

476.1D Regulation and deregulation of communications services.

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. (1) 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 line 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 line 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.

(2) 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 subparagraph.

(3) 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. Except as provided in subsection 1, paragraph “c”, deregulation of a service or facility for a utility is effective only after a finding of effective competition by the board.

3. If the board finds that a service or facility is subject to effective competition, the board shall deregulate the service or facility within a reasonable time.

4. Upon deregulation, all investment, revenues, and expenses associated with the service or facility shall be removed from the telephone utility’s regulated operations and shall not be considered by the board in setting rates for the telephone utility unless they continue to affect the utility’s regulated operations. If the board considers investment, revenues, and expenses associated with unregulated services or facilities in setting rates for the telephone utility, the board shall not use any profits or costs from such unregulated services or facilities to determine the rates for regulated services or facilities. This section does not preclude the board from considering the investment, revenues, and expenses associated with the sale of classified directory advertising by a telephone utility in determining rates for the telephone utility.

5. Notwithstanding the presence of effective competition, if the board determines a service or facility is an essential communications service or facility and the public interest warrants retention of service regulation, the board shall deregulate rates and may continue service regulation.

6. The board may reimpose rate and service regulation on a deregulated service or facility if it determines the service or facility is no longer subject to effective competition.

7. The board may reimpose service regulation only on a deregulated service or facility if the board determines the service or facility is an essential communications service or facility and the public interest warrants service regulation, notwithstanding the presence of effective competition.

8. If the board reimposes regulation pursuant to subsection 6 or 7, the reimposition of regulation shall apply to all providers of the service or facility.

9. The board may investigate and obtain information from providers of deregulated services or facilities to determine whether the services or facilities are subject to effective competition or whether the service or facility is an essential communications service or facility and the public interest warrants service regulation. However, the board shall not, for purposes of this subsection, request or obtain information related to the provider’s costs or earnings.

10. a. The board, at the request of a long distance telephone company, shall classify such company as a competitive long distance telephone company if more than half of the company’s revenues from its Iowa intrastate telecommunications services and facilities are received from services and facilities that the board has determined to be subject to effective competition, or if more than half of the company’s revenues from its Iowa intrastate telecommunications services and facilities are received from intralata interexchange services and facilities. For purposes of this subsection, “*intralata interexchange services*” means those interexchange services that originate and terminate within the same local access transport area.

b. The board shall promptly notify the director of revenue that a long distance telephone company has been classified as a competitive long distance telephone company. Upon such notification by the board, the director of revenue shall assess the property of such competitive long distance telephone company, which property is first assessed for taxation in this state on or after January 1, 1996, in the same manner as all other property assessed as commercial property by the local assessor under chapters 427, 427A, 427B, 428, and 441. As used in this section, “*long distance telephone company*” means an entity that provides telephone service

and facilities between local exchanges, but does not include a cellular service provider or a local exchange utility holding a certificate issued under section 476.29, subsection 12.

91 Acts, ch 150, §2; 95 Acts, ch 199, §1; 96 Acts, ch 1219, § 73; 2003 Acts, ch 126, §1; 2003 Acts, ch 145, §286; 2005 Acts, ch 9, §1; 2006 Acts, ch 1010, §123; 2011 Acts, ch 25, §143

[SP] *The word "subparagraph" probably intended; corrective legislation is pending

[T] Code editor directive applied