

#### 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.

2. 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.

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.

[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; 2012 Acts, ch 1023, §68; 2014 Acts, ch 1099, §1, 2; 2018 Acts, ch 1160, §6, 7](#)

Referred to in [§476.55, 476.103, 477.9A](#)

For proposed strike of former subsection 10 by 2018 Acts, ch 1158, effective July 1, 2021, see Code editor's note at the end of Vol VI

Subsection 4 amended

Subsection 10 stricken