

FILED FEB 15 1989

Energy + Environ. protection
Dopass 3-21-89 (p. 119)

SENATE FILE 229

BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

(SUCCESOR TO SSB 171)

Passed Senate, Date 2-24-89 (p. 508) Passed House, Date 4-13-89 (p. 558)
Vote: Ayes 49 Nays 0 Vote: Ayes 94 Nays 0
Approved 4-27-89 (p. 1719)

A BILL FOR

- 1 An Act allowing a complainant or public utility to petition the
- 2 utilities board to initiate a formal proceeding.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 229

S-3086

- 1 Amend Senate File 229 as follows:
- 2 1. Page 1, line 32, by inserting after the word
- 3 "motion." the following: "If a written complaint
- 4 filed with the board under this subsection does not
- 5 result in the initiation of a formal proceeding before
- 6 the board, the complainant shall not be precluded from
- 7 any issues arising from the complaint in a subsequent
- 8 adjudication."

By MICHAEL E. GRONSTAL

S-3086 FILED FEBRUARY 16, 1989

SF 229

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1 Section 1. Section 476.3, subsection 1, Code 1989, is
2 amended to read as follows:

3 1. A public utility shall furnish reasonably adequate
4 service at rates and charges in accordance with tariffs filed
5 with the board. When there is filed with the board by any
6 person or body politic, or filed by the board upon its own
7 motion, a written complaint requesting the board to determine
8 the reasonableness of the rates, charges, schedules, service,
9 regulations, or anything done or omitted to be done by a
10 public utility subject to this chapter in contravention of
11 this chapter, the written complaint shall be forwarded by the
12 board to the public utility, which shall be called upon to
13 satisfy the complaint or to answer it in writing within a
14 reasonable time to be specified by the board. Copies of the
15 written complaint forwarded by the board to the public utility
16 and copies of all correspondence from the public utility in
17 response to the complaint shall be provided by the board in an
18 expeditious manner to the consumer advocate. If the board
19 determines the public utility's response is inadequate and
20 there appears to be any reasonable ground for investigating
21 the complaint, the board shall promptly initiate a formal
22 proceeding. If the consumer advocate determines the public
23 utility's response to the complaint is inadequate, the
24 consumer advocate may file a petition with the board which
25 shall promptly initiate a formal proceeding if the board
26 determines that there is any reasonable ground for
27 investigating the complaint. The complainant or the public
28 utility also may petition the board to initiate a formal
29 proceeding which petition shall be granted if the board
30 determines that there is any reasonable ground for
31 investigating the complaint. The formal proceeding may be
32 initiated at any time by the board on its own motion. If a
33 proceeding is initiated upon petition filed by the consumer
34 advocate, complainant, or the public utility, or upon the
35 board's own motion, the board shall set the case for hearing

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1 and give notice as it deems appropriate. When the board,
2 after a hearing held after reasonable notice, finds a public
3 utility's rates, charges, schedules, service, or regulations
4 are unjust, unreasonable, discriminatory, or otherwise in
5 violation of any provision of law, the board shall determine
6 just, reasonable, and nondiscriminatory rates, charges,
7 schedules, service, or regulations to be observed and
8 enforced.

9

EXPLANATION

10 Under current law a written complaint may be filed with the
11 utilities board by any person or body politic requesting the
12 board to determine the reasonableness of the rates, charges,
13 schedules, service, regulations, or anything done or omitted
14 to be done by a public utility subject to regulation under
15 chapter 476 in contravention of chapter 476. The complaint is
16 forwarded to the public utility which is provided an
17 opportunity to satisfy the complaint or answer it in writing.
18 Copies of the correspondence are provided to the consumer
19 advocate. If the board determines the public utility's
20 response is inadequate and there appears to be any reasonable
21 ground for investigating the complaint, the board is required
22 to initiate a formal proceeding. If the consumer advocate
23 determines the public utility's response to the complaint is
24 inadequate, the consumer advocate may file a petition with the
25 board which is required to initiate a formal proceeding if the
26 board determines that there is any reasonable ground for
27 investigating the complaint.

28 This bill allows the complainant or the public utility to
29 also petition the board to initiate a formal proceeding which
30 is to be granted if the board determines that there is any
31 reasonable ground for investigating the complaint.

32 This issue was recently dealt with by the Iowa supreme
33 court in Iowa Electric Light and Power Company v. Lagle, 430
34 N.W.2d 393 (Iowa 1988). In the case, Ms. Lagle had originally
35 filed a complaint with the utilities board which informed her

1 that any power loss was on her side of the meter and therefore
2 was her responsibility. The board informed her that if she
3 was dissatisfied with their disposition, she could initiate
4 formal complaint proceedings before the board. She chose not
5 to initiate formal complaint proceedings before the board, but
6 when Iowa Electric sued Ms. Lagle for her unpaid bill, she
7 counterclaimed for damages resulting from the utility
8 company's alleged negligence. In a procedural appeal, Iowa
9 Electric charged that Ms. Lagle, by choosing not to request
10 formal proceedings, had waived the right to such a hearing and
11 that she must be treated, for issue preclusion purposes, as if
12 she had actually had a hearing. The Iowa supreme court
13 disagreed and noted that although the utility board's rules
14 purport to give the right to formal proceedings on the request
15 of a complaining customer, the statute only provides for the
16 board or the consumer advocate to initiate formal proceedings.
17 Under this bill, the complainant and the public utility may
18 petition the board to initiate a formal proceeding.

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STURGEON, CH.

CARR
HEDGE

SSB 171

ENVIRONMENT +
ENERGY UTILITIES

SENATE FILE 229

BY (PROPOSED COMMITTEE ON
ENVIRONMENT AND ENERGY
UTILITIES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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SENATE FILE 229

AN ACT

ALLOWING A COMPLAINANT OR PUBLIC UTILITY TO PETITION THE UTILITIES BOARD TO INITIATE A FORMAL PROCEEDING.

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

Section 1. Section 476.3, subsection 1, Code 1989, is amended to read as follows:

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determines that there is any reasonable ground for investigating the complaint. The formal proceeding may be initiated at any time by the board on its own motion. If a proceeding is initiated upon petition filed by the consumer advocate, complainant, or the public utility, or upon the board's own motion, the board shall set the case for hearing and give notice as it deems appropriate. When the board, after a hearing held after reasonable notice, finds a public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the board shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 229, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved .. 4/27 .. 1989

TERRY E. BRANSTAD
Governor

SF 229