims. The FY08 amount awarded divided by the number of FY08 applicant victims is an average compensation of \$1,907.

The CVC program pays only for expenses not covered by another source such as insurance or other government benefit programs. To be eligible, the crime must have been reported to law enforcement, the victim must cooperate with the reasonable requests of law enforcement officers and prosecutors, and the application for compensation must be filed within two years of the crime.

Victims are disqualified if their own actions caused the injury through consent, provocation, or incitement of the crime or if they were committing a crime that caused their injuries.

Sexual Abuse Examination. In FY08, a total of \$1,378,954 was paid for evidentiary sexual abuse examinations for 2,276 victims. The average cost of a sexual abuse examination was \$606. Victims are not required to apply for the program. Examiners, facilities, laboratories, and pharmacies submit an invoice and are paid directly.

The SAE program pays for evidentiary examinations regardless of whether the victim has decided to report the sexual abuse to law enforcement. If the victim later decides to report the crime, law enforcement officers and prosecutors have the benefit of evidence that was collected in a timely and effective manner.

Victim Services Grant. The CVAD administers five state and federal grant funds that provide partial financial support to community-based victim service programs, law enforcement, prosecutors, and the courts. In FY08, a total of \$8,486,086 was distributed to programs that provide information, advocacy, counseling, and shelter to crime victims as well as to prosecutors, law enforcement, and courts specific to violent crimes against women. The programs served 30,411 victims, responded to 82,077 crisis calls, and provided 7,021 community and professional presentations.

Programs partially funded by the CVAD include 27 domestic abuse, 27 sexual abuse, 17 prosecutor-based victim coordination, 1 teen victim, 1 general violent crime, and 4 survivor of homicide victim programs. Also partially funded were 29 law enforcement positions, 11 prosecutors, and 6 state level violence against women specialists.

The IowaVINE is an automated system that provides crime victims free and anonymous email or telephone information and notification regarding the custody status of offenders in Iowa county jails and Department of Corrections facilities. Information is available to callers 24 hours a day, 365 days a year.

The Iowa Crisis Response Team consists of 165 Iowa volunteers available to assist a community that has suffered a crime-related disaster. All members of the team have received a minimum of 40 hours national training on community disaster response. The ICRT is deployed by the CVAD at the request of local officials.

PROSECUTING ATTORNEYS TRAINING COORDINATOR

The Prosecuting Attorneys Training Coordinator provides continuing education, training, and support for Iowa prosecuting attorneys, their assistants, and their victim/witness coordinators in order to promote the uniform and effective administration of criminal justice. Services are provided to all 99 county attorneys, approximately 280 assistant county attorneys, and 40 victim/witness coordinators, as well as to other government attorneys and law enforcement officials. The Coordinator receives advisory assistance from a Council consisting of the Attorney General, the president of the Iowa County Attorneys Association, and three county attorneys elected to staggered three-year terms. The office was created in 1975 and its duties and functions are found in Iowa Code Chapter 13A.

The Prosecuting Attorneys Training Coordinator annually provides approximately 100 to 150 hours of training and 45 to 85 hours of continuing legal education. Training events

normally include annual Spring and Fall County Attorney Conferences, and New Legislation Workshops, as well as specialized training on topics of search and seizure, drug enforcement, OWI law, victim witness assistance issues, asset forfeiture, drug endangered children, and child abuse detection and prosecution.

In addition to continuing education, the Prosecuting Attorneys Training Coordinator provides administrative support services, technical assistance, and educational publications to prosecutors and law enforcement officials. Publications include three newsletters: Civil Update, Highway Safety Law Update, and Drug Enforcement Update; Eight legal manuals: Criminal Law Handbook, Iowa Charging Manual, OWI Traffic Offenses Manual, Prosecution of Domestic Violence in Iowa, Iowa Sex Abuse Prosecution Manual, Iowa Search and Seizure Manual, Iowa Civil Desk Reference, and Iowa Acts of Interest to Law Enforcement. The Comprehensive Career Criminal and Drug Prosecution Support Program provides legal research assistance and training to multi-jurisdictional task forces and prosecutors across Iowa. The OWI/Traffic Safety Specialist coordinates efforts of prosecutors of impaired driving and related offenses through specialized publications, newsletters, and instructional programs. The Drug Endangered Children Program assists and initiates, at the local level, DEC programs in order to provide an effective and coordinated response to children exposed to meth production labs. Those programs are assisted by training and an Iowa DEC website. The Prosecuting Attorneys Training Coordinator assists in administering the Attorney General's asset forfeiture program established by Iowa Code section 809A, which returns 90% of the proceeds of forfeiture cases to governmental agencies to enhance law enforcement within the state.

CONSUMER PROTECTION/ECONOMIC COMPETITION

CONSUMER PROTECTION DIVISION

The Consumer Protection Division administers and enforces the Iowa Consumer Fraud Act, the Iowa Consumer Credit Code, the Iowa Campground Act, the Charitable Organization Act, and the Iowa Lemon Law.

In addition, the Consumer Protection Division may bring enforcement actions for violations of the Iowa Door to Door Sales Act, the Iowa Drug and Cosmetic Act, the Iowa Motor Vehicle Service Trade Practices Act, the Iowa Car Rental and Collision Damage Waiver Act, the Motor Vehicle Damage Disclosure Law, the Prize Notice Law, and several other state and federal laws and regulations.

The Consumer Protection Division consists of seven attorneys, plus six investigators, two legal secretaries, two secretary/receptionists, one administrative assistant and an Executive Officer who provides management and consumer education services. The Division is fortunate to have the assistance of volunteer complaint-handlers. In addition, the Division occasionally

receives help from college and law student interns who handle consumer complaints, do legal and other research and perform other important tasks.

During 2007 and 2008, the Division focused its resources in several key areas, with special emphasis on protecting homeowners, older Iowans and younger Iowans, and on addressing consumer fraud in health care charges, particularly as to prescription drugs:

1. The Division took the following actions to protect Iowa homeowners:

- Established the Iowa Mortgage Help Hotline, a free service to assist homeowners behind on mortgage payments in working with mortgage servicers and taking other steps to avoid foreclosure. The Hotline was established by the Iowa Attorney General's office, Iowa Mediation Service, Iowa Finance Authority, Iowa Legal Aid, and the Iowa Home Ownership Education Project.
- Reached an agreement with a national mortgage lender that resulted in the offer of beneficial loan modifications to over 1100 Iowa homeowners to help them avoid foreclosure and loss of their homes.
- Distributed over \$2.6 million in restitution to 2965 Iowa homeowners as part of a settlement with another national mortgage lender.
- Assisted the Attorney General in preparing congressional testimony urging improved federal consumer protection in financial services and comments to the Board of Governors of the Federal Reserve urging them to adopt regulations against deceptive and unfair practices under the Home Ownership and Equity Protection Act.
- Prefiled state legislative proposals to address predatory mortgage lending.
- Assisted the Attorney General in organizing the State Foreclosure Prevention Working Group, formed to work with major mortgage servicers to encourage loan modifications to help homeowners avoid foreclosure.
- Concluded a several year civil and criminal enforcement effort against a Des Moines real estate firm, and its owners, by settling the civil lawsuit resulting in a court order barring any future real estate or securities sales by the individual defendants and imposing over \$3 million in civil penalties, restitution and fees.
- Obtained a court order barring a Des Moines area real estate seller engaged in a variety of deceptive and unfair practices from selling, leasing, renting or investing in real estate.
- Advised 2008 flood victims and 2007 residents in storm-damaged communities how to avoid consumer scams targeting homeowners cleaning up and repairing damaged homes.

2. The Division took the following actions to protect Iowa seniors:

- Settled a major investigation of the nation's top magazine sweepstakes seller requiring it to adopt far-reaching steps to cease soliciting older consumers who

thought they would have a better chance to win by purchasing more.

- Joined six other states and the Federal Trade Commission in suing a company that provides payment processing services for allegedly assisting fraudulent telemarketing and direct mail schemes.
- Obtained refunds for over 225 Iowans who were victimized by a company that engaged in fraudulent telemarketing offers of government grants and gas coupons and which had made unauthorized withdrawals from consumers' bank accounts.
- Obtained a court order that resulted in refunds for more than 80 Iowa consumers against a direct mail operator that used false claims the consumers had won major cash prizes and had only to pay "registration" or "administrative fees" to collect non-existent winnings.
- Reached an agreement with one of the nation's largest wire transfer companies resulting in implementation of a battery of measures to help thwart fraud-induced money transfers.
- Warned consumers about scams involving magazine sweepstakes that target senior citizens and wrongly imply that buying increases the chances of winning.
- Warned older Iowans about the "grandparent scam," wherein scam artists make calls posing as a grandchild in trouble, in need of money.

3. The Division took the following actions to protect children, teens and young adults:

- Obtained settlements with the nation's two largest brewers resulting in their agreement to cease producing any alcoholic beverages with caffeine, otherwise referred to as "alcohol energy drinks," based on concerns that advertisements for the beverages targeted young adults and teens and fostered the false belief that drinkers of the beverages could function without impairment.
- Joined with 29 other state Attorneys General in a letter to the Federal Alcohol and Tobacco Tax and Trade Bureau urging the Bureau to stop alcohol manufacturers from making misleading health-related statements when advertising alcoholic beverages that contain caffeine and other stimulants.
- Obtained a court order against a major international toy manufacturer to ensure it follows more stringent requirements to avoid selling toys with excessive levels of lead paint in the United States.
- Reached agreements with a major national grocery store chain and a major national gasoline retailer as part of an ongoing series of agreements requiring major retailers to improve efforts to prevent tobacco sales to minors.
- Reached an agreement with one of the nation's most popular social networking websites to better protect children, including creating a broad-based task force to explore and develop age-verification and identity-verification technology.
- Issued consumer advisories warning college students of the pitfalls of signing up for credit cards in response to on-campus solicitations and warning the public about a college grant counterfeit check scam.

- Launched a campaign, with other state attorneys general and non-profit group partners, to empower teens to speak up to prevent youth reckless driving.

4. The Division took the following actions to address consumer fraud in health care, particularly regarding prescription drugs:

- Obtained a settlement with a major prescription drug manufacturer regarding allegations it failed to adequately disclose safety risks associated with a cholesterol-lowering drug.
- Sued 78 drug companies for overcharging Medicaid for prescription drug costs.
- Settled a lawsuit against a large, national pharmaceutical company which produced a generic drug and allegedly accepted money from another drug manufacturer of a name brand equivalent to keep the generic drug off the market.
- Settled an investigation of one of the nation's largest pharmacy benefit managers for switching patients to more costly prescription drugs while falsely representing to doctors and patients that the drug switches would lower costs.
- Obtained a court order imposing injunctive relief and a substantial monetary payment against a major pharmaceutical company for failing to disclose certain side effects of an anti-psychotic medication and for marketing unapproved off-label uses for the drug.
- Obtained a court order imposing injunctive relief and a substantial monetary payment against another major pharmaceutical company for marketing a drug with claims that it relieved acute and surgical pain when, in fact, such uses were specifically rejected by the federal Food and Drug Administration.

5. The Division took other actions as well, including, but not limited to:

- Obtaining a court order against an eastern Iowa used car dealership and its owners requiring consumer refunds and barring the dealer from holding an Iowa auto dealer license based on allegations of various consumer fraud and consumer credit violations.
- Gaining a settlement with one of the nation's largest Internet service providers requiring the company to cease making it difficult for consumers to cancel the service.
- Filing a consumer fraud lawsuit against an eastern Iowa company and its owners alleging deceptive practices in nationwide sales of a business opportunity providing tax and expense recovery services to other small businesses.
- Obtaining a court order barring an Arizona-based paid professional fundraising organization from abusive and misleading charitable solicitations of Iowans.
- Enlisting 41 other state Attorneys General to join the Attorney General's comment to the Federal Trade Commission to strengthen its "Used Car Rule" to require negative vehicle history information to be listed on the Buyer's Guide document required to be posted on all used vehicles offered for sale in the United States.

- Filing a consumer fraud lawsuit against a Des Moines area group and its individual operators which go door-to-door soliciting charitable solicitations for allegedly defrauding contributors by false claims that contributions are tax-deductible and by diverting the funds to the operators' personal use.
- Through the Farm Division, obtaining a court order imposing a \$15,000 civil penalty against a gasoline retailer for selling E-85 motor fuel as unleaded regular gasoline.

The Consumer Protection Division engages in many programs of preventative consumer protection designed to deter potential schemes and inform consumers. The Consumer Protection Division's involvement in handling individual consumer complaints, investigating possible deception in advertising and sales practices, and filing lawsuits has a substantial deterrent effect on persons and companies who might be tempted to engage in fraudulent practices either against Iowans or from an Iowa base.

The Division attempts to inform the public about both specific and common schemes of fraud through a variety of means including press releases, website postings, and public speaking engagements. In addition, a section of the Attorney General's Internet web site is devoted to the work of the Consumer Protection Division. Citizens may access that section by going to www.IowaAttorneyGeneral.gov and then to the link labeled, "Protecting Consumers." There, citizens can link to consumer education brochures and advisories, news releases about lawsuits filed and settlements obtained by the Consumer Protection Division, and to the laws enforced by the Division. In addition, the website includes a consumer complaint form, allowing consumers to file complaints on line. Consumer complaints may also be sent to the Division via e-mail to: consumer@Iowa.gov, via fax to: 515-281-6771, or via U.S. mail to: Consumer Protection Division, 1305 E. Walnut Street, Des Moines, IA 50319. The Division's toll-free telephone number for Iowa residents living outside of the Des Moines local calling area is 1-888-777-4590.

Finally, the Division worked to educate the public in 2007 and 2008 about a number of consumer issues, some of which are noted above, but also including warning Iowans about fraudulent mailings which included counterfeit checks for supposed partial payments of non-existent sweepstakes or lottery winnings, and a "jury duty" scam designed to trick recipients into divulging private financial information.

FARM DIVISION

The Farm Division serves as primary legal counsel for all bureaus of the Iowa Department of Agriculture and Land Stewardship, including thirteen administrative bureaus, four animal health bureaus and five plant management bureaus. In addition, it represents the Iowa Agricultural Development Authority, Iowa State Fair and other state boards and entities.

The Farm Division continues to assist attorneys and farmers with relevant questions and other issues pertaining to agriculture. Letters and telephone calls about fence law matters, fertilizer and pesticide storage and containment, farm leases and other issues are regularly addressed by the division's attorneys and investigative staff.

The Farm Division also brings consumer fraud actions and negotiates settlements on behalf of rural Iowans who have been subjected to deceptive practices and scams. Some recent issues have included Ponzi schemes aimed at farmers, unscrupulous operators of gas stations, fly-by-night farm buying club schemes, exotic animal marketing ploys and farm equipment scams. The division has also worked on seed sales program problems and livestock confinement issues.

The Farm Division continues its involvement in negotiations with national and multi-national companies in areas of swine production and pipeline installations in and across Iowa.

The Farm Division also remains directly involved with working groups within and outside of the state. It serves as the hub for grants that it established under agreements with a major livestock production and processing entity. These grants are distributed annually by a combined legislative and Attorney General advisory group to entities and individuals submitting proposals to further agriculture in Iowa.

The Farm Division continues its long-standing tradition of sharing information with Iowa residents in the areas of current and proposed laws affecting agriculture in the state. Annually, Farm Division attorneys give presentations across the state that provide Iowans with vital information necessary to make wise agricultural decisions.

Farm Advisories are available from the Farm Division. Commonly asked questions are answered, recent legislative actions are outlined and current illicit activities are presented through this forum.

REPRESENTATION OF STATE INTERESTS

SPECIAL LITIGATION DIVISION

The Special Litigation Division provides legal representation to the Department of Corrections and defends the state in tort and workers' compensation cases, including defense of the Second Injury Fund. The division's attorneys litigate at all levels of state and federal court, as well as before administrative agencies. The division is charged with the investigation of all administrative claims made to the State Appeal Board under both Iowa Code chapter 25, general claims, and chapter 669, tort claims. Other duties include providing advice to other state agencies concerning risk management, representation of the Civil Reparations Trust Fund with regard to awards of punitive damages, and representation of the State Appeal Board concerning local budget appeals.

Tort litigation involves claims of medical and dental malpractice, premises liability, motor vehicle accidents, social service liability and employment discrimination and wrongful discharge, among others. The state, elected officials, agencies and state employees are represented by division attorneys in these suits. The division appeared on behalf of the state and/or state employees in district court litigation.

Tort and general claims are investigated and recommendations concerning the claims made to the State Appeal Board. During this two-year period 1,943 general and tort claims were filed and referred to the division. The State Appeal Board considered and determined 1864 general and tort claims based upon the recommendations of the division.

The division advises and represents the Department of Corrections on various legal concerns, including the impact of policy, the effect of new legislation and case law, and contract matters. This representation involves the DOC central administration, the nine prison facilities around the state, and the eight judicial district departments of correctional services which administer community corrections programs. The attorneys defend the department and its employees in prisoner civil rights litigation and challenges to prison disciplinary action.

Workers' compensation cases brought by state employees and claims against the Second Injury Fund are initiated as administrative actions before the Workers' Compensation Commissioner. During the 2003-2004 biennium the division opened 617 new workers' compensation and SIF contested cases. The division also represents the Commissioner in litigation involving the agency.

REPRESENTATION OF STATE AGENCIES

ENVIRONMENTAL LAW DIVISION

The Environmental Law Division represents the State of Iowa in issues affecting the environment. The majority of the division's work involves representing the Department of Natural Resources, the Department of Agriculture and Land Stewardship, and the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board.

The division prosecutes civil environmental enforcement actions involving water pollution, water supply, solid waste, air pollution, leaking underground storage tanks, hazardous conditions, and flood plains pursuant to Iowa Code chapter 455B, and animal feeding operations pursuant to Iowa Code chapters 459 and 459A. The division is also responsible for implementing the One Call Education and Enforcement Initiative, including educating excavators and operators of underground facilities of the requirements of Iowa Code chapter 480 and, when appropriate, initiating civil enforcement actions. The division also defends its assigned agencies in citizen suits, civil rights actions, judicial proceedings, and other litigation.

The division routinely advises the Department of Natural Resources concerning statutory and rule interpretations, administrative law questions, and enforcement strategies. The division provides legal assistance to the DNR in matters relating to acquisition and management of state-owned lands and waters and development projects on state-owned lands including National Environmental Policy Act requirements, construction contract disputes, drainage disputes, permits and leases for special uses of public lands and waters, and regulations relating to fishing, hunting, trapping, boating and use of state parks. The division advises the DNR and other state agencies in matters relating to federal management of the Missouri and Mississippi Rivers.

The division serves as general counsel to the Division of Soil Conservation of the Department of Agriculture and Land Stewardship as well as the 100 soil and water conservation districts. General counsel duties include providing legal assistance regarding such matters as contracts, personnel issues, and collections. The division enforces coal and mineral mining laws and assists in collecting administrative penalties, provides title opinions, and reviews contracts in connection with water quality and abandoned mine land reclamation projects. The division also represents the soil and water conservation districts by enforcing administrative orders, soil loss limits, and maintenance agreements and by providing title opinions in connection with watershed projects.

The Pesticide Bureau of the Department of Agriculture and Land Stewardship is also represented by the division. The division assists in collecting administrative penalties regarding pesticide handling violations.

The division serves as general counsel to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board. General counsel duties include advising the board on issues relating to the UST remedial action program; reviewing and drafting UST legislative proposals; assisting in the rulemaking process; and handling administrative contested cases. General counsel duties also include contract drafting and review, negotiations, and handling personnel issues for the board. In addition, the division handles cost recovery efforts requested by the board pursuant to Iowa Code chapter 455G and assists the DNR and board in evaluating corrective action proposals at contaminated sites.

The division represents the State Archaeologist, and provides legal assistance to the National Guard, State Historical Society and other state agencies on real estate matters.

LICENSING AND ADMINISTRATIVE LAW DIVISION

The Licensing and Administrative Law Division, one of the largest divisions in the Office, provides a wide array of legal services to elected and appointed state officials and state agencies. Division attorneys defend state officials and agencies in state and federal court, prosecute administrative hearings, initiate litigation on behalf of the state, review and draft contracts and other legal documents, and provide day-to-day legal guidance on such issues as

employment law, civil rights, public finance, state bonding, statutory construction, and rulemaking.

The Division represented the State in 137 state district court cases, 38 appeals to the Iowa Supreme Court, 17 federal district court cases, 4 federal appeals (Eighth Circuit Court of Appeals), and 2,013 mortgage foreclosures (in which the State is a defendant based on criminal judgment liens), including only cases initiated between January 1, 2007 and December 31, 2008.

The Division advises and represents the State Treasurer, Secretary of State, State Auditor, Judicial Branch, Iowa Commerce Department (including the Commissioner of Insurance, Superintendent of Banking, Superintendent of Credit Unions, and Alcoholic Beverages Division), Iowa State Fair, Education Examiners, National Guard, State Librarian, State Records Commission, Iowa College Student Aid Commission, Iowa Finance Authority, Tobacco Settlement Authority, Iowa Higher Education Loan Authority, Peace Officers' Retirement, Accident, and Disability System, Iowa Communications Network, Iowa Law Enforcement Academy, State Interoperable Communications Board, City Development Board, Targeted Small Business, Child Advocacy Board, Parole Board, Iowa Public Television, State Lottery, Racing and Gaming Commission, Iowa Public Employees' Retirement System, and the Departments of Administrative Services, Management, Education, Cultural Affairs, Elder Affairs, Blind, Inspection and Appeals, Public Safety, Workforce Development, Economic Development, Public Health, Homeland Security and Emergency Management, and Human Rights.

Division attorneys represent and prosecute disciplinary cases before approximately three dozen professional licensing boards regulating physicians, pharmacists, dentists, nurses, teachers, school administrators, engineers, land surveyors, real estate brokers and salespersons, real estate appraisers, certified public accountants, licensed public accountants, interior designers, architects, landscape architects, social workers, physical and occupational therapists, podiatrists, nursing home administrators, psychologists, funeral directors, cosmetologists, optometrists, dietitians, massage therapists, barbers, behavioral scientists, athletic trainers, chiropractors, hearing aid dealers, respiratory care practitioners, speech pathologists, audiologists, physician assistants, law examiners, interpreters, veterinarians, plumbers, electricians, and shorthand reporters. The Division provides similar services in regulatory areas such as alcoholic beverages, casinos, amusement devices, mortgage companies and originators, pre-need funeral and cemetery arrangements, law enforcement officer certification, sex offender registry, and emergency medical care providers.

REGENTS AND HUMAN SERVICES DIVISION

Regents & Human Services is the largest division in the Attorney General's office. The 52 attorneys and 1 legal assistant in this division perform legal services for the Department of Human Services, the State Board of Regents and their respective institutions. The Department of Human Services' institutions include the four mental health institutions at Cherokee, Clarinda,

Independence and Mount Pleasant; the Civil Commitment Unit for Sexual Offenders (CCUSO); Eldora State Training School, the Toledo Juvenile Home; Glenwood Resource Center and Woodward Resource Center. The Regents' institutions represented by the division are the University of Iowa, University of Northern Iowa, Iowa State University; the Iowa School for the Deaf and the Iowa School for the Blind.

The services provided include:

Department of Human Services. The Department of Human Services is the largest state agency and the scope of representation provided by the Division is accordingly very broad and also quite specialized. The attorneys in the Division handle the non-tort litigation involving the Department and provide legal advice and appear in administrative hearings involving the areas of Medicaid, Temporary Aid to Needy Families, food stamps, Healthy and Well Kids in Iowa (hawk-i), and other benefits programs.

Our attorneys also advise the Department on contract related issues, including competitive bidding and contract negotiations.

The attorneys in the Juvenile Law section handle delinquency, child in need of assistance and termination of parental rights appeals before the Iowa Supreme Court and the Iowa Court of Appeals. The division also occasionally prosecutes those cases at the trial court level. In addition, the division represents the Department of Human Services in over 850 contested cases per year involving the Child Abuse Registry, childcare Licensing and Registration, and Foster Care Licensing.

Thirty six of the division's attorneys provide representation to the Child Support Recovery Unit of the Department. The majority of child support attorneys are located in regional child support recovery field offices throughout the state and appear in court daily to prosecute child support recovery actions. Other attorneys provide legal support for the field attorneys in the unit and advise the Child Support Recovery Bureau on policy matters.

Board of Regents. Division attorneys represent the State Board of Regents and the Regents' institutions in all non-tort litigation. Regents' litigation includes actions involving commercial transactions, construction disputes, civil rights and employment discrimination claims. On matters of general legal advice, division attorneys work closely with attorneys in the Board of Regents office as well as the staff counsel of the three state universities.

REVENUE DIVISION

The Revenue Division advises and represents the Department of Revenue with respect to various taxes which are administered by the department, including income taxes, franchise tax imposed on financial institutions, state sales and use taxes, cigarette and tobacco taxes, drug tax, motor vehicle fuel taxes, inheritance and estate taxes, property taxes, hotel and motel local option taxes, local option sales taxes, real estate transfer tax, and grain-handling tax. In addition, the division drafts responses to tax opinion requests made to the Attorney General.

During the 2007-2008 biennium, the division began with 211 protests and received 169 new protests for the calendar year 2007 and began with 195 protests and received 175 new protests for the calendar year 2008. During the biennium, the division participated in the resolution of informal proceedings for 285 protests filed by audited taxpayers. Forty-nine contested case proceedings were initiated and the division resolved 49 contested case proceedings. In the biennium, eight new appeals were filed with the Director of Revenue and nine cases were either settled or a decision was received. In the biennium, four contested cases were filed with the State Board of Tax Review and three cases were either settled or a decision was received at the State Board of Tax Review level.

During the biennium, nine new Iowa district court petitions were filed and 11 cases were either settled or a decision was received.

At the appellate Iowa court level, 4 cases were initiated and the division received a decision or the case was settled in five cases before the Iowa Supreme Court and Iowa Court of Appeals.

During the biennium, 708 lawsuits for foreclosure of liens or to quiet title were handled in which the Department of Revenue was a party. An answer or disclaimer was filed in each and the State's tax lien priority, if any, was preserved.

The division also assisted the Department of Revenue in disposing of eight petitions for declaratory orders. In addition, hundreds of proposed rules of the Department were reviewed for content and legality at the Department's request.

As a result of the division's activities on behalf of the Revenue Department during the biennium, \$64,100,017 of tax revenue was directly collected or requested refund amounts were not paid.

TRANSPORTATION DIVISION

The Transportation Division of the Iowa Attorney General Office is composed of a Special Assistant Attorney General and five Assistant Attorneys General. Pursuant to Iowa Code section 307.23 the Special Assistant Attorney General serves as the General Counsel to the Iowa

Department of Transportation and the other assistants work with the Special Assistant to carry out the duties assigned by the Code to the office of General Counsel. Two legal assistants and three support staff also work in the Attorney General's Ames, Iowa office.

The Division represents the Iowa Department of Transportation at the administrative, trial, and appellate levels in both federal and state courts in cases involving contract disputes, employment discrimination claims, constitutional challenges, environmental issues, tort claims against the state, condemnation matters, and judicial review actions.

During 2007-2008, the Division opened 5 tort cases and closed 7 involving highway accidents or accidents occurring on property owned or controlled by the Department of Transportation and involving personal injury or property damage. During this same period the Division opened 27 judicial review proceedings and closed 52, all actions where parties appealed to the district court level from administrative actions by the Department of Transportation. The Division also represented the Department in 12 new condemnation appeals in district court and closed 12 condemnation actions.

The legal assistants supervised by Assistant Attorneys General represent the Department in OWI license revocation hearings pending before administrative law judges from the Department of Inspections and Appeals. During 2007-2008, Attorney General paralegals were involved in 4,155 DOT administrative hearings of which 65 were appealed administratively and handled by staff.

The legal staff also provides non-litigation services to the Department. Division attorneys reviewed approximately 1,700 temporary restricted license requests and routinely consulted with Transportation personnel through 2007-2008 in matters involving employment issues, statutes, court decisions, state and federal regulations, policy matters, proposed legislation and administrative rules affecting the Iowa Department of Transportation. Division attorneys also review Transportation contracts, easements, deeds, title opinion and patents.

ADMINISTRATIVE SERVICES

ADMINISTRATIVE SERVICES DIVISION

The Administrative Services Division performs four main functions: providing administrative management of the department, communicating with the legislature, communicating with the public through the media, and carrying out projects that advance the special priorities of the Attorney General.

The administrative functions of the division include managing budget and fiscal matters, determining personnel and staffing, coordinating computer support, and managing office facilities.

The division's legislative liaison staff represents the Attorney General before the General Assembly by advocating the office's many legislative priorities, answering questions posed by lawmakers, providing information on many matters, and coordinating the interaction between lawmakers and other members of the Attorney General's staff.

The division issues news releases, brochures and other material about important matters such as consumer protection warnings or services available to crime victims. It answers wide-ranging questions posed by the media. The division also maintains a website with information about the Attorney General's office (www.iowaattorneygeneral.org).

The administrative services division coordinates and undertakes most of the activity required by special priorities chosen by the Attorney General.

CONSUMER ADVOCATE

OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate (OCA) represents all consumers generally and the public generally in all proceedings before the Iowa Utilities Board (IUB or Board). The IUB administers Iowa's public utility regulation statutes in Iowa Code chapters 476 and 476A. The OCA is also independently authorized to investigate the legality of all rates, charges, rules, regulations and practices of all persons under the jurisdiction of the IUB, and may institute proceedings before the IUB or court to correct any illegality.

Proceedings before the IUB in which OCA participated during the 2007-2008 biennium included annual reviews of both electric and natural gas utilities' fuel purchasing and contracting practices, electric transmission line and gas pipeline certificate cases, formal complaints and investigations of specific utility practices, purchased gas adjustment cases, energy adjustment clause reviews, utility tariff filings, rule waiver request applications, electric utility service area disputes, rulemakings, energy efficiency program proposals, proposed utility reorganizations, acquisitions and rate cases. OCA also reviews the rates, terms and conditions of negotiated interconnection agreements between competitors and incumbent local exchange telecommunications service providers; notice of inquiry proceedings to educate the participants on a particular issue or set of issues; and non-exclusive service territories and certificates of public convenience and necessity for competitive telephone carriers. OCA is required to review each negotiated interconnection agreement or amendment filed with the IUB. Over this two-year period, OCA has reviewed 137 negotiated interconnection agreements.

On January 28, 2008, the IUB released its report, "Assessing High-Speed Internet Access in the State of Iowa: Sixth Assessment." To date, six surveys of all entities capable of providing high-speed Internet access services in Iowa, including facilities-based local exchange carriers, cable providers, and wireless companies. The sixth report indicated that deployment and

competition levels of high-speed technologies have increased in both rural and non-rural areas of the state. The sixth assessment showed that nearly 94 percent of both rural and non-rural Iowa communities now have access to high-speed Internet service from at least one provider. That compares to 92 percent of both rural and non-rural communities in the May 2006 report "Assessing High-Speed Internet Access in the State of Iowa: Fifth Assessment," 72 percent in the December 2004 report "Assessing High-Speed Internet Access in the State of Iowa: Fourth Assessment," 68 percent in the May 2003 report, "Assessing High-Speed Internet Access in the State of Iowa: Third Assessment," and 47 percent of rural and 61 percent of non-rural Iowa communities with access in the February 2002 report, "Assessing High-Speed Internet Access in the State of Iowa: Second Assessment."

OCA has reviewed 23 cases involving when a utility must receive a Certificate of Public Convenience and Necessity from the IUB before it can provide land-line local telephone service in Iowa, pursuant to Iowa Code § 476.29(1). These proceedings approve an application for a telephone certificate. In addition to the certificate requirement, a utility cannot provide local service until it has received IUB approval for its tariffs (a TF filing) and for maps and other documentation showing its service territory (a TF filing). The utility must also make a statement that it will provide 2-PIC dialing parity methodology statement for both intraLATA and interLATA dialing parity. The term 'Dialing Parity' means a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their long distance telecommunications to the telecommunications services provider of their choice. Having to use a 'dial around' such as 10-10-XXX and then dial the phone number is not dialing parity. Under a 2-PIC methodology, the customer must be able to separately choose their intraLATA and interLATA toll providers on a 1+ basis.

Investigation of the legality of proposed rate increases filed by investor-owned utilities represents the most significant area of OCA's litigation before the IUB. To carry out its investigatory duties in a rate case, the OCA utilizes its technical staff as well as outside consultants to analyze the information presented in the filing by the utility company, and review the utility's books and records to determine the reasonable costs of providing utility service. OCA participates in the case by attending consumer comment hearings held at locations throughout the state, cross-examining utility witnesses at technical hearings, offering evidence through OCA-sponsored expert witnesses and filing briefs before the IUB. During 2007-2008, OCA represented ratepayers and the general public in the resolution of 13 proposed rate increases filed by electric, natural gas, telephone and water utilities. OCA also participates annually in inflation-indexed rate increase proceedings for price-regulated telephone utilities.

During the 2007-2008 biennium, OCA was involved in 51 petitions for electric transmission line franchises or renewals of existing franchises filed in 2007 and 36 in 2008. In 2007 there was activity of various kinds in 21 dockets opened in earlier years and 10 in 2008. Total electric transmission line dockets in which there was activity in 2007-08 was approximately 118. OCA was involved in 55 petitions for pipeline permits, including 29 in 2007

and 26 in 2008. A significant amount of the activity for both electric and gas transmission lines involved the construction of ethanol plants which consume significant amounts of energy. There has been a fall off of this activity in the second half of 2008 but an increase in electric transmission lines being built to serve wind farms. A major new transmission line is being built in Winnebago, Hancock and Cerro Gordo counties to connect wind farms in Hancock and Winnebago counties to existing transmission lines in Cerro Gordo County. A similar project is under way in Hardin and Story counties. Major projects proposed for increasing capacity to serve population growth were filed by the City of Ames (electric) and Waukee (gas). The company that acquired the transmission line assets of Alliant Energy, ITC Midwest LLC has filed a series of franchise petitions to upgrade and expand its system and those petitions will be the subject of Utilities Board proceedings in 2009.

OCA was involved in 33 formal complaints (investigations brought against a utility by another utility, a customer, by the Board, or brought upon by the OCA) and monitored over 448 informal complaint cases. There were over 112 purchased gas adjustment filings made by utilities, along with 8 reviews performed by OCA of supplemental gas price hedging activities provided by utilities. There were 48 monthly electric energy adjustment clause filings made as well as two full-cost energy adjustment clause filings. There were 440 tariff filings made by utilities and 93 waiver request filings made. OCA participated in 38 utility service area boundary disputes. Also, OCA was involved in 19 rulemaking proceedings, 3 formal utility investigations and 6 energy efficiency program plans. During this 2007-2008 biennium, OCA was involved in 23 judicial review proceedings in Iowa District, Appellate and Supreme Courts.

OCA has continued to seek to enforce an Iowa statutory prohibition on telephone slamming and cramming. Slamming occurs when a company changes a consumer's telephone carrier without authorization. Cramming occurs when a company bills a consumer for unauthorized services. The prohibition applies to wireline phone bills. Wireless bills are currently exempt. Since January 2007, OCA has filed 51 petitions for proceedings to consider civil monetary penalty with the IUB for alleged violations of an Iowa telecommunications law and seeking civil monetary penalties and has entered into settlement agreements including civil monetary penalties with 19 companies. A total of \$24,250 in civil penalties has been collected by the IUB, all based on settlements secured by OCA. By law, this money is used by the IUB for consumer education purposes. The purpose of these penalties is to curtail and eliminate slamming and cramming in Iowa. A number of cases are in litigation. The enforcement effort appears to be well designed to accomplishing the desired goal of curtailing the violations. Several years ago, for example, there were many complaints in which it appeared that hackers had invaded consumer computers and placed long-distance calls, often to pornographic websites at remote locations on the globe, resulting in hefty unauthorized charges on consumer phone bills. Following enforcement activity, such "modem hijacking" complaints have largely disappeared. New problems, however, have taken their place and require continuing enforcement activity. Recently, for example, the IUB has received a sizeable number of complaints alleging unauthorized billings to consumer phone bills based on apparently bogus internet signups for a variety of services.

During 2007 and 2008, a few of the major projects and cases OCA has participated in included:

Iowa Climate Change Advisory Council

On April 27, 2007, Iowa Governor Chet Culver signed Senate File 485, a bill related to greenhouse gas emissions. Part of this bill created the Iowa Climate Change Advisory Council (ICCAC), which consists of 23 governor-appointed members from various stakeholder groups, including the OCA, and 4 nonvoting, ex officio members from the General Assembly.

ICCAC's immediate responsibilities included submitting a proposal to the Governor and General Assembly that addresses policies, cost-effective strategies, and multiple scenarios designed to reduce statewide greenhouse gas emissions. Further, a preliminary report was submitted in January 2008, with a final proposal submitted in December 2008.

To facilitate progress, ICCAC divided itself into five subcommittees. Each of these examined policies, strategies, and scenarios in depth and made recommendations for adoption to the whole Council. Those subcommittees are Energy Efficiency and Conservation; Clean and Renewable Energy; Transportation and Land Use Efficiency; Agriculture, Forestry, and Waste Management; and Cross-Cutting Issues, the latter of which looked at how the subcommittees' recommendations fit together and considered public outreach and education strategies.

The Council came to consensus on two greenhouse gas reduction scenarios and 56 policy options. The two scenarios are: 1) 50 percent cutback from 2005 emissions by 2050, with interim goals of 1 percent by 2012 and 11 percent by 2020; and 2) 90 percent cutback from 2005 emissions by 2050, with interim goals of 3 percent by 2012 and 22 percent by 2020.

According to projections supplied by the Center for Climate Strategies (which facilitated the process and provided technical assistance to the Council), the 90 percent cutback scenario can be met if all 56 strategies are implemented. The options promote energy efficiency, use of fuels and practices that pollute less, and development of new technologies that reduce or do not contribute to greenhouse gases in the atmosphere. Energy efficiency options include user education, better building codes, government lead by example, high efficiency appliance standards, and rates and technologies that promote less energy use.

Iowa Energy Center

The Iowa Energy Center (IEC) was created by the Iowa General Assembly and signed into law by Governor Terry Branstad in 1990, Iowa Code § 266.39C. The Energy Center's mission is to:

- Strive to increase energy efficiency in all areas of Iowa's energy use;
- Serve as a model for state efforts to decrease dependence on imported fuels and to decrease reliance on energy production from nonrenewable, resource-depleting fuels;
- Conduct and sponsor research on energy efficiency and conservation; Conduct and sponsor research to develop alternate energy systems that are based upon renewable resources; Assist Iowans in assessing technology related to energy efficiency and alternative energy production systems;
- Support educational and demonstration programs that encourage implementation of energy efficiency and alternative energy production systems.

Center activities are funded by ratepayers through a mandatory assessment on revenues of public electric and natural gas utilities. The Energy Center fulfills its missions through administration of a competitive grant program, the alternate energy revolving loan program, conference and small demonstration grants, and collaboration and outreach efforts. These activities are subject to review and input from the IEC Advisory Council, which is comprised of members from the education and research sector, utility sector, and public sector, including the OCA. Center activities for 2008 are documented in the 2008 Annual Report, which is available at www.energy.iastate.edu.

Advisory Council duties focused on recruiting a new Director to replace Floyd Barwig, who resigned in March, 2008. Strategic planning processes for the Energy Center were put on hold until a new Director could be hired. A search committee, comprised of representatives from the Advisory Council, the Energy Center, and Iowa State University, was established. The interview process concluded in December 2008.

Midwest Independent Transmission Systems Operator (MISO)

Since joining as an associate member in 2003, the OCA has been an active participant in the MISO States. The OMS is a non-profit, self-governing organization of representatives from regulatory board or commission of each state with regulatory jurisdiction over entities participating in the Midwest Independent Transmission System Operator, Inc. (MISO), a regional transmission organization (RTO) as defined by the FERC. The purpose of the OMS is to coordinate regulatory oversight among the states, including recommendations to MISO, the MISO Board of Directors, the FERC, other relevant government entities, and state commissions as appropriate. The OCA became an active member of the Public Consumer Sector, the consumer advocate group covering the MISO states, in 2006. Dave Habr, a member of the OCA staff, has been one of two Public Consumer Sector representatives on the MISO Advisory Committee (which reports to the MISO board of directors) since January 2006.

State Energy Council

In 2003 Governor Tom Vilsack formed the Energy Coordinating Council which consisted of various state agencies that have some responsibilities touching on energy issues. The council

met periodically to keep each other apprised of what each agency was doing in that area that might impact other agencies. Initial members were DNR, IUB, OCA, DED, DAS, DHR and Iowa Energy Center. Governor Culver revamped the council and it was renamed the State Energy Council. The newly created Office of Energy Independence took the lead function on the council. The council consists of essentially the same members with the addition of the DOT and DPS building code officials. It meets every other Friday to discuss energy issues pertinent to the state.

Office of Consumer Advocate v. Iowa Utilities Board, 744 N.W.2d 640 (Iowa 2008)

This Iowa Supreme Court decision addressed a slamming complaint alleging, as many do, that a consumer's consent to a switch from one phone company to another was based on material misstatements during the unrecorded solicitation portion of a telemarketing call. In such cases, after the telemarketer's representations are made and the consumer states he or she wishes to switch companies, the consumer is transferred to a third party for "verification" or "TPV." The recorded TPV does not include the solicitation portion of the call, but only seeks to verify the consumer is consenting to the change in service. For this reason, although material misstatements of fact may have been made to induce the consumer to switch, the TPV contains no evidence of them. The consumer is merely asked by the TPV if the consumer is consenting to change his or her service to the soliciting company. The TPV does not determine if the representations made by the telemarketer to the consumer are true. The Supreme Court held the IUB rule in question only required that the TPV take place. If the consumer consented to the change during the recorded TPV, even if that consent was based on misinformation received during the unrecorded telemarketing portion of the call, under the rule as interpreted by the Court, the company had satisfied the requirements of the rule, and the consumer was stuck with the change. Following the Court's decision, OCA has asked IUB to adopt a rules change requiring the consumer's "authorization" for a switch from one company to another to be based on truthful representations made during the telemarketing portion of the call. Such a rules change would make companies responsible for the statements of the telemarketers who sell their services. Many cases of this type appear to be classic instances of deceptive and fraudulent marketing practices. Yet, absent adequate laws and regulations, the fraud is officially blessed with a TPV recording, and consumers are left without protection. To date, IUB has not adopted the rules change requested by OCA.

Office of Consumer Advocate v. Iowa Utilities Board, Supreme Court No. 06-0541

This pending Iowa Supreme Court appeal involves three consolidated cases. In each, the IUB refused to grant an OCA petition for a proceeding to consider a civil monetary penalty for alleged violation of Iowa's statutory prohibition on slamming and cramming. The first case involved allegations that MCI Communications, Inc. and Frontier Communications of Iowa, Inc., without authorization from the consumer, in the course of administering a contract under which Frontier resold MCI services, switched the consumer's long distance service from Frontier to

MCI, resulting in unauthorized MCI billings to the consumer totaling \$988.50, at rates as high \$2.33 per minute. The other two cases involve allegedly unauthorized billings for “trouble charges,” one by McLeodUSA Telecommunications Service, Inc. and the other by Qwest Corp. OCA takes the position that the IUB’s refusal to commence a proceeding to consider a civil monetary penalty in these cases was arbitrary and capricious and otherwise contrary to the standards set forth in the APA. In particular, OCA claims that IUB: (i) failed to offer a credible explanation for a 2006 procedural change that benefitted companies and hurt consumers; (ii) credited the factual allegations of the companies and discredited the factual allegations of the consumers, without hearing the evidence; (iii) improperly accepted company arguments that civil penalties will not deter “inadvertent” or negligent violations; (iv) improperly accepted company arguments that issuance of a credit following an unlawful slam or cram justifies dispensing with the need for any penalty; and (v) erroneously constricted the meaning of the statutory phrase “unauthorized change in service,” and hence of the practices the statute seeks to prohibit. The district court ruled in favor of IUB and the companies and against OCA.

Evercom Systems, Inc. v. Iowa Utilities Board, Supreme Court No. 09-0247

Evercom Systems, Inc., a/k/a Correctional Billing Services; is a subsidiary of Securus Technologies, Inc., the largest independent provider of inmate telecommunications services to correctional facilities in the United States and Canada. In 2006, a Des Moines small business complained that Evercom had billed it for a series of collect calls it neither received nor accepted from the Bridewell Detention Facility in Bethany, Missouri, a private correctional facility under contact with Polk County, Iowa. OCA sought a civil monetary penalty against Evercom for violation of the Iowa law prohibiting cramming. Evercom acknowledged the charges were unauthorized. It claimed they resulted from fraudulent activity by an inmate and an outside party. OCA took the position a civil monetary penalty was warranted because Evercom had failed to implement known measures that would have prevented the fraud. The IUB accepted OCA’s position and assessed a civil monetary penalty in the amount of \$2,500. The Polk County District Court reversed the IUB’s decision and vacated the penalty. Both IUB and OCA have appealed the ruling to the Iowa Supreme Court.

Alternate Energy Proceedings IOWA CODE § 476.41 encourages the development of alternate energy production facilities and small hydro facilities through the required purchase of available AEP energy by rate regulated electric utilities. A complaint that a utility has failed to comply with the standards set in the law and Iowa Utilities Board rules is identified as an AEP proceeding.

AEP-05-2, AEP-05-3, AEP-05-4, Interstate Power and Light Company

On July 26, 2005, Midwest Renewable Energy Projects LLC (Midwest Renewable) filed three petitions with the IUB to determine avoided cost rates to be paid by IPL for purchases from three separate 80-megawatt (MW) wind generation facilities proposed by Midwest Renewable.

The avoided cost purchase is required by Section 210 of PURPA, 16 U.S.C. § 824a-3. On October 27, 2005, the Board issued an order consolidating the three applications into one docket and delaying the issuance of a procedural schedule until completion of a related case, Docket No. AEP-05-1. On February 7, 2006, IPL filed a motion to hold the consolidated docket in abeyance, pending the outcome of a Federal Energy Regulatory Commission rule making (RM06-10) that would exempt certain utilities from avoided cost purchase obligations under the Energy Policy Act of 2005.

The Board granted IPL's motion to hold the consolidated docket in abeyance pending the outcome of the FERC's rule making and assigned the consolidated docket to the Board's hearing examiner. The Board approved an avoided cost rate of \$37.05 per megawatt hour (MWh) for the full output available from the 30 MW wind generation facility in Docket No. AEP-05-1. The administrative law judge (ALJ) convened a prehearing conference in the consolidated case on July 23, 2007. On August 29, 2007, the Board granted the parties' requests for official notice of designated documents, pleadings, and transcripts from the record in Docket No. AEP-05-1. On October 3, 2007, the ALJ issued an order denying IPL's motion for a partial summary judgment. A hearing took place on July 8, 2008. These cases are pending.

Energy Efficiency Plans *Energy efficiency plans must be prepared and filed with the Iowa Utilities Board (Board or IUB) by all energy utilities in Iowa. Nonrate-regulated utilities (municipals and cooperatives) file plans, but the Board does not review or approve those plans. Investor-owned utilities file energy efficiency plans when ordered to do so by the Board. Plans for investor-owned utilities must address all customer classes, including programs for low-income customers, and the plans must be cost-effective. Plans for investor-owned utilities (IOUs) are reviewed in contested case proceedings and the Board has authority to approve, reject or modify a plan. Utilities recover the costs of energy efficiency implementation through an Energy Efficiency Cost Recovery charge, which is reviewed and adjusted annually. The Board also conducts prudence reviews, for investor-owned utilities, to review the performance of a utility in implementing its energy efficiency plan.*

Below are OCA's activities related to the IOUs' energy efficiency plans during the 2007-2008 biennium.

EEP-02-38, Interstate Power and Light Company Energy Efficiency Plan
EEP-03-1, MidAmerican Energy Company Energy Efficiency Plan
EEP-03-4, Aquila Energy Efficiency Plan

Five-year plans for the three major IOUs were approved by the Board in 2003. In preparation for the development of plans for 2009-2013, the OCA provided input to (1) the development of a competitive request for proposals to assess energy efficiency potential, (2) bidder interview meetings, and (3) consultant selection.

OCA provided input to the joint utility initiative to assess energy efficiency potential in Iowa, and participated in the stakeholder collaboration meetings held by each IOU to receive stakeholder views about the assessment of potential and energy efficiency plan development.

OCA and other stakeholders appeared before an interim legislative committee in 2007-2008 to provide information about energy efficiency plans offered by Iowa gas and electric utilities. In January 2008, OCA filed a report evaluating the status and efficacy of energy efficiency plans offered by Iowa natural gas and electric utilities, and offering opinion about best practices and areas for opportunity and improvement.

EEP-08-1, Interstate Power and Light Company Energy Efficiency Plan

On April 23, 2008, IPL filed its new energy efficiency plan. Included in the plan were 27 electric and gas programs of which several were new. The proposed budget for 2009 was \$71 million and increases to about \$92 million by 2013. On May 23, 2008, the Board issued an order docketing the proposed plan, setting an intervention deadline, establishing a procedural schedule, and requiring additional information. A hearing was scheduled for October 7, 2008. On June 10, 2008, Community Energy Solutions, Iowa Farmers Union, and Iowa Physicians for Social Responsibility (collectively, the Coalition) filed a motion to extend the procedural schedule for 30 days to give their experts additional time to prepare testimony.

On June 27, 2008, the Board issued an order modifying the procedural schedule. On December 12, 2008, IPL, OCA, the Industrial Employers, Sierra Club, Iowa Environmental Council, Environmental Law and Policy Center, and the Coalition filed a joint motion to suspend the hearing. Additionally, the parties asked that on January 1, 2009, IPL be allowed to implement, develop, and track the appropriate costs of the measures and programs in IPL's energy efficiency plan that are uncontested. Finally, the parties asked that the hearing be continued until January 13, 2009. On that same day, the Board issued an order suspending and continuing the hearing and allowing IPL to begin to implement, develop, and track all uncontested program costs and savings of its new energy efficiency plan on January 1, 2009, subject to the conditions contained in the joint motion and the final Board order in this docket. This docket is pending.

EEP-08-2, MidAmerican Energy Company Energy Efficiency Plan

On April 30, 2008, MEC filed its new energy efficiency plan and stated this new plan was significantly expanded compared to the previous plan. For 2009, the proposed budget was \$62 million and would increase to \$81 million by 2013. On May 29, 2008, the Board issued an order docketing the proposed plan, setting an intervention deadline, establishing a procedural schedule, and requiring additional information. A hearing was scheduled for September 22, 2008. On June 10, 2008, Community Energy Solutions, Iowa Farmers Union, and Iowa Physicians for

Social Responsibility (collectively, the Coalition) filed a motion to extend the procedural schedule for 30 days to give their experts additional time to prepare testimony.

On June 17, 2008, the Coalition amended its motion to extend the procedural schedule for 60 days due to the flooding of their offices. Additionally, the Industrial Employers (IE) had requested an extension. On June 18, 2008, MEC filed a response to the extension requests. It did not object to the final briefs being submitted on October 31, 2008, 14 days later. The Board did not grant the 60-day extension but did reschedule the hearing to October 27, 2008. On October 23, 2008, MEC, OCA, IE, Sierra Club, Iowa Environmental Council, Environmental Law and Policy Center, and the Coalition filed a joint motion to suspend the hearing and allow MEC to implement and track all program costs and savings of its energy efficiency plan on January 1, 2009, subject to the terms of the final Board order. The parties were attempting to settle all issues: On October 24, 2008, the Board granted the motion, suspended the hearing, and allowed MEC to begin implementing and tracking all program costs and savings of its new energy efficiency plan on January 1, 2009, subject to the final Board order in this docket. On October 31, 2008, a settlement of all issues was filed. This docket is pending.

EEP-08-3, Black Hills/Iowa Gas Utility Company (f/k/a Aquila Inc.) Energy Efficiency Plan

On May 15, 2008, Black Hills filed its new energy efficiency plan. Compared to the previous plan, the new plan represented a significant expansion of funding and projected energy savings. The proposed annual budget for 2009 was \$5.8 million. The budget increased to \$6.2 million by 2013. On June 11, 2008, the Board issued an order docketing the plan, setting an intervention deadline, establishing a procedural schedule, and requiring additional information. The Board scheduled a hearing to begin on November 24, 2008. On July 17, 2008, OCA filed an unresisted motion to extend the deadline for written testimony and exhibits. Black Hills and OCA agreed to extend direct written testimony for the OCA and intervenors from August 1 to August 11, 2008, and the OCA and intervenor rebuttal testimony from August 15 to August 22, 2008. The remaining procedural schedule was unchanged. On July 18, 2008, the Board granted the motion and issued an order modifying the procedural schedule.

On July 22, 2008, Black Hills filed notices of the sale of Aquila's Iowa natural gas assets to Black Hills. The Board then issued an order accepting notice of the closing and changing docket captions in Docket Nos. EEP-08-3 and RPU-08-3. On November 14, 2008, Black Hills and the OCA filed a joint motion to suspend the hearing, which was scheduled to begin on November 24, 2008. The joint motion also asked that Black Hills be allowed to implement and track all program costs and savings of its energy efficiency plan, as modified by an anticipated settlement agreement, beginning on January 1, 2009, subject to the terms of the final Board order. Also on November 14, 2008, the Board granted the motion, suspended the hearing, and allowed Black Hills to begin implementing and tracking all program costs and savings of its energy efficiency plan, as modified by the anticipated settlement, on January 1, 2009, subject to the final Board order in this docket. This docket is pending.

Formal Complaints *Formal complaint investigations (FCUs) are brought against a utility by another utility, a customer, the Office of Consumer Advocate, or the Utilities Board. FCU dockets are intended to determine if, in a specific instance, a utility violated Iowa law, rules, or its own tariff.*

FCU-05-5, Jacobson Holtz Company v. Interstate Power and Light Company

On March 5, 2003, Jacobson Holtz filed an informal complaint alleging it was experiencing equipment loss and alarm alerts due to electric power quality issues. Jacobson Holtz said its power quality problems started when IPL upgraded its Perry distribution system and moved it to the same circuit as Progressive Foundry Company (PFC). An IPL investigation determined PFC was creating fluctuations on the line, which potentially violated Board standards.

On December 31, 2003, Customer Service staff issued a proposed resolution that called on the parties to work together to resolve the power quality issues. The three parties were unable to resolve the problem. On February 20, 2004, a second proposed resolution found PFC was not in compliance with standards in the Board rules and the IPL tariff and ordered IPL to file a plan to bring PFC into compliance. IPL proposed four options to resolve the problem, but PFC and Jacobson Holtz could not agree upon any of them.

On November 18, 2004, a third proposed resolution was issued, but PFC filed a request for a formal complaint proceeding. On February 8, 2005, the Board issued an order docketing the formal complaint and assigning it to an Administrative Law Judge. On March 3, 2005, all three parties participated in a prehearing conference. The parties agreed to gather additional data and perform additional testing to find sources of the problem and possible solutions. On May 31, 2005, a prehearing conference was held with all parties except Jacobson Holtz. The parties agreed to file status reports, indicating activities and progress toward a solution, starting on July 29, 2005, and continuing every two months. On August 9, 2005, the ALJ ordered the parties to file the first status report, which had not yet been filed, and to file additional status reports every two months thereafter until ordered otherwise. Status reports were filed as ordered.

On February 19, 2008, IPL, Progressive Foundry Company, Jacobsen Holz Corporation, and the OCA filed a joint motion and settlement agreement, requesting that the proposed settlement be approved and the docket dismissed. On March 3, 2008, the Board approved the settlement agreement and closed the docket.

FCU-07-2, Qwest Communications Corporation v. Superior Telephone Cooperative, et al.

On February 20, 2007, Qwest Communications Corporation (QCC) filed with the Utilities Board (Board) a complaint pursuant to Iowa Code §§ 476.2, 476.3, and 476.5; 199 IAC Chapters 4 and 7; and 199 IAC 22.14 alleging violations of the terms, conditions, and application of the intrastate tariffs of the following telecommunications carriers: Superior Telephone

Cooperative (Superior); The Farmers Telephone Company of Riceville, Iowa (Farmers–Riceville); The Farmers & Merchants Mutual Telephone Company of Wayland, Iowa (Farmers & Merchants); Interstate 35 Telephone Company, d/b/a Interstate Communications Company (I-35); Dixon Telephone Company (Dixon); Reasnor Telephone Company, LLC (Reasnor); Great Lakes Communications Corp. (Great Lakes); and Aventure Communication Technology, LLC (Aventure) (collectively referred to as Respondents).

QCC alleged the Respondents, together with free calling service companies (FCSCs), were engaging in a fraudulent scheme providing free conference calls, chat rooms, adult content calling, podcasts, voice mail, and international calling services using lines and numbers assigned to the FCSCs by the Respondents. QCC asserted the FCSCs' promotion of free calling services produced exponential increases in the volume of toll traffic delivered by QCC and other interexchange carriers (IXCs) and corresponding exponential increases in terminating switched access charges billed to QCC and other IXCs. QCC alleged the Respondents' paid kickbacks to the FCSCs from the dramatically increased switched access revenues, thereby enabling the FCSCs to provide their calling services free (or at very low prices). QCC described the scheme as "traffic pumping." QCC alleged the Respondents and FCSCs changed telephone numbers frequently to avoid or minimize detection of the dramatic increases in switched access traffic produced by the traffic pumping scheme.

QCC also alleged that the Respondents are charging QCC for terminating calls that are actually terminated outside of the Respondents' local calling areas. And QCC alleged that the Respondents sharing of revenues on a preferential basis with the FCSCs constituted unlawful discrimination against other customers (who do not receive a share of Respondents' revenues).

The OCA filed its appearance on May 2, 2007. Reasnor filed a motion for summary judgment seeking dismissal of QCC's complaint. Other Respondents filed motions to dismiss QCC's based on arguments similar to those made by Reasnor. QCC resisted Respondents' motions seeking dismissal of the complaint. On May 25, 2007, the Board issued its order docketing the complaint. The Board found there were genuine issues of material fact and, therefore, denied summary judgment. The Board also found that it clearly had jurisdiction with respect to intrastate traffic, intrastate switched access tariffs, and local exchange service and tariffs of the Respondents. In its docketing order the Board established the initial procedural schedule including setting the matter for hearing beginning September 19, 2007.

Subsequently, the Board granted petitions to intervene filed by AT&T Communications of the Midwest, Inc., and TCG Omaha (AT&T), and Sprint Communications Company L.P. (Sprint), IXCs aligned with QCC. Disputes concerning procedure and discovery began even before the Board docketed the complaint. Those disputes necessitated several extensions of the procedural schedule. QCC, AT&T and Sprint filed direct and rebuttal testimony and exhibits, and the Respondents filed direct testimony. The hearing was scheduled for February 5 – 13, 2009. The case is pending.

FCU-07-12 (C-07-147), *Ralph Van Fossen v. Interstate Power and Light Company*

On March 14, 2007, Ralph Van Fossen filed an informal complaint against IPL alleging IPL used estimated meter readings for eight out of ten months from 2005 through 2007. He alleged being charged at higher rates. He also questioned whether IPL correctly calculated his bills, whether adjustments IPL made to his bills were sufficient, whether IPL complied with Board statutes and rules regarding late fees and disconnection notices, whether IPL revised his payment due dates (if so, was it done in compliance with applicable requirements), and whether IPL complied with applicable requirements with respect to an appliance cycling program. The OCA supported Mr. Van Fossen's request for a refund.

On August 7, 2007, Customer Service staff issued a proposed resolution that found IPL provided information showing that its bill calculations and practices were correct. Van Fossen filed a request for a formal proceeding and the OCA also filed a response that it believed a formal proceeding should be held because of the number of disputed facts. On October 15, 2007, the Board issued an order docketing the formal complaint and assigning it to the Administrative Law Judge. On October 26, 2007, the ALJ issued an order scheduling a prehearing conference, which was held on October 31, 2007. Hearing was held on February 20, 2008, for the presentation of evidence and cross-examination of witnesses. A final order was entered by the IUB's Administrative Law Judge requiring a refund by IPL to Mr. Van Fossen, but affirming IPL's interpretation of late payment charges.

FCU-07-13, *Pioneer Hi-Bred International, Inc. v. Interstate Power and Light Company*

On October 29, 2007, the Board issued an order on its own motion docketing as a formal complaint a settlement agreement filed by Pioneer and IPL. The settlement proposed to resolve the remaining issues in an informal complaint filed by Pioneer against IPL regarding overbilling for natural gas usage during a 12-year period, except whether IPL could recover any refund through the purchased gas adjustment clause. IPL maintained it could; OCA maintained it could not. On November 9, 2007, the Board issued an order requesting additional information from IPL and asking parties if this matter should be set for hearing. On November 14, 2007, OCA indicated it was not requesting a hearing. On November 19, 2007, IPL filed the additional information and waived its right to a hearing. On December 21, 2007, the Board issued another order requesting additional information from IPL.

On March 3, 2008, the Board issued an order disapproving the settlement agreement and closing the docket. The Board order allowed IPL to recover the refund amounts incurred within the last five years, but not the amounts beyond the five-year time limit. This latter ruling affirmed the OCA's position noted above.

Generating Certificates Iowa Code chapter 476A requires that an entity planning to construct a generating facility in excess of 100 megawatts (MW) must receive a certificate of

public convenience, use, and necessity to begin construction. This proceeding is called a GCU.

GCU-07-1: Interstate Power and Light Company's Proposed Generating Facility near Marshalltown

On July 2, 2007, IPL filed an application to build a coal-fired electric generating facility, with a maximum name plate capacity of 630 Megawatts, near Marshalltown, Iowa. A public informational meeting was held prior to the filing, as required by law, on May 21, 2007, in Marshalltown.

The Board sent copies of the filing to other state agencies that may be interested, such as the Iowa Department of Natural Resources (DNR). The Board issued an order docketing the matter for investigation and setting a procedural schedule including a hearing as described above. The DNR may appear at the Board hearing, but the more typical practice has been for the DNR to conduct its own review, separate from the Board proceedings, and then report the results to the Board. The DNR's analysis may not be complete when the Board issues its decision; any affirmative Board decision would be conditioned upon the applicant obtaining the necessary permits from DNR.

The evidentiary hearing in this docket was held Monday, January 14 through Friday, January 18, 2008 at the Whitehall Auditorium, Iowa Veteran's Home, in Marshalltown. At the hearing, the parties of record presented their evidence and witnesses and cross-examined each other's witnesses. The OCA presented evidence opposing the IPL coal-fired electric generating facility on several grounds. First, the OCA found the facility objectionable because of its significant increase in global warming and other air and water pollution. Second, the OCA found that additional renewable resources such as wind power could meet the IPL customers' needs in lieu of the facility. Finally, the OCA found that additional energy efficiency efforts by IPL could eliminate the need for the facility.

The Iowa Code directs the Board to issue a certificate if it finds all of the following: (1) The facility is consistent with the policies of Iowa Code § 476.53 (which is intended to encourage development of electric generating facilities) and economic development and will not be detrimental to providing reliable electric service; (2) the applicant is willing to abide by the terms of the certificate and the law; and (3) the facility is consistent with reasonable land use and environmental policies, considering the economics and other aspects of the available alternatives. On April 30, 2008, the Board held public deliberations before voting 2-1 to grant this conditional approval for the plant. On August 25, 2008, the IUB issued its Final Decision and Order in this case. Subject to certain conditions, the order grants IPL's request for an electric generating certificate to construct and operate a 630-megawatt coal-fired power plant in Marshall County. This includes a requirement that IPL burn biomass fuels at the plant, as IPL says the plant is designed to do, and a requirement that IPL add new renewable energy sources (in addition to 200 megawatts of new wind resources already proposed) to its generation mix over the next 20 years.

These requirements are intended to mitigate the company's future greenhouse gas emissions and the exposure of IPL and its customers to cost risks associated with those emissions. On April 30, 2008, the Board held public deliberations before voting 2-1 to grant this conditional approval for the plant.

Rate Proceedings *Rate setting is a key function of the Iowa Utilities Board. By law, the Board must assure that customers receive adequate service at a reasonable price. The Board must also allow sufficient income for the utilities to maintain reliable service and sufficient earnings for its stockholders. The jurisdiction of rate setting extends only to certain larger utilities within Iowa. Municipal utilities and rural electric cooperatives (except those which choose rate regulation) are subject to review of their service only. Rate proceedings (RPU) are designed to uphold the previously mentioned obligations when the Board investigates a company's rate increase proposal. Such proceedings usually last about ten months. During this time, local consumer comment hearings permit customer feedback. Technical hearings, similar to courtroom hearings, also take place. Testimony is presented and expert witnesses are cross-examined by the company, the Office of Consumer Advocate, and intervenors. At the conclusion, the Board may approve the company's rate request in full, approve some or none of it, or order a rate decrease.*

RPU-07-3, Iowa-American Water Company

On August 30, 2007, Iowa-American filed an application to increase its rates. Iowa-American requested a permanent rate increase of \$6.124 million or 26.73 percent and a temporary rate increase of \$4,095,033 or 17.6 percent. Iowa-American's primary reasons for the requested increase were an increase in utility plant, increased maintenance costs, increased rate base, increased capital costs, and a decline in revenues. The Board approved Iowa-American's last rate increase in February 2002 in Docket No. RPU-01-4. Iowa-American has two operating districts. The Clinton District serves 10,150 customers or about 27,300 people and the Quad Cities District serves 49,800 customers or about 139,080 people in the cities of Davenport, Bettendorf, LeClaire, Riverdale, Panorama Park and surrounding parts of Scott County. The two districts are 18 miles apart and operate independently. The Board held customer comment hearings in each district with one in Davenport and one in Clinton on November 7, 2007.

On November 28, 2007, the Board issued an order allowing Iowa-American to increase its rates on a temporary basis by \$2,982,814 or 12.7 percent effective immediately. On December 21, 2007, Iowa-American and the OCA filed a proposed settlement agreement. According to the settlement, Iowa-American would increase its annual revenue from permanent rates by \$4.25 million (18 percent) or approximately \$1.27 million over interim rates. On January 2, 2008, Bettendorf filed a statement indicating that it did not object to the settlement because Iowa-American agreed to check all fire hydrants annually and to perform the necessary maintenance on them expeditiously. On January 14, 2008, the Board issued an order approving the settlement agreement. On January 23, 2008, new rates representing the approved increase

went into effect. Bills increased by about \$1.16 per month for typical Clinton residential customers and approximately \$1.24 per month for Quad City residential customers.

RPU-08-1, Interstate Power Company

Interstate Power and Light Company filed its request for approval of ratemaking principles on March 31, 2008. The ratemaking principles proposed by IPL would apply to up to 432.5 MW of capacity from the Sutherland Generation Station (SGS 4) in Marshalltown, which is assumed to be operational no later than December 31, 2013.

IPL proposed five ratemaking principles. First and foremost, IPL proposed to include in rates the actual costs of SGS 4 and associated transmission up to \$4,361 per kW “without the need to establish the prudence or reasonableness.” IPL calls this principle a “cost cap.” IPL also proposed that for the entire life of SGS 4, a return on common equity of 12.55 percent be used for ratemaking purposes regardless of IPL’s actual cost of equity in the future. Finally, IPL proposed three other ratemaking principles, regarding (1) mitigating regulatory lag, (2) AFUDC, and (3) the recovery of costs in the event the plant is cancelled.

IPL’s proposed “cost cap” is based on an estimated cost of \$4,361 per kW. Using this amount, IPL’s 66.641 percent share of the total SGS 4 cost (which IPL would then include in rate base) would total \$1.886 billion.

In addition to IPL and the OCA, parties to this proceeding are Community Energy Solutions, Iowa Environmental Council, Iowa Farmers Union, Iowa Physicians for Social Responsibility, and Iowa Renewable Energy Association (collectively, Plains Justice), and the Iowa Consumers Coalition (ICC). Consumer Advocate, Plains Justice, and the ICC all submitted prefiled testimony. Corn Belt and CIPCO, two of the signatories to a joint ownership agreement for SGS Unit 4, filed a statement supporting IPL on June 6, 2008; Corn Belt and CIPCO did not formally intervene in the proceeding and therefore are not parties in this proceeding.

Pursuant to the IUB’s procedural schedule order, OCA and other parties prefiled testimony and exhibits. A hearing was held beginning December 1, 2008. Legal briefs were filed on December 29, 2008, by all parties. As of December 31, 2008, this docket was still open.

RPU-08-3 Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks)

On June 2, 2008, Aquila Networks filed a request to increase its rates for providing natural gas service. Aquila proposed to increase its Iowa service rates to produce a permanent annual revenue increase of approximately \$13.560 million or an overall annual revenue increase of 7.63 percent. This would represent an average increase of 10.3 percent for residential customers. Aquila also filed proposed gas tariffs designed to produce additional annual revenue

of approximately \$9,469,173 on a temporary basis, which became effective without Board approval on June 13, 2008, pursuant to Iowa Code § 476.6(10). The Board issued an order docketing the tariff, establishing a procedural schedule, and approving corporate undertaking on June 30, 2008.

On July 22, 2008, notice was filed with the Board that Aquila had closed the sale of its Iowa natural gas assets to Black Hills/Iowa Gas Utility Company, LLC d/b/a/ Black Hills Energy. As a result, the natural gas utility service provided by Aquila is not being provided by Black Hills.

Comment hearings were held in August 2008 in Newton (with additional access via the Iowa Communications Network from Spencer, Decorah, Webster City, and Forest City), Dubuque and Council Bluffs.

OCA filed testimony and exhibits of five witnesses in December, 2008. This case is pending.

Service Proceedings *A change to the boundaries established for electric utilities is completed through a service proceeding (SPU), as are other matters of utility service that require Board approval.*

SPU-06-5 (City of Everly), SPU-06-6 (City of Kalona), SPU-06-7 (City of Rolfe), SPU-06-8 (City of Terril), SPU-06-9 (City of Titonka), SPU-06-10 (City of Wellman)

Six municipalities of Everly, Kalona, Rolfe, Terril, Titonka, and Wellman (Cities) filed individual petitions (Docket Nos. SPU-06-5 through SPU-06-10, respectively) requesting a certificate of authority to establish a municipal electric utility with the IUB on June 6, 2006. Each municipality receives service from IPL. MidAmerican Energy Company (IPL) was permitted to intervene and was aligned with IPL. On April 10, 2007, Titonka filed a stipulation for dismissal of the Titonka proceedings in Docket No. SPU-06-9. On April 16, 2007, the Board granted Titonka's request. Hearings were held beginning November 26, 2007. Complex issues included modeling the availability and cost of purchased power and purchased capacity, projected revenues, risks in rising energy cost markets, valuation of assets to be sold, and commitment to energy efficiency programs. The Board's only prior electric municipalization case concluded in 1990 and involved the City of Sheldon.

On July 11, 2008, Board issued its Final Decision and Order, denying each of the five remaining petitions. On July 30, 2008, the Cities filed an application for reconsideration of all findings of fact contained in the Board's decision. On August 25, 2008, the Board issued an order denying the Cities' request for reconsideration.

On September 24, 2008, each of the Cities filed a petition for judicial review with the Iowa District Court for Polk County. On December 11, 2008, the court consolidated the five judicial review proceedings. Briefs were filed by the Cities, the Board, IPL and MEC. The case is pending.

SPU-07-11, Interstate Power and Light Company & ITC Midwest LLC

On March 30, 2007, IPL and ITC Midwest filed a joint application for reorganization to allow IPL to sell and transfer its electric transmission assets to ITC Midwest. Pursuant to the proposed sale, ITC Midwest would purchase, among other things, IPL's Iowa-based electric transmission assets for approximately \$750 million.

OCA filed testimony in the proceeding, taking the position that the cost of the proposed sale, in terms of the additional financial cost to customers with no certain and quantified offsetting benefits and the jurisdictional cost flowing from the permanent relinquishment of the IUB's ratemaking and other jurisdiction, was too great a price to pay, given that IPL was currently obligated to make all necessary improvements to the transmission system and ITC Midwest would be working within the same MISO planning framework. OCA stated customers in Iowa could not afford an irrevocable diminishment of the IUB's authority and influence on transmission issues. OCA also argued that denial of the proposed sale would not equate to the IUB overruling national energy policy. OCA contended that IPL's transmission delineation does not comport with the FERC's seven-factor test for determining whether facilities should be classed as transmission or distribution.

On September 20, 2007, IUB issued its Order Terminating Docket and Recommending Delineation of Transmission and Local Distribution Facilities. In this order, the joint application for reorganization filed by IPL and ITC Midwest was effectively approved.

OCA filed a petition for judicial review with the Polk County District Court on October 19, 2007, appealing the IUB's September 20, 2007 order. In its appeal, OCA stated that the IUB prejudiced the substantial rights of consumers generally and the public generally, including the retail and wholesale electric customers of IPL. OCA contended that the IUB exceeded its statutory authority and violated its statutory duties with its final agency action that permits the sale of IPL's transmission assets to ITC Midwest.

On December 15, 2008, the Polk County District Court issued a ruling reaffirming the IUB's order.

SPU-07-12, Aquila, Inc., d/b/a Aquila Networks, Black Hills Corporation, and Black Hills/Iowa Gas Utility Company, LLC

On April 4, 2007, Aquila, Inc., d/b/a Aquila Networks (Aquila), Black Hills Corporation (Black Hills), and Black Hills/Iowa Gas Utility Company, LLC (BH Iowa Gas) (collectively, Joint Applicants), filed a joint proposal for reorganization, along with an application for permission for Aquila to discontinue providing utility service in Iowa with the IUB. This filing was the result of the "Asset Purchase Agreement" dated February 6, 2007, entered into by and among Aquila, Black Hills, Great Plains Energy Incorporated (GPE) and Gregory Acquisition Corporation. Under this agreement, Black Hills would acquire all of the natural gas assets of Aquila located in Iowa, Kansas, Nebraska and Colorado, and the electric assets in Colorado. The

acquisition by Black Hills was interrelated to and dependent upon the sale by Aquila of its Missouri electric utility assets to GPE. With this application, Joint Applicants filed supporting information that included the prefiled direct testimony and exhibits of witnesses supporting the proposal for reorganization.

OCA filed prefiled direct testimony on June 4, 2007. Joint Applicants filed rebuttal testimony on June 15, 2007. On June 22, 2007, Joint Applicants and OCA filed a "Joint Motion and Settlement Agreement" that purported to resolve all of the issues regarding the proposal for reorganization and request to discontinue service. Motion to suspend the procedural schedule, including the hearing was filed by Joint Applicants and OCA.

Black Hills was proposing to acquire all of the assets of Aquila in Iowa and to become a rate-regulated public utility subject to the Board's jurisdiction under Iowa Code chapter 476. Black Hills is a holding company subject to the Public Utility Holding Company Act of 2005. Black Hills currently has subsidiaries that provide regulated natural gas and electric service in South Dakota, Wyoming and Montana. Black Hills has non-regulated subsidiaries that provide wholesale energy production and marketing throughout the western United States and western Canada. In addition, Black Hills maintains a wholly-owned subsidiary that provides centralized services to affiliate companies in the Black Hills system.

Under the terms of the acquisition agreement, Black Hills would assume the contractual obligations and liabilities of Aquila associated with the assets acquired. Iowa Code section 476.77 states that reorganization shall not take place if the IUB disapproves. The statute then sets out five issues the Board would consider in reaching its decision of whether to disapprove the reorganization. These issues include: (1) Whether the IUB will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates; (2) whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired; (3) whether the ability of the public utility to provide safe, reasonable and adequate service is impaired; (4) whether ratepayers are detrimentally affected; and (5) whether the public interest is detrimentally affected.

On August 31, 2007, the IUB approved OCA and Joint Applicants' Settlement Agreement. The IUB did not disapprove the proposal for reorganization filed by Aquila and Black Hills in this order. Aquila was granted permission to discontinue natural gas service in Iowa upon the completion of the acquisition by Black Hills.

In approving the Settlement Agreement, the IUB made several important findings. The IUB found that the statutory consideration concerning whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired was affirmatively satisfied by terms and conditions of the Settlement Agreement. The IUB found this consideration includes what measures the acquiring entity will adopt to insulate Iowa ratepayers from non-regulated business risks. The IUB found the Settlement Agreement was fully satisfactory in addressing this concern. The Settlement Agreement provides numerous

substantive insulation, or ring-fencing commitments, including the continuation of the fundamentally important ratepayer protections under the federal Public Utility Holding Company Act (PUHCA) of 1935, although the Act had been repealed.

LEGAL SERVICES

LEGAL SERVICE GRANTS

Under Iowa Code section 13.34, the Attorney General is directed to contract with eligible nonprofit organizations to provide legal assistance to eligible individuals in poverty. In FY05 and FY06, the Attorney General's office utilized available appropriations and contracted with the Legal Services Corporation of Iowa and the Polk County Legal Aid Society under this section.

SUMMARIES OF ATTORNEY GENERAL OPINIONS

Note: Iowa Attorney General Opinions issued after 1977 are now available on the Department of Justice's website: www.IowaAttorneyGeneral.org.

For opinions issued prior to 1977, opinions can be obtained by contacting the Attorney General's Office at 515/281-5166.

SUMMARY OF OPINIONS ISSUED 2007-2008

ASSESSORS; COUNTY OFFICES

Sharing of county assessors: Iowa Code §§ 28E.1, 331.301(1), 331.323, 441.1, 441.17(1) (2007). The section 441.17(1) requirement that assessors devote full time to the duties of the assessor's office effectively precludes any sharing of those duties or combining of two assessor offices through a 28E agreement or through a local ordinance under home rule authority. Any sharing or combining of assessors or assessor offices would require a legislative amendment to chapter 441 spelling out the duties of the assessor and the affected boards of each respective assessing jurisdiction. (Miller to Schuling, Director, Iowa Department of Revenue, 2-15-08) # 08-2-1

CITIES; COUNTY CONSERVATION BOARDS

Home Rule; sex offender residency restrictions. Iowa Const. Art. III, § 38A; Iowa Code §§ 305.5, 364.1, 692A.2A (2007). Iowa Code section 692A.2A does not preempt cities from imposing residency restrictions upon convicted sex offenders through exercise of their home rule power and a county conservation board could exercise the authority granted by section 305.5 to prohibit sex offenders from camping in parks. However, the reasonableness and constitutionality of local enacted restrictions on the residency of sex offenders must be determined on a case-by-case basis. (Scase to Hansen, Emmet County Attorney, 9-19-08) # 08-9-2

MUNICIPALITIES; ELECTIONS

Library Board of Trustees; Sufficiency of petition for supplemental levy election. Iowa Code §§ 384.12, 392.5 (2007); Iowa Code § 378.10 (1973). The board of trustees of a city library exercises exclusive control of the expenditure of funds allocated for library purposes by the city council. Because a city council lacks authority to agree to a limitation on the use of funds generated by a supplemental library levy, an Iowa court would likely uphold a council decision to reject a petition which requests an election to approve a supplemental library levy which includes language attempting to limit use of revenue from the levy. (Scase to Wegner, State Librarian, 3-9-07) #07-3-1

SCHOOLS

Attendance and tuition; Application of the junior-senior rule. Iowa Code §§ 257.6, 282.1, 282.6 (2007). Iowa Code subsection 257.6(1)(d) provides that "[e]leventh and twelfth grade nonresident pupils who were residents of the district during the preceding school year" are entitled to continue to attend the district from which they moved without complying with open

enrollment procedures or paying tuition. Because our system of public schools is designed to fulfill the constitutional obligation to provide a free education to children residing in the state, we do not believe that the junior-senior rule is intended to allow students residing outside of the state to attend Iowa public schools without paying tuition. Therefore we conclude that Iowa Code subsection 257.6(1)(a)(4) should be applied only to students who reside within Iowa. (Scase to Jeffrey, Director of the Iowa Department of Education, 9-12-08) # 08-9-1

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