

Senate Study Bill 3093 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/UTILITIES DIVISION
BILL)

A BILL FOR

1 An Act modifying provisions applicable to matters under the
2 regulatory authority of the utilities board of the utilities
3 division of the department of commerce.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.4, Code 2014, is amended to read as
2 follows:

3 **476.4 Tariffs filed.**

4 1. Every public utility shall file with the board tariffs
5 showing the rates and charges for its public utility services
6 and the rules and regulations under which such services were
7 furnished, on April 1, 1963, which rates and charges shall be
8 subject to investigation by the board as provided in section
9 476.3, and upon such investigation the burden of establishing
10 the reasonableness of such rates and charges shall be upon the
11 public utility filing the same. These filings shall be made
12 under such rules as the board may prescribe within such time
13 and in such form as the board may designate. In prescribing
14 rules and regulations with respect to the form of tariffs,
15 the board shall, in the case of public utilities subject to
16 regulation by any federal agency, give due regard to any
17 corresponding rules and regulations of such federal agency, to
18 the end that unnecessary duplication of effort and expense may
19 be avoided so far as reasonably possible. Each public utility
20 shall keep copies of its tariffs open to public inspection
21 under such rules as the board may prescribe.

22 2. A telephone utility is required to file tariffs as
23 provided in this section only for such wholesale services as
24 may be specified by the board.

25 3. Every rate, charge, rule, and regulation contained in
26 any filing made with the commission on or prior to July 4,
27 1963, shall be effective as of such date, subject, however, to
28 investigation as herein provided. If any such filing is made
29 prior to the time the commission prescribes rules as aforesaid,
30 and if such filing does not comply as to form or substance with
31 such rules, then the public utility which filed the same shall
32 within a reasonable time after the adoption of such rules make
33 a new filing or filings complying with such rules, which new
34 filing or filings shall be deemed effective as of July 4, 1963.

35 Sec. 2. Section 476.29, subsections 3 and 6, Code 2014, are

1 amended to read as follows:

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

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

14 Sec. 3. Section 476.72, subsections 4 and 5, Code 2014, are
15 amended to read as follows:

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

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

24 Sec. 4. Section 476.78, Code 2014, is amended to read as
25 follows:

26 **476.78 Cross-subsidization prohibited.**

27 A ~~rate-regulated gas or electric~~ public utility shall
28 not directly or indirectly include any costs or expenses
29 attributable to providing nonutility service in regulated
30 rates or charges. Except for contracts existing as of July
31 1, 1996, a ~~rate-regulated gas or electric~~ public utility or
32 its affiliates shall not use vehicles, service tools and
33 instruments, or employees, the costs, salaries, or benefits
34 of which are recoverable in the regulated rates for electric
35 service or gas service to install, service, or repair

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

13 Sec. 5. Section 476.79, Code 2014, is amended to read as
14 follows:

15 **476.79 Provision of nonutility service.**

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

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

27 Sec. 6. Section 476.80, unnumbered paragraph 1, Code 2014,
28 is amended to read as follows:

29 A ~~rate-regulated gas or electric~~ public utility which
30 engages in a systematic marketing effort as defined by the
31 board, other than on an incidental or casual basis, to promote
32 the availability of nonutility service from the public
33 utility shall make available at reasonable compensation on a
34 nondiscriminatory basis to all persons engaged primarily in
35 providing the same competitive nonutility services in that area

1 all of the following services to the same extent utilized by
2 the public utility in connection with its nonutility services:

3 Sec. 7. Section 476.81, Code 2014, is amended to read as
4 follows:

5 **476.81 Audit required.**

6 The board may periodically retain a nationally or regionally
7 recognized independent auditing firm to conduct an audit of
8 the nonutility services provided by a ~~rate-regulated gas or~~
9 ~~electric~~ public utility subject to the provisions of section
10 476.80. A nonutility service audit shall not be conducted more
11 frequently than every three years, unless ordered by the board
12 for good cause. The cost of the audit shall be paid by the
13 public utility to the independent auditing firm and shall be
14 included in its regulated rates and charges, unless otherwise
15 ordered by the board for good cause after providing the public
16 utility the opportunity for a hearing on the board's decision.

17 Sec. 8. Section 476.83, Code 2014, is amended to read as
18 follows:

19 **476.83 Complaints.**

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

32 Sec. 9. Section 476.101, subsections 1, 8, and 10, Code
33 2014, are amended to read as follows:

34 1. A certificate of public convenience and necessity to
35 provide local telephone service shall not be interpreted as

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

18 8. Any person may file a written complaint with the
19 board requesting the board to determine compliance by a
20 local exchange carrier with the provisions of sections
21 476.96 through 476.100, 476.102, and this section, or any
22 board rules implementing those sections. Upon the filing
23 of such complaint, the board may promptly initiate a formal
24 complaint proceeding and give notice of the proceeding and the
25 opportunity for hearing. The formal complaint proceeding may
26 be initiated at any time by the board on its own motion. The
27 board shall render a decision in the proceeding within ninety
28 days after the date the written complaint was filed. The
29 board, for good cause shown, may extend the deadline for acting
30 upon the complaint for an additional period not to exceed
31 thirty days.

32 10. In a proceeding associated with the granting of a
33 certificate under section 476.29, approving maps ~~and tariffs~~
34 for competitive local exchange providers provided for in
35 this section, or in resolving a complaint filed pursuant

1 to subsection 8 and proceedings under 47 U.S.C. § 251 -
2 254, the board shall allocate the costs and expenses of the
3 proceedings to persons identified as parties in the proceeding
4 who are engaged in or who seek to engage in providing
5 telecommunications services or other persons identified as
6 participants in the proceeding. The funds received for the
7 costs and the expenses shall be remitted to the treasurer of
8 state for deposit in the department of commerce revolving fund
9 created in section 546.12 as provided in section 476.10.

10 Sec. 10. Section 477.9A, Code 2014, is amended to read as
11 follows:

12 **477.9A Deregulated services.**

13 1. A telegraph or telephone company whose services are
14 deregulated by the board under section 476.1D may use public
15 notice as a means of conveying terms and conditions to
16 customers where identification of those customers is infeasible
17 or impractical. Public notice may also be used to convey
18 changes in terms and conditions, other than price increases or
19 limitations of liability, to all other customers, but only if
20 those customers were put on notice that this means would be
21 used to convey subsequent changes. Notwithstanding section
22 477.7, when services are deregulated by the board under section
23 476.1D, a telegraph or telephone company, in any contract,
24 agreement, or by means of public notice, may reasonably limit
25 its liability under section 477.7 in the course of providing
26 the deregulated communications services to its customers,
27 except for acts of willful misconduct. However, this section
28 does not allow a greater limitation on liability than exists in
29 any contract or approved tariff as of the effective date of the
30 deregulation of the services.

31 2. A telephone company whose services are subject to
32 regulation by the board with respect to terms and conditions,
33 but not rates, shall give notice of rate changes to customers
34 pursuant to rules adopted by the board. Such rules shall
35 include, as appropriate, options for notice by publication,

1 by electronic mail, and by such other means as the board
2 determines to be reasonable.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill modifies provisions applicable to matters under
7 the regulatory authority of the Iowa utilities board pertaining
8 to the furnishing of telecommunications services.

9 The bill provides that tariff requirements applicable to
10 public utilities showing the rates and charges for their
11 services shall, with regard to telephone utilities, apply
12 only for wholesale services as may be specified by the board.
13 Several references to tariffs applying to nonwholesale services
14 are deleted consistent with this new provision. The bill also
15 deletes references to rate-regulated local exchange utilities
16 with regard to the transferability of a certificate of public
17 convenience and necessity, and with regard to public utility
18 affiliate disclosure, and makes conforming changes consistent
19 with this modification.

20 The bill provides that the current 90-day time frame for
21 board action regarding local exchange carrier compliance
22 complaint decisions may be extended by the board for good cause
23 shown for an additional period not to exceed 30 days.

24 Finally, the bill provides that a telephone company whose
25 services are subject to board regulation with respect to terms
26 and conditions, but not rates, shall give notice of rate
27 changes to customers pursuant to specified rules adopted by the
28 board.