

Commerce
Holden, Chairperson Do Pass 3/20 (p. 870)
Bergman
Priebe 15 1979

HOUSE FILE 337

Place On Calendar

By COMMITTEE ON COMMERCE

(Formerly Study Bill 127)

Passed House, Date 2-28-79 (p. 710) Passed Senate, Date 4-18-79 (p. 1250)
Vote: Ayes 92 Nays 0 Vote: Ayes 50 Nays 0
Approved April 26, 1979

A BILL FOR

1 An Act amending section four hundred seventy-six point six
2 (476.6), unnumbered paragraph six (6), of the Code to
3 provide that the rate of interest payable by a public
4 utility on amounts refunded to customers under that
5 paragraph shall be not more than twelve percent per
6 annum, compounded annually.

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

HOUSE FILE 337

H-3267

1 Amend amendment H-3259, to House File 337, as
2 follows:
3 1. Page 1, line 15, by inserting after the
4 word "service." the following: This rate of interest
5 shall also be the maximum interest or penalty
6 charged by all public utilities for utility services
7 provided in the past on which customers have not
8 made payment."

H-3267 FILED, LOST (p. 709)
FEBRUARY 28, 1979

BY RAPP of Black Hawk
BRUNER of Story

HOUSE FILE 337

H-3266

1 Amend amendment H-3259, to House File 337, as
2 follows:
3 1. Page 1, line 9, by striking the word "those"
4 and inserting in lieu thereof the words "customer
5 deposits and on those".

H-3266 FILED, LOST (p. 707)
FEBRUARY 28, 1979

BY RAPP of Black Hawk
BRUNER of Story

337

32607

1 Section 1. Section four hundred seventy-six point six
2 (476.6), unnumbered paragraph six (6), Code 1979, is amended
3 to read as follows:

4 However, a public utility shall have the right at any time
5 after said rates, charges, schedules or regulations have been
6 suspended for ninety days to place in effect any or all of
7 such suspended rates, charges, schedules or regulations by
8 filing with the commission a bond or other undertaking approved
9 by the commission conditioned upon the refund in a manner
10 to be prescribed by the commission of any amounts collected
11 thereunder in excess of the amounts which would have been
12 collected under rates, charges, schedules or regulations
13 finally approved by the commission. The commission shall
14 establish a rate of interest to be paid by a public utility
15 to persons receiving refunds. Such rate of interest shall
16 be not less than five percent per annum, nor more than ~~nine~~
17 twelve percent per annum, compounded annually.

32612
S-3524

3259
S-3312
S-3525
S-3527

18 Sec. 2. This Act is effective with respect to rates
19 collected subject to refund after June 30, 1979.

20 EXPLANATION

21 Section 476.6 of the Code permits a public utility to put
22 utility rate increases into effect prior to approval by the
23 commerce commission, but subject to the condition that the
24 utility repay any excess collected if the commission ultimately
25 approves only a portion of the requested rate increase. Under
26 existing law the commission must require the utility to pay
27 the customer interest on the amount refunded at a rate not
28 less than five nor more than nine percent per year. This
29 bill increases the maximum rate which the commission can order
30 the public utility to pay to twelve percent per year,
31 compounded annually.

32 The bill would apply to rates collected subject to refund
33 on or after July 1, 1979.

34
35

1 Amend House File 337 as follows:

2 1. Page 1, by striking lines 1 through 19 and
3 inserting in lieu thereof the following:

4 "Section 1. Section four hundred seventy-six point
5 six (476.6), Code 1979, is amended to read as follows:

6 476.6 CHANGE OF RATES--HEARING.

7 1. No A public utility subject to rate regulation
8 shall not make effective any new or changed rate,
9 charge, schedule or regulation ~~except by filing the~~
10 ~~same with the commission at least thirty days prior~~
11 ~~to the effective date thereof. The commission, for~~
12 ~~good cause shown, may allow changes in rates, charges,~~
13 ~~schedules or regulations to become effective on less~~
14 ~~than thirty days' notice~~ until the rate, charge,
15 schedule or regulation has been filed with and approved
16 by the commission, except as otherwise provided in
17 this section or section two (2) of this Act. At the
18 time of filing, all statements of fact, expert
19 opinions, substantiating documents and exhibits which
20 will be used to support the request shall be included.
21 However, a utility shall not be denied the right to
22 submit additional information after the date of filing
23 if necessary to refute points raised after the date
24 of filing which are in opposition to the approval
25 requested in the filing. The commission shall not
26 approve a charge nor shall a public utility make a
27 charge for telephone directory assistance.

28 2. All public utilities, including those exempted
29 from rate regulation by the provisions of section
30 476.1, shall give written notice of any proposed
31 increase of any rate or charge to all affected
32 customers served by the public utility. Public
33 utilities which are exempt from rate regulation shall
34 give notice at least thirty days prior to the effective
35 date thereof of the increase. If the public utility
36 is subject to rate regulation, the notice to affected
37 customers shall also state that the customer has a
38 right to file a written objection to such rate increase
39 and that he may request the commission to hold a
40 public hearing to determine if such rate increase
41 should be allowed. The commission shall prescribe
42 the manner and method that the written notice to each
43 affected customer of the public utility shall be
44 served. Public utilities which are subject to rate
45 regulation shall give notice not later than forty-
46 five days after the request for the increase is filed
47 with the commission.

48 3. a. If a public utility is subject to rate
49 regulation the notice required by subsection two (2)
50 of this section shall state that the customer has

1 a right to file a written objection to the proposed
2 rate increase. The notice also shall state that the
3 customer has the right to request an informational
4 hearing regarding the proposed increase. If the
5 commission receives timely requests from at least
6 fifty affected customers the commission shall issue
7 an order that an informational hearing be held at
8 the date, time and place specified in the order.
9 The informational hearing must be held in a central
10 location in the area affected by the proposed rate
11 increase and not less than ten days after the
12 commission issues the order setting that hearing.
13 A copy of the order shall be mailed on the date issued
14 by ordinary first class mail, postage prepaid, to
15 the utility and to each person submitting a timely
16 request. The commission also shall cause notice of
17 the hearing to be published in a newspaper with general
18 circulation in the affected area not less than five
19 calendar days prior to the hearing date.

20 b. The informational hearing shall be held prior
21 to the commencement of formal rate proceedings before
22 the commission. A member of the commission or a
23 hearing examiner shall serve as the presiding officer
24 at the hearing and shall establish an agenda which
25 must include a summary of the legal rights of affected
26 customers. Testimony given at the informational
27 hearing, either orally or in writing, shall be reported
28 and transcribed and shall become part of the record
29 in formal proceedings.

30 c. The commission shall issue rules specifying
31 the form, content, time and manner of delivery of
32 the notice and the request specified in this
33 subsection. Rules must allow an affected customer
34 not less than fifteen calendar days in which to submit
35 a request for an informational hearing, measured from
36 the date notice of the proposed rate increase is
37 mailed by the utility to its customers. Rules also
38 must allow the submission of requests either
39 individually or in petition form.

40 4. Nothing in this chapter shall be taken to
41 prohibit a public utility from establishing a sliding
42 scale of rates and charges or from making provision
43 for the automatic adjustment of rates and charges
44 for public utility service provided that a schedule
45 showing such sliding scale or automatic adjustment
46 of rates and charges is first filed with and approved
47 by the commission.

48 5. Whenever there is filed with the commission
49 by any public utility subject to rate regulation any
50 new or changed rates, charges, schedules or

1 regulations, the commission may ~~7-prior-to-the-effective~~
2 ~~date-thereof~~, docket the case as a formal proceeding
3 and set the case for hearing. The commission shall
4 give such notice of such formal proceedings as it
5 ~~deems-appropriate~~ at least sixty days prior to the
6 date set for commencement of the hearing by publication
7 in a newspaper with general circulation in the affected
8 area.

9 ~~After-the-initiation-of-such-formal-proceedings~~
10 ~~and-pending-the-final-decision-thereon~~, ~~the-commission~~
11 ~~may~~, ~~at-any-time-before-they-become-effective~~, ~~suspend~~
12 ~~the-operation-of-such-new-or-changed-rates~~, ~~charges~~,
13 ~~schedules-or-regulations~~, ~~but-not-for-a-period-longer~~
14 ~~than-twelve-months-from-the-date-when-they-would-have~~
15 ~~become-effective-if-not-suspended.~~

16 However, a public utility shall have the right
17 at any time after said rates, charges, schedules or
18 regulations have been suspended for ninety days to
19 place in effect any or all of such suspended rates,
20 charges, schedules or regulations by filing with the
21 commission a bond or other undertaking approved by
22 the commission conditioned upon the refund in a manner
23 to be prescribed by the commission of any amounts
24 collected thereunder in excess of the amounts which
25 would have been collected under rates, charges,
26 schedules or regulations finally approved by the
27 commission. -- The commission shall establish a rate
28 of interest to be paid by a public utility to persons
29 receiving refunds. -- Such rate of interest shall be
30 not less than five percent per annum, nor more than
31 nine percent per annum.

32 6. If, after hearing and decision on all issues
33 presented for determination in such rate a formal
34 proceeding, the commission shall ~~find~~ finds the
35 proposed rates, charges, schedules or rules regulations
36 of the utility to be unlawful, ~~the-same-shall-be-set~~
37 ~~aside-and~~ the commission shall by order authorize
38 and direct the utility to file rates, charges,
39 schedules or rules regulations which, when approved
40 by the commission and placed in effect, will satisfy
41 the requirements of this chapter. The rates, charges,
42 schedules or rules regulations so approved shall be
43 lawful and effective ~~unless-changed-as-herein-provided~~
44 fourteen days after the date of approval, or at a
45 later date when the public utility places them into
46 effect. ~~In-the-event-a-petition-for-rehearing-is~~
47 ~~filed-or-a-petition-for-judicial-review-is-sought~~
48 ~~from-an-order-concerning-rates~~, ~~charges~~, ~~schedules~~
49 ~~or-rules-which-are-in-effect-under-bond~~, ~~these-rates~~,
50 ~~charges~~, ~~schedules-or-rules-may~~, notwithstanding the

1 ~~terms-of-the-Iowa-administrative-procedure-Act, to be~~
2 ~~continued-in-effect-by-the-utility-under-the-terms~~
3 ~~of-a-bond-or-other-undertaking-pending-final~~
4 ~~determination-of-the-application-for-rehearing-or~~
5 ~~proceeding-for-judicial-review-of-an-order-of-the~~
6 ~~commission.~~

7 7. If a decision is not rendered by the commission
8 within nine months after the date of filing, plus
9 extensions of time as provided in this subsection,
10 the utility has the right to place into effect as
11 of the expiration of the nine-month period plus
12 extensions any or all of the rates, charges, schedules
13 or regulations requested by filing with the commission
14 a bond or other undertaking approved by the commission
15 conditioned upon the refund in a manner to be
16 prescribed by the commission of any amounts collected
17 in excess of the amounts which would have been
18 collected under the rates, charges, schedules or
19 regulations finally approved by the commission. The
20 commission shall establish a rate of interest to be
21 paid by a public utility to persons receiving refunds,
22 which rate shall not be less than five nor more than
23 twelve percent. The nine-month period specified in
24 this subsection shall be extended for a period equal
25 to any delay or postponement of the proceedings or
26 the final decision which occurs at the request or
27 by agreement of the utility. In the event a utility
28 elects to place a rate, charge, schedule or regulation
29 into effect under the authority of this subsection,
30 a temporary authority which has been granted to the
31 utility by the commission under section two (2) of
32 this Act, and the terms, conditions and limitations
33 contained in the temporary authority, shall terminate
34 on the date the new rate, charge, schedule or
35 regulation is placed into effect under this subsection.

36 Sec. 2. Chapter four hundred seventy-six (476),
37 Code 1979, is amended by adding the following new
38 section:

39 NEW SECTION. If the commission determines after
40 notice and hearing that a new or changed rate, charge,
41 schedule or regulation is essential to protect the
42 public interest or to enable a utility to provide
43 reasonably adequate service or preserve its property
44 while a proceeding is in progress under sections four
45 hundred seventy-six point six (476.6) or four hundred
46 seventy-six point seven (476.7) of the Code, the
47 commission may approve, subject to terms, conditions
48 and limitations as it deems proper, a reasonable and
49 temporary rate, charge, schedule or regulation which
50 shall be in effect until a decision is rendered by

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1 the commission in the proceeding. When temporary
2 authority is granted by the commission under this
3 section, a party acting upon any part of that order
4 shall be deemed to have accepted and waived all
5 objections to the terms, conditions and limitations
6 contained in the temporary authority. However, this
7 section does not require or authorize the commission
8 to require that a utility refund any portion of amounts
9 collected under a temporary order issued under this
10 section.

11 Sec. 3. This Act takes effect January first
12 following its enactment. The provisions of this Act
13 apply only to the proceedings under section four
14 hundred seventy-six point six (476.6) or four hundred
15 seventy-six point seven (476.7) of the Code which
16 are commenced by a request submitted on or after the
17 effective date of this Act."

H-3261 FILED *Ruled not germane*
FEBRUARY 27, 1979 *2/28 (p. 707)*

BY JOCHUM of Dubuque
O'KANE of Woodbury
BRUNER of Story
RAPP of Black Hawk

HOUSE FILE 337

H-3259

1 Amend House File 337 as follows:

2 1. Page 1, by striking lines 15 through 17 and
 3 inserting in lieu thereof the following: "to persons
 4 receiving refunds under this paragraph. Such rate
 5 of interest shall be not less than five percent per
 6 annum, nor more than ~~nine~~ twelve percent per annum,
 7 compounded annually. The rate of interest established
 8 by the commission under this paragraph also shall
 9 apply to and be paid by all public utilities on those
 10 customer accounts on which customers make payments
 11 in advance for utility services to be provided in
 12 the future, and the interest shall accrue to each
 13 of these customers for each billing cycle according
 14 to the amount by which the account balance exceeds
 15 the amount due for current service."

H-3259 FILED *Loss 2/28 (p. 710)*
FEBRUARY 27, 1979

BY BRUNER of Story
RAPP of Black Hawk

HOUSE FILE 337

H-3260

1 Amend House File 337 as follows:

2 1. Page 1, by inserting before line 1 the
 3 following:
 4 "Section 1. Section four hundred seventy-six point
 5 six (476.6), unnumbered paragraph one (1), Code 1979,
 6 is amended to read as follows:
 7 ~~No~~ A public utility which is subject to rate
 8 regulation shall not make effective any new or changed
 9 rate, charge, schedule or regulation except by filing
 10 ~~the same~~ it with the commission at least thirty days
 11 prior to ~~the~~ its effective date ~~thereof~~. The commis-
 12 sion, for good cause shown, may allow changes in
 13 rates, charges, schedules or regulations to become
 14 effective on less than thirty days' notice. The
 15 commission shall not approve a charge nor shall a
 16 public utility make a charge for telephone directory
 17 assistance. A public utility which is subject to
 18 rate regulation shall not file a new or changed rate,
 19 charge, schedule or regulation respecting a type or
 20 category of service provided by the public utility
 21 while a previously filed, new or changed rate, charge,
 22 schedule or regulation respecting the same type or
 23 category of service is still pending either before
 24 the commission, or before the courts pursuant to judi-
 25 cial review. A new or changed rate, charge, schedule
 26 or regulation which is filed in violation of this
 27 paragraph is void."
 28 2. By renumbering sections of the bill.

H-3260 FILED *Revised not germane*
FEBRUARY 27, 1979 *2/28 (p. 700)*

BY JOCHUM of Dubuque
O'KANE of Woodbury
BRUNER of Story
RAPP of Black Hawk

HOUSE FILE 337

S-3312

- 1 Amend House File 337 as passed by the House as
 2 follows:
 3 1. Page 1, line 16, by inserting after the word
 4 "be" the words "equal to the weighted average cost
 5 of capital for debt incurred during the period in
 6 which the excess was collected but in any event
 7 shall be".

S-3312 FILED *W. Drawn 4/18 (p. 1247)* BY ARTHUR A. SMALL
 MARCH 28, 1979

HOUSE FILE 337

S-3524

- 1 Amend House File 337 as passed by the House as
 2 follows:
 3 1. Page 1, by striking lines 2 through 19 and
 4 inserting in lieu thereof the following:
 5 "(476.6) is amended by striking unnumbered para-
 6 graph six (6), Code 1979."

S-3524 FILED & LOST *(p. 1249)* BY ROBERT M. CARR
 APRIL 18, 1979 EARL M. WILLITS

HOUSE FILE 337

S-3525

- 1 Amend House File 337 as passed by the House as
 2 follows:
 3 1. Page 1, by striking line 16 and inserting
 4 in lieu thereof the following: "be not less than
 5 the weighted average cost of capital for debt
 6 incurred during the period in which the excess was
 7 collected five-per-cent-per-annum,".

S-3525 FILED & WITHDRAWN *(p. 1250)* BY ARTHUR A. SMALL, JR.
 APRIL 18, 1979

HOUSE FILE 337

S-3527

- 1 Amend House File 337 as passed by the House as
 2 follows:
 3 1. Page 1, by striking line 16 and inserting
 4 in lieu thereof the following: "be not less than
 5 the weighted average cost of capital for debt
 6 incurred during the period in which the excess was
 7 collected five-per-cent-per-annum, nor more than
 8 nine".

S-3527 FILED & LOST *(p. 1250)* BY ARTHUR A. SMALL, JR.
 APRIL 18, 1979

HOUSE FILE 337

Sec. 2. This Act is effective with respect to rates collected subject to refund after June 30, 1979.

AN ACT

AMENDING SECTION FOUR HUNDRED SEVENTY-SIX POINT SIX (476.6), UNNUMBERED PARAGRAPH SIX (6), OF THE CODE TO PROVIDE THAT THE RATE OF INTEREST PAYABLE BY A PUBLIC UTILITY ON AMOUNTS REFUNDED TO CUSTOMERS UNDER THAT PARAGRAPH SHALL BE NOT MORE THAN TWELVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY.

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

Section 1. Section four hundred seventy-six point six (476.6), unnumbered paragraph six (6), Code 1979, is amended to read as follows:

However, a public utility shall have the right at any time after said rates, charges, schedules or regulations have been suspended for ninety days to place in effect any or all of such suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commission conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected thereunder in excess of the amounts which would have been collected under rates, charges, schedules or regulations finally approved by the commission. The commission shall establish a rate of interest to be paid by a public utility to persons receiving refunds. Such rate of interest shall be not less than five percent per annum, nor more than ~~nine~~ twelve percent per annum, compounded annually.

FLOYD H. MILLEN
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 337, Sixty-eighth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved April 26, 1979

ROBERT D. RAY
Governor