

CHAPTER 477

TELEGRAPH AND TELEPHONES — CABLE SYSTEMS

Referred to in §476.27

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SUBCHAPTER I

GENERAL PROVISIONS

477.1 Right-of-way.

Any person, firm, and corporation, within or without the state, may construct a telegraph or telephone line or cable system along the public roads of the state, or across or under the rivers or over, under, or through any lands belonging to the state or any private individual, and may erect or install necessary fixtures. However, construction of a telegraph or telephone line or cable system along a primary road is subject to rules adopted by the state department of transportation.

[C51, §780; R60, §1348; C73, §1324; C97, §2158; C24, 27, 31, 35, 39, §8300; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.1; C77, 79, 81, §477.1]

88 Acts, ch 1173, §1

[P] Authorization in cities, §364.2

[P] Removal from highway, chapter 318

477.2 Removal of lines and cable systems.

When any road along which the telegraph or telephone line or cable system has been constructed or installed is changed, the person, firm or corporation shall, upon ninety days' notice in writing, remove the telegraph or telephone lines or cable system to the road as established. The notice may be served upon any agent or operator in the employ of the person, firm or corporation.

[C73, §1324; C97, §2158; C24, 27, 31, 35, 39, §8301; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.2; C77, 79, 81, §477.2]

88 Acts, ch 1173, §2

477.3 Construction — installation — damages.

The fixtures shall not be constructed or installed in a manner which causes inconvenience to the public in the use of any road or in the navigation of any stream; nor shall they be erected or installed on the private grounds of any individual without paying the individual a just equivalent for the damage the individual sustains by the construction or installation.

[C51, §781; R60, §1349; C73, §1325; C97, §2159; C24, 27, 31, 35, 39, §8302; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.3; C77, 79, 81, §477.3]

88 Acts, ch 1173, §3

477.4 Condemnation.

If the person over or through whose lands this telegraph or telephone line or cable system passes claims more damages than the proprietor of the line or cable system is willing to pay,

the amount of damages sustained may be determined in the same manner as provided for taking private property for works of internal improvement.

[C51, §782; R60, §1350; C73, §1326; C97, §2160; C24, 27, 31, 35, 39, §8303; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.4; C77, 79, 81, §477.4]

88 Acts, ch 1173, §4

[P] Condemnation procedure, chapter 6B

477.5 Equal facilities — delay.

If the proprietor of any telegraph or telephone line within the state, or the person having the control and management thereof, refuses to furnish equal facilities to the public and to all connecting lines for the transmission of communications in accordance with the nature of the business which it undertakes to carry on, or to transmit the same with fidelity and without unreasonable delay, the law in relation to limited partnerships, corporations, and to the taking of private property for works of internal improvement, shall no longer apply to them, and property taken for the use thereof without the consent of the owner may be recovered by the owner.

[C51, §783; R60, §1351; C73, §1327; C97, §2161; C24, 27, 31, 35, 39, §8304; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.5; C77, 79, 81, §477.5]

2008 Acts, ch 1032, §63

[P] Eminent domain, chapter 6A

477.6 Delay — willful error — revealing contents.

Any person employed in transmitting messages by telegraph or telephone must do so with fidelity and without unreasonable delay, and if anyone willfully fails thus to transmit them, or intentionally transmits a message erroneously, or makes known the contents of any message sent or received to any person except the person to whom it is addressed, or such person's agent or attorney, or willfully and wrongfully takes or receives any telegraph or telephone message, the person is guilty of a simple misdemeanor.

[C51, §784; R60, §1352; C73, §1328; C97, §2162; C24, 27, 31, 35, 39, §8305; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.6; C77, 79, 81, §477.6]

477.7 Mistakes and delays.

The proprietor of a telegraph or telephone line is liable for all mistakes in transmitting or receiving messages made by any person in the proprietor's employment, or for any unreasonable delay in their transmission or delivery, and for all damages resulting from failure to perform the foregoing or any other duty required by law, the provisions of any contract to the contrary notwithstanding.

[C51, §785; R60, §1353; C73, §1329; C97, §2163; C24, 27, 31, 35, 39, §8306; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.7; C77, 79, 81, §477.7]

Referred to in §477.9A

477.8 Negligence presumed.

In any action against any telegraph or telephone company for damages caused by erroneous transmission of a message, or by unreasonable delay in delivery of a message, negligence on the part of the telegraph or telephone company shall be presumed upon proof of erroneous transmission or of unreasonable delay in delivery, and the burden of proof that such error or delay was not due to negligence upon its part shall rest upon such company.

[C97, §2164; C24, 27, 31, 35, 39, §8307; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.8; C77, 79, 81, §477.8]

477.9 Presentation of claim.

No action for the recovery of such damages shall be maintained unless a claim therefor is presented in writing to such company, officer or agent thereof within sixty days from time cause of action accrues.

[C97, §2164; C24, 27, 31, 35, 39, §8308; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.9; C77, 79, 81, §477.9]

477.9A Deregulated services.

A telegraph or telephone company whose services are deregulated by the board under section 476.1D may use public notice as a means of conveying terms and conditions to customers where identification of those customers is infeasible or impractical. Public notice may also be used to convey changes in terms and conditions, other than price increases or limitations of liability, to all other customers, but only if those customers were put on notice that this means would be used to convey subsequent changes. Notwithstanding section 477.7, when services are deregulated by the board under section 476.1D, a telegraph or telephone company, in any contract, agreement, or by means of public notice, may reasonably limit its liability under section 477.7 in the course of providing the deregulated communications services to its customers, except for acts of willful misconduct. However, this section does not allow a greater limitation on liability than exists in any contract or approved tariff as of the effective date of the deregulation of the services.

89 Acts, ch 321, §31; 92 Acts, ch 1163, §98

SUBCHAPTER II

RECIPROCAL SERVICE

477.10 Definitions.

1. *a. "Local exchange"*, within the meaning of this subchapter, shall refer to a telephone line or lines or to a telephone switchboard or switchboards operating by virtue of a franchise granted by a city furnishing telephonic communication between two or more members of the public within the same city, village, community, locality or neighborhood, which said line or lines or switchboard or switchboards shall be under the same management and control.

b. "Local exchange" within the meaning of this subchapter shall not include or refer to privately owned or leased lines or switchboards, operated and used by members of the public other than telephone or telegraph companies as a public utility by which the public is offered telephonic service.

2. *"Local exchange company"* within the meaning of this subchapter, shall refer to any one or more individuals, firms or corporations operating one or more local exchanges as defined in this section.

3. *"Long distance company"* within the meaning of this subchapter shall refer to and include one or more persons, firms or corporations operating connecting lines between two or more local exchanges, one or more of which local exchanges are owned by a local telephone company other than such person, firm or corporation, over which line or lines telephonic communication is had between members of the public connected with said local exchanges.

[C35, §8308-f1; C39, §8308.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.10; C77, 79, 81, §477.10]

2013 Acts, ch 90, §142

Referred to in §423.3, 714A.1

[T] Section amended

477.11 Facilities to local exchange.

Long distance companies shall furnish equal facilities to any local exchange within the state desiring same, and to that end shall immediately make, or at the option of the long distance company, shall immediately permit to be made under its direction and at reasonably accessible places to be designated by such long distance company, the necessary connections between said local exchange and said long distance company telephone system to effect the furnishing of equal facilities to such local exchange.

[C35, §8308-f2; C39, §8308.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.11; C77, 79, 81, §477.11]

477.12 Transmission of messages.

After such connection has been made said long distance company shall transmit communications and messages to, from and through all local exchanges connected with

its system when requested, with fidelity and equality and without discrimination or unreasonable delay.

[C35, §8308-f3; C39, §8308.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.12; C77, 79, 81, §477.12]

477.13 Facilities to long distance companies.

A connected local exchange company shall accept and furnish telephonic connection for all messages offered over the lines or through the system of any long distance company without discrimination or unreasonable delay, and with equality.

[C35, §8308-f4; C39, §8308.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.13; C77, 79, 81, §477.13]

477.14 Violations — effect.

Should any local exchange company or long distance company refuse or fail to furnish the connection or service above required, the law in relation to limited partnerships, corporations, or the taking of private property for works of internal improvement shall no longer apply to them and property taken for the use thereof without the consent of the owner may be recovered by the owner.

[C35, §8308-f5; C39, §8308.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, §488.14; C77, 79, 81, §477.14]

[P] Eminent domain, chapter 6A