

Senate File 2195

AN ACT

RELATING TO MATTERS UNDER THE PURVIEW OF THE UTILITIES DIVISION
OF THE DEPARTMENT OF COMMERCE.

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

Section 1. Section 476.1D, subsection 1, paragraph c, Code 2014, is amended by striking the paragraph.

Sec. 2. Section 476.1D, subsection 2, Code 2014, is amended to read as follows:

2. ~~Except as provided in subsection 1, paragraph "c",~~
deregulation Deregulation of a service or facility for a utility is effective only after a finding of effective competition by the board.

Sec. 3. Section 476.3, subsection 2, paragraph b, Code 2014, is amended by striking the paragraph.

Sec. 4. Section 476.4, Code 2014, is amended to read as follows:

476.4 Tariffs filed.

1. Every public utility shall file with the board tariffs showing the rates and charges for its public utility services and the rules and regulations under which such services were

furnished, on April 1, 1963, which rates and charges shall be subject to investigation by the board as provided in section 476.3, and upon such investigation the burden of establishing the reasonableness of such rates and charges shall be upon the public utility filing the same. These filings shall be made under such rules as the board may prescribe within such time and in such form as the board may designate. In prescribing rules and regulations with respect to the form of tariffs, the board shall, in the case of public utilities subject to regulation by any federal agency, give due regard to any corresponding rules and regulations of such federal agency, to the end that unnecessary duplication of effort and expense may be avoided so far as reasonably possible. Each public utility shall keep copies of its tariffs open to public inspection under such rules as the board may prescribe.

2. No later than January 1, 2015, a telephone utility is required to file tariffs as provided in this section only for such wholesale services as may be specified by the board.

3. Every rate, charge, rule, and regulation contained in any filing made with the commission on or prior to July 4, 1963, shall be effective as of such date, subject, however, to investigation as herein provided. If any such filing is made prior to the time the commission prescribes rules as aforesaid, and if such filing does not comply as to form or substance with such rules, then the public utility which filed the same shall within a reasonable time after the adoption of such rules make a new filing or filings complying with such rules, which new filing or filings shall be deemed effective as of July 4, 1963.

Sec. 5. Section 476.5, Code 2014, is amended to read as follows:

476.5 Adherence to schedules — discounts.

No public utility subject to rate regulation shall directly or indirectly charge a greater or less compensation for its services than that prescribed in its tariffs, and no such public utility shall 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.

~~Nothing in this section shall be construed to prohibit any public utility furnishing communications services from providing any service rendered by it without charge or at reduced rate to any of its active or retired officers, directors, or employees, or such officers, directors or employees of other public utilities furnishing communications~~

~~services. Provided, however, said service is for personal use, and not for engaging in a business for profit.~~

Sec. 6. Section 476.6, subsection 9, Code 2014, is amended by striking the subsection.

Sec. 7. Section 476.29, subsections 3 and 6, Code 2014, are amended to read as follows:

3. A certificate is transferable, subject to approval of the board pursuant to section 476.20, subsection 1, ~~and for purposes of a rate-regulated local exchange utility shall be treated by the board in the same manner as a reorganization pursuant to sections 476.76 and 476.77.~~

6. The certificate ~~and tariffs~~ approved by the board are is the only authority required for the utility to furnish land-line local telephone service. However, to the extent not inconsistent with this section, the power to regulate the conditions required and manner of use of the highways, streets, rights-of-way, and public grounds remains in the appropriate public authority.

Sec. 8. Section 476.29, subsection 15, Code 2014, is amended by striking the subsection.

Sec. 9. Section 476.72, subsections 4 and 5, Code 2014, are amended to read as follows:

4. *"Public utility"* ~~includes only~~ means a gas or electric rate-regulated public utilities ~~and rate-regulated telephone utilities providing local exchange telecommunication service utility.~~

5. *"Utility business"* means the generation or transmission of electricity or furnishing of gas or furnishing electricity ~~or furnishing rate-regulated communications services~~ to the public for compensation.

Sec. 10. Section 476.78, Code 2014, is amended to read as follows:

476.78 Cross-subsidization prohibited.

A ~~rate-regulated gas or electric~~ public utility shall not directly or indirectly include any costs or expenses attributable to providing nonutility service in regulated rates or charges. Except for contracts existing as of July 1, 1996, a ~~rate-regulated gas or electric~~ public utility or its affiliates shall not use vehicles, service tools and instruments, or employees, the costs, salaries, or benefits of which are recoverable in the regulated rates for electric service or gas service to install, service, or repair residential or commercial gas or electric heating, ventilating,

or air conditioning systems, or interior lighting systems and fixtures; or to sell at retail heating, ventilating, air conditioning, or interior lighting equipment. For the purpose of this section, "*commercial*" means a place of business primarily used for the storage or sale, at wholesale or retail, of goods, wares, services, or merchandise. Nothing in this section shall be construed to prohibit a ~~rate-regulated gas or electric~~ public utility from using its utility vehicles, service tools and instruments, and employees to market systems, services, and equipment, to light pilots, or to eliminate a customer emergency or threat to public safety.

Sec. 11. Section 476.79, Code 2014, is amended to read as follows:

476.79 Provision of nonutility service.

1. A ~~rate-regulated gas or electric~~ public utility providing any nonutility service to its customers shall keep and render to the board separate records of the nonutility service. The board may provide for the examination and inspection of the books, accounts, papers, and records of the nonutility service, as may be necessary, to enforce any provisions of this chapter.

2. The board shall adopt rules which specify the manner and form of the accounts relating to providing nonutility services which the ~~rate-regulated gas or electric~~ public utility shall maintain.

Sec. 12. Section 476.80, unnumbered paragraph 1, Code 2014, is amended to read as follows:

A ~~rate-regulated gas or electric~~ public utility which engages in a systematic marketing effort as defined by the board, other than on an incidental or casual basis, to promote the availability of nonutility service from the public utility shall make available at reasonable compensation on a nondiscriminatory basis to all persons engaged primarily in providing the same competitive nonutility services in that area all of the following services to the same extent utilized by the public utility in connection with its nonutility services:

Sec. 13. Section 476.81, Code 2014, is amended to read as follows:

476.81 Audit required.

The board may periodically retain a nationally or regionally recognized independent auditing firm to conduct an audit of the nonutility services provided by a ~~rate-regulated gas or electric~~ public utility subject to the provisions of section

476.80. A nonutility service audit shall not be conducted more frequently than every three years, unless ordered by the board for good cause. The cost of the audit shall be paid by the public utility to the independent auditing firm and shall be included in its regulated rates and charges, unless otherwise ordered by the board for good cause after providing the public utility the opportunity for a hearing on the board's decision.

Sec. 14. Section 476.83, Code 2014, is amended to read as follows:

476.83 Complaints.

Any person may file a written complaint with the board requesting that the board determine compliance by a ~~rate-regulated gas or electric~~ public utility with the provisions of section 476.78, 476.79, or 476.80, or any validly adopted rules to implement these sections. Upon the filing of a complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety days after the date the written complaint was filed, unless additional time is requested by the complainant.

Sec. 15. Section 476.96, Code 2014, is amended to read as follows:

476.96 Definitions.

As used in ~~section 476.95, this section, and sections 476.97 through 476.102~~ 476.100 and 476.101, unless the context otherwise requires:

1. ~~"Basic communications service" includes at a minimum, basic local telephone service, switched access, 911 and E-911 services, and dual party relay service. The board is authorized to classify by rule at any time, any other two-way switched communications services as basic communications services consistent with community expectations and the public interest.~~

2. ~~"Basic local telephone service" means the provision of dial tone access and usage, for the transmission of two-way switched communications within a local exchange area, including, but not limited to, the following:~~

a. ~~Residence service and business services, including flat rate or local measured service, private branch exchange trunks, trunk type hunting services, direct inward dialing, and the network access portion of central office switched exchange~~

~~service.~~

~~b. Extended area service.~~

~~c. Touch tone service when provided separately.~~

~~d. Call tracing.~~

~~e. Calling number blocking on either a per call or a per line basis.~~

~~f. Local exchange white pages directories.~~

~~g. Installation and repair of local network access.~~

~~h. Local operator services, excluding directory assistance.~~

~~i. Toll service blocking and 1-900 and 1-976 access blocking.~~

3. 1. "*Competitive local exchange service provider*" means any person, including a municipal utility, that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

4. "*Interim number portability*" means one or more mechanisms by which a local exchange customer at a particular location may change the customer's local exchange services provider without any change in the local exchange customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

5. 2. "*Local exchange carrier*" means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

6. "*Nonbasic communications services*" means all communications services subject to the board's jurisdiction which are not deemed either by statute or by rule to be basic communications services, including any service offered by the local exchange carrier for the first time after July 1, 1995. A service is not considered new if it constitutes the bundling, unbundling, or repricing of an already existing service. Consistent with community expectations and the public interest, the board may reclassify by rule as nonbasic those two-way switched communications services previously classified by rule as basic.

7. "*Provider number portability*" means the capability of a

~~local exchange customer to change the customer's local exchange services provider at the customer's same location without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer currently experiences. "Provider number portability" includes the equal availability of information concerning the local exchange provider serving the number to all carriers, and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call, and without the dialing of additional digits or access codes.~~

Sec. 16. Section 476.101, subsections 1, 8, and 10, Code 2014, are amended to read as follows:

1. A certificate of public convenience and necessity to provide local telephone service shall not be interpreted as conveying a monopoly, exclusive privilege, or franchise. A competitive local exchange service provider shall not be subject to the requirements of this chapter, except that a competitive local exchange service provider shall obtain a certificate of public convenience and necessity pursuant to section 476.29, ~~file tariffs,~~ notify affected customers prior to any rate increase, file reports, information, and pay assessments pursuant to section 476.2, subsection 4, and sections 476.9, 476.10, 476.16, 476.102, and 477C.7, and shall be subject to the board's authority with respect to adequacy of service, interconnection, discontinuation of service, civil penalties, and complaints. If, after notice and opportunity for hearing, the board determines that a competitive local exchange service provider possesses market power in its local exchange market or markets, the board may apply such other provisions of this chapter to a competitive local exchange service provider as it deems appropriate.

8. Any person may file a written complaint with the board requesting the board to determine compliance by a local exchange carrier with the provisions of sections 476.96, ~~through~~ 476.100, and 476.102, and this section, or any board rules implementing those sections. Upon the filing of such complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety

days after the date the written complaint was filed. The board, for good cause shown, may extend the deadline for acting upon the complaint for an additional period not to exceed thirty days.

10. In a proceeding associated with the granting of a certificate under section 476.29, approving maps and ~~tariffs~~ for competitive local exchange providers provided for in this section, or in resolving a complaint filed pursuant to subsection 8 and proceedings under 47 U.S.C. §251 - 254, the board shall allocate the costs and expenses of the proceedings to persons identified as parties in the proceeding who are engaged in or who seek to engage in providing telecommunications services or other persons identified as participants in the proceeding. The funds received for the costs and the expenses shall be remitted to the treasurer of state for deposit in the department of commerce revolving fund created in section 546.12 as provided in section 476.10.

Sec. 17. Section 476.101, subsections 4, 5, and 6, Code 2014, are amended by striking the subsections.

Sec. 18. Section 477.9A, Code 2014, is amended to read as follows:

477.9A Deregulated services.

1. 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.

2. A telephone company whose services are subject to regulation by the board with respect to terms and conditions, but not rates, shall give notice of rate changes to customers.

Sec. 19. REPEAL. Sections 476.4A, 476.97, and 476.99, Code 2014, are repealed.

PAM JOCHUM
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2195, Eighty-fifth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2014

TERRY E. BRANSTAD
Governor