

House Study Bill 59

Conference Committee Text

PAG LIN

1 1 Section 1. Section 476.3, subsection 2, Code 1995, is
1 2 amended by adding the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions
1 4 of this subsection, the consumer advocate shall not file a
1 5 petition under this subsection which alleges that a utility's
1 6 rates are excessive while the utility is participating in a
1 7 price regulation plan approved by the board pursuant to
1 8 section 476.30A.
1 9 Sec. 2. NEW SECTION. 476.30 FINDINGS & STATEMENT OF
1 10 POLICY.
1 11 The general assembly finds all of the following:
1 12 1. Communications services should be available throughout
1 13 the state at just, reasonable, and affordable rates.
1 14 2. Regulatory flexibility is appropriate when competition
1 15 provides consumers with choices in the variety, quality, and
1 16 pricing of communications services, and when consistent with
1 17 consumer protection and other relevant public interests.
1 18 3. The utilities board should respond rapidly and with
1 19 flexibility to changes in the communications industry.
1 20 4. Economic development can be fostered by advanced
1 21 communications networks.
1 22 Sec. 3. NEW SECTION. 476.30A DEFINITIONS.
1 23 As used in sections 476.30 through 476.30B, unless the
1 24 context otherwise requires:
1 25 1. "Essential communications service" includes at a
1 26 minimum, basic local telephone service, switched access, 911
1 27 and E-911 services, and relay service for communications-
1 28 impaired persons. The board may classify by rule other
1 29 communications services as essential communications services
1 30 consistent with community expectations and the public
1 31 interest.
1 32 2. "Nonessential communications services" means all
1 33 communications services subject to the board's jurisdiction
1 34 not defined or classified either by statute or by rule as
1 35 essential communications services. Consistent with community
2 1 expectations and the public interest, the board may reclassify
2 2 by rule as nonessential those communications services
2 3 previously classified by rule as essential.
2 4 Sec. 4. NEW SECTION. 476.30B PRICE REGULATION.
2 5 1. Notwithstanding contrary provisions of this chapter
2 6 relating to rate regulation, the board may adopt rules
2 7 relating to price regulation for rate-regulated utilities
2 8 furnishing communications services.
2 9 2. If rules for price regulation are adopted, a rate-
2 10 regulated utility certified under section 476.29 shall submit
2 11 a plan for price regulation specific to that utility. The
2 12 board, after notice and opportunity for hearing, may approve,
2 13 modify, or reject the plan.
2 14 3. A price regulation plan shall, at a minimum, include
2 15 provisions for all of the following:
2 16 a. Establishing and changing prices, terms, and conditions
2 17 for essential communications services.
2 18 b. Establishing and changing prices, terms, and conditions
2 19 for nonessential communications services.
2 20 c. Reporting new service offerings to the board.
2 21 d. Reflecting changes in revenues, expenses, and

2 22 investment due to exogenous factors beyond the control of the
2 23 utility in the rates charged by the utility.

2 24 e. Modernizing the utility's telecommunications
2 25 infrastructure.

2 26 4. The board shall consider the extent to which a proposed
2 27 plan achieves the following:

2 28 a. Just, nondiscriminatory, and reasonable rates.

2 29 b. High quality, universally available communications
2 30 services.

2 31 c. Investment in communications infrastructure, efficiency
2 32 improvements, and technological innovation.

2 33 d. Introduction of new communications products and
2 34 services.

2 35 e. Regulatory efficiency, including reduction of
3 1 regulatory costs and delays.

3 2 5. The board shall have authority over all of the
3 3 following:

3 4 a. The level, extent, and timing of the unbundling of
3 5 services by the local exchange utility.

3 6 b. Ensuring against cross subsidization of nonessential
3 7 services by essential services.

3 8 6. Any person may file a complaint pursuant to section
3 9 476.3, subsection 1, regarding a utility's operation under its
3 10 price regulation plan.

3 11 7. The consumer advocate may represent consumers before
3 12 the utilities board regarding any rule, order, or proceeding
3 13 pertaining to price regulation. The consumer advocate may act
3 14 as attorney for and represent consumers generally before any
3 15 state or federal court concerning a utilities board rule,
3 16 order, or proceeding pertaining to price regulation.

3 17 8. In implementing price regulation, the board shall
3 18 consider methods to assist low-income Iowans to secure and
3 19 retain telephone services.

3 20 9. The board shall review a utility's operation under its
3 21 plan, with notice and an opportunity for hearing, prior to the
3 22 termination of the plan or within five years of the initiation
3 23 of the plan, whichever comes first.

3 24 Sec. 5. NEW SECTION. 476.30C PROHIBITED ACTS.

3 25 A utility under a price regulation plan shall not do any of
3 26 the following:

3 27 1. Discriminate against another provider of communications
3 28 services by refusing or delaying access to regulated services
3 29 or in the pricing of regulated services.

3 30 2. Degrade the quality of access or service provided to
3 31 another provider of communications services.

3 32 3. Fail to disclose in a timely manner, upon request and
3 33 pursuant to a protective agreement concerning proprietary
3 34 information, all information reasonably necessary for the
3 35 design of network interface equipment or network interface
4 1 services that will meet the specifications of the
4 2 participating utility's local exchange network.

4 3 Sec. 6. REPORT. The utilities board shall submit a report
4 4 to the general assembly no later than January 15, 1999,
4 5 concerning the implementation of price regulation for
4 6 utilities furnishing communications services.

4 7 EXPLANATION

4 8 The bill provides the utilities board with the authority to
4 9 adopt rules to implement price regulation for rate-regulated
4 10 telephone companies. The bill provides that the board is to
4 11 consider the extent to which a proposed plan achieves just,
4 12 nondiscriminatory, and reasonable rates; high quality,
4 13 universally available communications services; investment in
4 14 communications infrastructure, efficiency improvements, and
4 15 technological innovation; the introduction of new
4 16 communications products and services; and regulatory
4 17 efficiency, including reduction of regulatory costs and
4 18 delays. The consumer advocate is authorized to represent

4 19 consumers before the utilities board regarding any proceeding
4 20 pertaining to price regulation. In implementing price
4 21 regulation, the board is directed to consider methods to
4 22 assist low-income Iowans in securing and retaining telephone
4 23 services.

4 24 The bill defines essential communications services to
4 25 include at a minimum, basic local telephone service, switched
4 26 access, 911 and E-911 services, and relay service for
4 27 communications-impaired persons. Nonessential communications
4 28 services are defined as all communications services subject to
4 29 the board's jurisdiction not deemed either by statute or by
4 30 rule as essential communications services.

4 31 BACKGROUND STATEMENT
4 32 SUBMITTED BY THE AGENCY

4 33 The bill allows price regulation for rate-regulated
4 34 telephone companies in place of traditional rate-of-return
4 35 regulation. Under price regulation, utilities are allowed to
5 1 change rates within limits and on notice to their customers
5 2 and the board. Price increases under typical price regulation
5 3 plans are limited by an index that includes inflation,
5 4 industry productivity, and other factors. Generally, price
5 5 reductions are not limited.

5 6 The reasons for authorizing price regulation relate to
5 7 increasing competition in the telephone industry. A number of
5 8 services have already been deregulated by the board, pursuant
5 9 to statute, because they are subject to effective competition.
5 10 Other services offered by the former monopoly providers are
5 11 beginning to be offered by competitors. In this environment,
5 12 the traditional rate-making method hinders competition by
5 13 rate-regulated providers. Price regulation allows flexible
5 14 and timely responses in a dynamic marketplace. It also
5 15 provides those companies better incentives to control costs
5 16 and introduce new services. In a more competitive industry,
5 17 price regulation will usually produce better results for the
5 18 telephone company's ordinary customers, for other telephone
5 19 companies that must buy services from it, and for the company
5 20 itself, than traditional rate-of-return regulation, without
5 21 being unfair or sending improper economic signals to potential
5 22 competitors. A properly designed price regulation plan can
5 23 allow the telephone company to compete within reasonable
5 24 parameters, while offering customers appropriate protection as
5 25 to rates and service quality.

5 26 Traditional rate-of-return regulation requires complex and
5 27 lengthy rate cases to consider evidence on the utility's
5 28 revenues, expenses, capital structure, and a proper return on
5 29 its investment, as well as testimony on the amount of revenue
5 30 to be recovered from individual services offered by the
5 31 utility. These cases take up to 10 months at the agency and
5 32 up to three years, if appealed to the courts. A rate case can
5 33 be initiated by the utility if it believes its revenues are
5 34 inadequate, or by the consumer advocate if it believes the
5 35 utility is overearning. Rate-of-return regulation gets its
6 1 name because in a rate case the utilities board determines the
6 2 amount of revenue needed to provide the utility the
6 3 opportunity to recover its expenses plus a reasonable rate of
6 4 return on the investment of shareholders.

6 5 LSB 1200DP 76

6 6 mj/sc/14.1