

CHAPTER 9

COMMUNICATIONS SERVICES REGULATION

H.F. 277

AN ACT relating to the deregulation of communications services including considering market forces, eliminating accounting plan requirements, establishing antitrust procedures and remedies, eliminating reporting requirements, eliminating the Iowa broadband initiative, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.1D, subsections 1, 2, and 3, Code 2005, are amended to read as follows:

1. Except as provided in this section, the jurisdiction of the board as to the regulation of communications services is not applicable to a service or facility that is provided or is proposed to be provided by a telephone utility that is or becomes subject to effective competition, as determined by the board.

a. In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility in the geographic market being considered by the board and whether market forces in that market are sufficient to assure just and reasonable rates without regulation.

b. When considering market forces in the market proposed to be deregulated, the board shall consider factors including but not limited to the presence or absence of all of the following:

(1) Wireless communications services.

(2) Cable telephony services.

(3) Voice over internet protocol services.

(4) Economic barriers to the entry of competitors or potential competitors in that market.

c. In addition to other services or facilities previously deregulated, effective July 1, 2005, and at the election of each telephone utility subject to rate regulation, the jurisdiction of the board is not applicable to the retail rate regulation of business and retail local exchange services provided throughout the state except for single line flat-rated residential and business service rates provided by a telephone utility subject to rate regulation on January 1, 2005. For each such telephone utility, the initial single line flat-rated residential and business service rates shall be the corresponding rates charged by the utility as of January 31, 2005. The initial single flat-rated residential monthly service rates may be increased by an amount not to exceed one dollar per twelve-month period beginning July 1, 2005, and ending June 30, 2008. The initial single flat-rated business monthly service rates may be increased by an amount not to exceed two dollars per twelve-month period beginning July 1, 2005, and ending June 30, 2008. However, the single line flat-rated residential service rate shall not exceed nineteen dollars per month and the single line flat-rated business service rate shall not exceed thirty-eight dollars per month prior to July 1, 2008, not including charges for extended area service, regulatory charges, taxes, and other fees. Each telephone utility's extended area service rates shall not be greater than the corresponding rates charged by the telephone utility as of January 31, 2005. The board shall determine a telephone utility's extended area service rates for new extended area service established on or after July 1, 2005. If a telephone utility fails to impose the rate increase during any twelve-month period, the utility shall not impose the unused increase in any subsequent year. In addition to the rate increases permitted pursuant to this section, the telephone utility may adjust its single line flat-rated residential and business service rates by a percentage equal to the most recent annual percentage change in the gross domestic product price index as published by the federal government. The board may also authorize additional changes in the monthly rates for single line flat-rated residential and business services to reflect exogenous factors beyond the control of the telephone utility.

A telephone utility that elects to increase single line flat-rated residential or business service rates pursuant to this paragraph "c" shall offer digital subscriber line broadband service in all of the telephone utility's exchanges in this state within eighteen calendar months of the first rate increase made pursuant to this paragraph "c" by the telephone utility. The board may extend this deadline by up to nine calendar months for good cause. The board may assess a civil penalty or require a refund of all incremental revenue resulting from the rate increase initiated pursuant to this paragraph "c" if the telephone utility fails to offer digital subscriber line broadband service within the time period required by this unnumbered paragraph.

Effective July 1, 2008, the retail rate jurisdiction of the board shall not be applicable to single line flat-rated residential and business service rates unless the board during the first six calendar months of 2008 extends its retail rate jurisdiction over single line flat-rated residential and business service rates provided by a previously rate-regulated telephone utility. The board may extend its jurisdiction pursuant to this paragraph for not more than two years and may do so only after the board finds that such action is necessary for the public interest. The board shall provide the general assembly with a copy of any order to extend its jurisdiction and shall permit any telephone utility subject to the extension to increase single line flat-rated residential and business monthly service rates by an amount up to two dollars during each twelve-month period of the extension. If a telephone utility fails to impose such a rate increase during any twelve-month period, the utility may not impose the unused increase in any subsequent year.

2. ~~Deregulation~~ Except as provided in subsection 1, paragraph "c", deregulation of a service or facility for a utility is effective only after all of the following:

- a. ~~A finding of effective competition by the board.~~
- b. ~~Election by a utility providing the service or facility to file a deregulation accounting plan.~~
- c. ~~Approval of a utility's deregulation accounting plan by the board.~~

3. ~~If the board determines finds that~~ a service or facility is subject to effective competition ~~and approves the utility's deregulation accounting plan~~, the board shall deregulate the service or facility within a reasonable time.

Sec. 2. Section 476.55, Code 2005, is amended to read as follows:

476.55 COMPLAINT OF ANTITRUST ACTIVITIES.

1. An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the board if, upon complaint by an Iowa electric or gas utility, the board finds activities which create or maintain a situation inconsistent with antitrust laws and the policies which underlie them. The board may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

2. Notwithstanding section 476.1D, the board may receive a complaint from a local exchange carrier that another local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them. For purposes of this subsection, "local exchange carrier" means the same as defined in section 476.96 and includes a city utility authorized pursuant to section 388.2 to provide local exchange services. If, after notice and opportunity for hearing, the board finds that a local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them, the board may order any of the following:

- a. The local exchange carrier to adjust retail rates in an amount sufficient to correct the anti-trust activity.
- b. The local exchange carrier to pay any costs incurred by the complainant for the pursuit of the complaint.
- c. The local exchange carrier to pay a civil penalty.

d. Either the local exchange carrier or the complainant to pay the costs of the complaint proceeding before the board, and the other party's reasonable attorney fees.

This subsection shall not be construed to modify, restrict, or limit the right of a person to bring a complaint under any other provision of this chapter.

Sec. 3. Section 476.97, subsection 12, Code 2005, is amended by striking the subsection.

Sec. 4. Section 476.98, Code 2005, is repealed.

Approved March 15, 2005

CHAPTER 10

ANATOMIC PATHOLOGY SERVICES — BILLING

H.F. 418

AN ACT concerning billing for anatomic pathology services and making licensing sanctions applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 147.105 ANATOMIC PATHOLOGY SERVICES — BILLING.

1. A physician or a clinical laboratory located in this state or in another state that provides anatomic pathology services to a patient in this state shall present or cause to be presented a claim, bill, or demand for payment for such services only to the following persons:

- a. The patient who is the recipient of the services.
- b. The insurer or other third-party payor responsible for payment of the services.
- c. The hospital that ordered the services.
- d. The public health clinic or nonprofit clinic that ordered the services.
- e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services.
- f. A governmental agency or a specified public or private agent, agency, or organization that is responsible for payment of the services on behalf of the recipient of the services.

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician providing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by a physician or under the direct supervision of a physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. § 263a.¹

3. A person to whom a claim, bill, or demand for payment for anatomic pathology services is submitted is not required to pay the claim, bill, or demand for payment if the claim, bill, or demand for payment is submitted in violation of this section.

4. This section shall not be construed to mandate the assignment of benefits for anatomic pathology services as defined in this section.

5. This section does not prohibit claims or charges presented by a referring clinical laboratory, other than a laboratory of a physician's office or group practice, to another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

¹ See chapter 179, §120 herein