

ENVIRONMENT AND ENERGY UTILITIES: Gronstal, Chair; Delaney and Schwengels

Amend (8186), Do Pass 5/15/87 (p. 158)

FILED FEB 19 1987

SENATE FILE **209**
BY BOSWELL and SCHWENGELS
Substituted for H. F. 638

Passed Senate, Date 3-27-87 (p. 944) Passed House, Date 4-7-87 (p. 1203)
Vote: Ayes 46 Nays 0 Vote: Ayes 93 Nays 2
Approved _____

A BILL FOR

1 An Act exempting gas public utilities having less than two
2 thousand customers from the rate regulation authority of the
3 utilities board and defining the areas in which such utilities
4 remain subject to regulation.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 209

1 Section 1. NEW SECTION. 476.1C APPLICABILITY OF
2 AUTHORITY -- CERTAIN GAS UTILITIES.

3 Gas public utilities having less than two thousand
4 customers are not subject to the rate regulation authority of
5 the utilities board. Such gas utilities are subject to all
6 other regulation and enforcement activities of the board,
7 including:

8 1. Assessment of fees for the support of the division.

9 2. Safety and engineering standards for equipment,
10 operations, and procedures.

11 3. Pilot projects of the board.

12 However, sections 476.20, 476.21, and 476.51, and chapter
13 479, to the extent applicable, apply to such gas utilities.

14 Gas public utilities exempt from rate regulation under this
15 section shall not make or grant any unreasonable preferences
16 or advantages as to rates or services to any person or subject
17 any person to any unreasonable prejudice or disadvantage.

18 The customers of a gas public utility exempt from rate
19 regulation under this section may petition the utilities board
20 to review the reasonableness of the rates of the gas public
21 utility. The written petition shall be signed by not less
22 than forty-five percent of the gas customers served by the gas
23 public utility. The written petition shall be forwarded by
24 the utilities board to the utility, which may be called upon
25 to provide factual evidence in support of the rates within a
26 reasonable time to be specified by the board. If, after
27 review of all issues presented for determination in the
28 matter, the board finds the rates to be unjust, unreasonable,
29 or discriminatory, the board shall so inform the gas public
30 utility and shall direct the utility to file new or changed
31 rates which are not unjust, unreasonable, or discriminatory.

32 A gas public utility otherwise exempt from rate regulation
33 under this section may elect to have the utility's rates regu-
34 lated by the utilities board. The utilities board shall adopt
35 rules prescribing the manner in which a gas public utility may

1 so elect. If the gas public utility has elected to have its
2 rates regulated by the utilities board, after two years have
3 elapsed from the effective date of such election, the gas
4 public utility may elect to exempt the gas public utility from
5 the rate regulation authority of the utilities board.

6 Sec. 2. The utilities board within the utilities division
7 of the department of commerce shall submit copies of its
8 intended action on rules required under section 1 of this Act
9 to the administrative rules coordinator pursuant to chapter
10 17A within thirty days from the effective date of this Act.

11 EXPLANATION

12 This bill provides that gas public utilities having less
13 than two thousand customers are not subject to the rate regu-
14 lation authority of the utilities board within the utilities
15 division of the department of commerce. However, such
16 utilities are subject to all other regulation and enforcement
17 activities of the utilities board including: (1) assessment
18 of fees for the support of the utilities division, (2) safety
19 and engineering standards for equipment, operations, and
20 procedures, and (3) pilot projects of the utilities board.
21 The utilities exempt from rate regulation under the bill are
22 prohibited from granting any unreasonable preferences or
23 advantages as to rates or services to any person and may not
24 subject any person to any unreasonable prejudice or
25 disadvantage.

26 Customers of a gas public utility exempt from rate
27 regulation under the bill may petition the utilities board to
28 review the reasonableness of the rates of the utility.
29 However, the petition must be signed by at least forty-five
30 percent of the customers served by the gas public utility.
31 If, after review of the issues presented, the utilities board
32 finds the rates to be unjust, unreasonable, or discriminatory,
33 the board shall direct the utility to file new or changed
34 rates.

35 A gas public utility otherwise exempt from rate regulation

1 under the bill may elect to have the utility's rates regulated
2 by the utilities board. The utilities board is required to
3 adopt rules prescribing the manner in which a gas public
4 utility may so elect within thirty days from the effective
5 date of the bill. If the utility elects to have its rates
6 regulated by the utilities board, after two years have elapsed
7 from the effective date of the regulation, the utility may
8 elect to exempt itself from the utilities division's rate
9 regulation authority.

10 This bill creates a new section 476.1C

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SENATE FILE 209

-3186

1 Amend Senate File 209 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 476.1C APPLICABILITY OF
5 AUTHORITY -- CERTAIN GAS UTILITIES.

6 1. Gas public utilities having less than two
7 thousand customers are not subject to the regulation
8 authority of the utilities board under this chapter
9 unless otherwise specifically provided. Sections
10 476.10, 476.20, 476.21, and 476.51 apply to such gas
11 utilities.

12 Gas public utilities having less than two thousand
13 customers shall keep books, accounts, papers and
14 records accurately and faithfully in the manner and
15 form prescribed by the board. The board may inspect
16 the accounts of the utility at any time.

17 A gas public utility having less than two thousand
18 customers may make effective a new or changed rate,
19 charge, schedule, or regulation after giving written
20 notice of the proposed new or changed rate, charge,
21 schedule, or regulation to all affected customers
22 served by the public utility. The notice shall inform
23 the customers of their right to petition for a review
24 of the proposal to the utilities board within sixty
25 days after notice is served if the petition contains
26 the signatures of at least one hundred of the gas
27 utility's customers. The notice shall state the
28 address of the utilities board. The new or changed
29 rate, charge, schedule, or regulation takes effect
30 sixty days after such valid notice is served unless a
31 petition for review of the new or changed rate,
32 charge, schedule, or regulation signed by at least one
33 hundred of the gas utility's customers is filed with
34 the board prior to the expiration of the sixty-day
35 period.

36 If such a valid petition is filed with the board
37 within the sixty-day period, any new or changed rate,
38 charge, schedule, or regulation shall take effect,
39 under bond or corporate undertaking, subject to refund
40 of all amounts collected in excess of those amounts
41 which would have been collected under the rates or
42 charges finally approved by the board. The board
43 shall within five months of the date of filing make a
44 determination of just and reasonable rates based on a
45 review of the proposal, applying established
46 regulatory principles. The board may call upon the
47 gas public utility and its customers to furnish
48 factual evidence in support of or opposition to the
49 new or changed rate, charge, schedule, or regulation.
50 If the gas public utility disputes the finding, the

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1 utility may within twenty days file for further
2 review, and the board shall docket the case as a
3 formal proceeding under section 476.6, subsection 7,
4 and set the case for hearing. The gas public utility
5 shall submit factual evidence and written argument in
6 support of the filing.

7 A gas public utility having less than two thousand
8 customers shall not make effective a new or changed
9 rate, charge, schedule, or regulation which relates to
10 services for which a rate change is pending within
11 twelve months following the date the petition to
12 review the prior proposed rate, charge, schedule, or
13 regulation was filed with the board or until the board
14 has made its determination of just and reasonable
15 rates, whichever date is earlier, unless the utility
16 applies to the board for authority and receives
17 authority to make a subsequent rate change at an
18 earlier date.

19 Gas public utilities having less than two thousand
20 customers shall not make or grant any unreasonable
21 preferences or advantages as to rates or services to
22 any person or subject any person to any unreasonable
23 prejudice or disadvantage. Rates charged by a gas
24 public utility having less than two thousand customers
25 for transportation of customer-owned gas shall not
26 exceed the actual cost of such transportation services
27 including a fair rate of return.

28 2. If, as a result of a review of a proposed new
29 or changed rate, charge, schedule, or regulation of a
30 gas public utility having fewer than two thousand
31 customers, the consumer advocate alleges in a filing
32 with the board that the utility rates are excessive,
33 the disputed amounts shall be specified by the
34 consumer advocate in the filing. The gas public
35 utility shall, within the time prescribed by the
36 board, file a bond or undertaking approved by the
37 board conditioned upon the refund in a manner
38 prescribed by the board of amounts collected after the
39 date of the filing which are in excess of rates or
40 charges finally determined by the board to be lawful.
41 If after formal proceeding and hearing pursuant to
42 section 476.6 the board finds that the utility rates
43 are unlawful, the board shall order a refund, with
44 interest, of amounts collected after the date of
45 filing of the petition that are determined to be in
46 excess of the amounts which would have been collected
47 under the rates finally approved. However, the board
48 shall not order a refund that is greater than the
49 amount specified in the petition, plus interest. If
50 the board fails to render a decision within ten months

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1 following the date of filing of the petition, the
2 board shall not order a refund of any excess amounts
3 that are collected after the expiration of that ten-
4 month period and prior to the date the decision is
5 rendered.

6 Sec. 2. Section 476.6, subsection 7, Code 1987, is
7 amended to read as follows:

8 7. HEARING SET. After the filing of an
9 application for new or changed rates, charges,
10 schedules, or regulations by a public utility subject
11 to rate regulation, the board, prior to the expiration
12 of thirty days after the filing date, shall docket the
13 case as a formal proceeding and set the case for
14 hearing unless the new or changed rates, charges,
15 schedules, or regulations are approved by the board.
16 In the case of a gas public utility having less than
17 two thousand customers, the board shall docket a case
18 as a formal proceeding and set the case for hearing as
19 provided in section 476.1C. In the case of a rural
20 electric cooperative, the board may docket the case as
21 a formal proceeding and set the case for hearing prior
22 to the proposed effective date of the tariff. The
23 board shall give notice of formal proceedings as it
24 deems appropriate. The docketing of a case as a
25 formal proceeding suspends the effective date of the
26 new or changed rates, charges, schedules, or
27 regulations until the rates, charges, schedules, or
28 regulations are approved by the board, except as
29 provided in subsection 13.

30 Sec. 3. The utilities board of the utilities
31 division of the department of commerce shall submit
32 copies of its intended action on rules required under
33 section 1 of this Act to the administrative rules
34 coordinator pursuant to chapter 17A within thirty days
35 from the effective date of this Act.

36 Sec. 4. This Act, being deemed of immediate
37 importance, takes effect upon enactment."

38 2. Title page, line 4, by inserting after the
39 word "regulation" the words "and providing an
40 effective date".

S-3186

Filed March 18, 1987

Adopted 3/27/87 (p. 943)

BY COMMITTEE ON ENVIRONMENT AND
ENERGY UTILITIES
PATRICK J. DELUHERY, Chairperson

SENATE FILE 209
BY BOSWELL and SCHWENGELS

(AS AMENDED AND PASSED BY THE SENATE MARCH 27, 1987)

ALL New Language by the Senate

Passed Senate, Date 3/27/87 (p. 944) Passed House, Date 4/7/87 (p. 1203)
Vote: Ayes 40 Nays 0 Vote: Ayes 93 Nays 2
Approved April 21, 1987 (p. 1460)

A BILL FOR

1 An Act exempting gas public utilities having less than two
2 thousand customers from the rate regulation authority of the
3 utilities board and defining the areas in which such utilities
4 remain subject to regulation and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 476.1C APPLICABILITY OF
2 AUTHORITY -- CERTAIN GAS UTILITIES.

3 1. Gas public utilities having less than two thousand
4 customers are not subject to the regulation authority of the
5 utilities board under this chapter unless otherwise
6 specifically provided. Sections 476.10, 476.20, 476.21, and
7 476.51 apply to such gas utilities.

8 Gas public utilities having less than two thousand
9 customers shall keep books, accounts, papers and records
10 accurately and faithfully in the manner and form prescribed by
11 the board. The board may inspect the accounts of the utility
12 at any time.

13 A gas public utility having less than two thousand
14 customers may make effective a new or changed rate, charge,
15 schedule, or regulation after giving written notice of the
16 proposed new or changed rate, charge, schedule, or regulation
17 to all affected customers served by the public utility. The
18 notice shall inform the customers of their right to petition
19 for a review of the proposal to the utilities board within
20 sixty days after notice is served if the petition contains the
21 signatures of at least one hundred of the gas utility's
22 customers. The notice shall state the address of the
23 utilities board. The new or changed rate, charge, schedule,
24 or regulation takes effect sixty days after such valid notice
25 is served unless a petition for review of the new or changed
26 rate, charge, schedule, or regulation signed by at least one
27 hundred of the gas utility's customers is filed with the board
28 prior to the expiration of the sixty-day period.

29 If such a valid petition is filed with the board within the
30 sixty-day period, any new or changed rate, charge, schedule,
31 or regulation shall take effect, under bond or corporate
32 undertaking, subject to refund of all amounts collected in
33 excess of those amounts which would have been collected under
34 the rates or charges finally approved by the board. The board
35 shall within five months of the date of filing make a

1 determination of just and reasonable rates based on a review
2 of the proposal, applying established regulatory principles.
3 The board may call upon the gas public utility and its
4 customers to furnish factual evidence in support of or
5 opposition to the new or changed rate, charge, schedule, or
6 regulation. If the gas public utility disputes the finding,
7 the utility may within twenty days file for further review,
8 and the board shall docket the case as a formal proceeding
9 under section 476.6, subsection 7, and set the case for
10 hearing. The gas public utility shall submit factual evidence
11 and written argument in support of the filing.

12 A gas public utility having less than two thousand
13 customers shall not make effective a new or changed rate,
14 charge, schedule, or regulation which relates to services for
15 which a rate change is pending within twelve months following
16 the date the petition to review the prior proposed rate,
17 charge, schedule, or regulation was filed with the board or
18 until the board has made its determination of just and
19 reasonable rates, whichever date is earlier, unless the
20 utility applies to the board for authority and receives
21 authority to make a subsequent rate change at an earlier date.

22 Gas public utilities having less than two thousand
23 customers shall not make or grant any unreasonable preferences
24 or advantages as to rates or services to any person or subject
25 any person to any unreasonable prejudice or disadvantage.
26 Rates charged by a gas public utility having less than two
27 thousand customers for transportation of customer-owned gas
28 shall not exceed the actual cost of such transportation
29 services including a fair rate of return.

30 2. If, as a result of a review of a proposed new or
31 changed rate, charge, schedule, or regulation of a gas public
32 utility having fewer than two thousand customers, the consumer
33 advocate alleges in a filing with the board that the utility
34 rates are excessive, the disputed amounts shall be specified
35 by the consumer advocate in the filing. The gas public

1 utility shall, within the time prescribed by the board, file a
2 bond or undertaking approved by the board conditioned upon the
3 refund in a manner prescribed by the board of amounts
4 collected after the date of the filing which are in excess of
5 rates or charges finally determined by the board to be lawful.
6 If after formal proceeding and hearing pursuant to section
7 476.6 the board finds that the utility rates are unlawful, the
8 board shall order a refund, with interest, of amounts
9 collected after the date of filing of the petition that are
10 determined to be in excess of the amounts which would have
11 been collected under the rates finally approved. However, the
12 board shall not order a refund that is greater than the amount
13 specified in the petition, plus interest. If the board fails
14 to render a decision within ten months following the date of
15 filing of the petition, the board shall not order a refund of
16 any excess amounts that are collected after the expiration of
17 that ten-month period and prior to the date the decision is
18 rendered.

19 Sec. 2. Section 476.6, subsection 7, Code 1987, is amended
20 to read as follows:

21 7. HEARING SET. After the filing of an application for
22 new or changed rates, charges, schedules, or regulations by a
23 public utility subject to rate regulation, the board, prior to
24 the expiration of thirty days after the filing date, shall
25 docket the case as a formal proceeding and set the case for
26 hearing unless the new or changed rates, charges, schedules,
27 or regulations are approved by the board. In the case of a
28 gas public utility having less than two thousand customers,
29 the board shall docket a case as a formal proceeding and set
30 the case for hearing as provided in section 476.1C. In the
31 case of a rural electric cooperative, the board may docket the
32 case as a formal proceeding and set the case for hearing prior
33 to the proposed effective date of the tariff. The board shall
34 give notice of formal proceedings as it deems appropriate.
35 The docketing of a case as a formal proceeding suspends the

1 effective date of the new or changed rates, charges,
2 schedules, or regulations until the rates, charges, schedules,
3 or regulations are approved by the board, except as provided
4 in subsection 13.

5 Sec. 3. The utilities board of the utilities division of
6 the department of commerce shall submit copies of its intended
7 action on rules required under section 1 of this Act to the
8 administrative rules coordinator pursuant to chapter 17A
9 within thirty days from the effective date of this Act.

10 Sec. 4. This Act, being deemed of immediate importance,
11 takes effect upon enactment."

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accurately and faithfully in the manner and form prescribed by the board. The board may inspect the accounts of the utility at any time.

A gas public utility having less than two thousand customers may make effective a new or changed rate, charge, schedule, or regulation after giving written notice of the proposed new or changed rate, charge, schedule, or regulation to all affected customers served by the public utility. The notice shall inform the customers of their right to petition for a review of the proposal to the utilities board within sixty days after notice is served if the petition contains the signatures of at least one hundred of the gas utility's customers. The notice shall state the address of the utilities board. The new or changed rate, charge, schedule, or regulation takes effect sixty days after such valid notice is served unless a petition for review of the new or changed rate, charge, schedule, or regulation signed by at least one hundred of the gas utility's customers is filed with the board prior to the expiration of the sixty-day period.

If such a valid petition is filed with the board within the sixty-day period, any new or changed rate, charge, schedule, or regulation shall take effect, under bond or corporate undertaking, subject to refund of all amounts collected in excess of those amounts which would have been collected under the rates or charges finally approved by the board. The board shall within five months of the date of filing make a determination of just and reasonable rates based on a review of the proposal, applying established regulatory principles. The board may call upon the gas public utility and its customers to furnish factual evidence in support of or opposition to the new or changed rate, charge, schedule, or regulation. If the gas public utility disputes the finding, the utility may within twenty days file for further review, and the board shall docket the case as a formal proceeding under section 476.6, subsection 7, and set the case for

SENATE FILE 209

AN ACT

EXEMPTING GAS PUBLIC UTILITIES HAVING LESS THAN TWO THOUSAND CUSTOMERS FROM THE RATE REGULATION AUTHORITY OF THE UTILITIES BOARD AND DEFINING THE AREAS IN WHICH SUCH UTILITIES REMAIN SUBJECT TO REGULATION AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 476.1C APPLICABILITY OF AUTHORITY -- CERTAIN GAS UTILITIES.

1. Gas public utilities having less than two thousand customers are not subject to the regulation authority of the utilities board under this chapter unless otherwise specifically provided. Sections 476.10, 476.20, 476.21, and 476.51 apply to such gas utilities.

Gas public utilities having less than two thousand customers shall keep books, accounts, papers and records

hearing. The gas public utility shall submit factual evidence and written argument in support of the filing.

A gas public utility having less than two thousand customers shall not make effective a new or changed rate, charge, schedule, or regulation which relates to services for which a rate change is pending within twelve months following the date the petition to review the prior proposed rate, charge, schedule, or regulation was filed with the board or until the board has made its determination of just and reasonable rates, whichever date is earlier, unless the utility applies to the board for authority and receives authority to make a subsequent rate change at an earlier date.

Gas public utilities having less than two thousand customers shall not make or grant any unreasonable preferences or advantages as to rates or services to any person or subject any person to any unreasonable prejudice or disadvantage. Rates charged by a gas public utility having less than two thousand customers for transportation of customer-owned gas shall not exceed the actual cost of such transportation services including a fair rate of return.

2. If, as a result of a review of a proposed new or changed rate, charge, schedule, or regulation of a gas public utility having fewer than two thousand customers, the consumer advocate alleges in a filing with the board that the utility rates are excessive, the disputed amounts shall be specified by the consumer advocate in the filing. The gas public utility shall, within the time prescribed by the board, file a bond or undertaking approved by the board conditioned upon the refund in a manner prescribed by the board of amounts collected after the date of the filing which are in excess of rates or charges finally determined by the board to be lawful. If after formal proceeding and hearing pursuant to section 476.6 the board finds that the utility rates are unlawful, the board shall order a refund, with interest, of amounts collected after the date of filing of the petition that are

determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the board shall not order a refund that is greater than the amount specified in the petition, plus interest. If the board fails to render a decision within ten months following the date of filing of the petition, the board shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

Sec. 2. Section 476.6, subsection 7, Code 1987, is amended to read as follows:

7. HEARING SET. After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the board, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the board. In the case of a gas public utility having less than two thousand customers, the board shall docket a case as a formal proceeding and set the case for hearing as provided in section 476.1C. In the case of a rural electric cooperative, the board may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The board shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the board, except as provided in subsection 13.

Sec. 3. The utilities board of the utilities division of the department of commerce shall submit copies of its intended action on rules required under section 1 of this Act to the administrative rules coordinator pursuant to chapter 17A within thirty days from the effective date of this Act.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 209, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 21, 1987

TERRY E. BRANSTAD
Governor