

House Study Bill 107 - Introduced

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

A BILL FOR

1 An Act relating to matters under the purview of the utilities
2 division of the department of commerce, and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 34A.2, subsections 8 and 14, Code 2019,
2 are amended to read as follows:

3 8. "*Competitive local exchange service provider*" means the
4 ~~same as defined in section 476.96~~ any person, including a
5 municipal utility, that provides local exchange services, other
6 than a local exchange carrier or a non-rate-regulated wireline
7 provider of local exchange services.

8 14. "*Local exchange carrier*" means the ~~same as defined in~~
9 ~~section 476.96~~ any person that was the incumbent and historical
10 rate-regulated wireline provider of local exchange services
11 or any successor to such person that provides local exchange
12 services.

13 Sec. 2. Section 423.3, subsection 47A, Code 2019, is amended
14 to read as follows:

15 47A. a. The sales price from the sale or rental of central
16 office equipment or transmission equipment primarily used by
17 local exchange carriers and competitive local exchange service
18 providers ~~as defined in section 476.96~~; by franchised cable
19 television operators, mutual companies, municipal utilities,
20 cooperatives, and companies furnishing communications services
21 that are not subject to rate regulation as provided in chapter
22 476; by long distance companies as defined in section 477.10;
23 or for a commercial mobile radio service as defined in 47
24 C.F.R. §20.3 in the furnishing of telecommunications services
25 on a commercial basis.

26 b. For the purposes of this subsection,

27 (1) "*central office equipment*" means equipment utilized
28 in the initiating, processing, amplifying, switching, or
29 monitoring of telecommunications services. "*Central office*
30 equipment" also includes ancillary equipment and apparatus
31 which support, regulate, control, repair, test, or enable such
32 equipment to accomplish its function.

33 (2) "*Competitive local exchange service provider*" means
34 any person, including a municipal utility, that provides
35 local exchange services, other than a local exchange carrier

1 or a non-rate-regulated wireline provider of local exchange
2 services.

3 (3) "Local exchange carrier" means any person that was the
4 incumbent and historical rate-regulated wireline provider of
5 local exchange services or any successor to such person that
6 provides local exchange services.

7 (4) "Transmission equipment" means equipment utilized
8 in the process of sending information from one location to
9 another location. ~~"Central office equipment" and "transmission~~
10 "Transmission equipment" also include includes ancillary
11 equipment and apparatus which support, regulate, control,
12 repair, test, or enable such equipment to accomplish its
13 function.

14 Sec. 3. Section 476.2, Code 2019, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 4A. The board shall have the authority
17 to employ or appoint an independent administrative law judge
18 to preside over any hearing or proceeding before the board.
19 Sections 10A.801 and 17A.11 do not apply to the employment or
20 appointment of an administrative law judge pursuant to this
21 subsection.

22 Sec. 4. Section 476.10, subsection 1, paragraph b, Code
23 2019, is amended to read as follows:

24 b. The board shall ascertain the total of the division's
25 expenses incurred during each fiscal year in the performance
26 of its duties under law. The board shall add to the total of
27 the division's expenses the certified expenses of the consumer
28 advocate as provided under [section 475A.6](#). The board shall
29 deduct all amounts charged directly to any person from the
30 total expenses of the board and the consumer advocate. The
31 board may assess an estimate of the amount remaining after
32 the estimated deduction for direct charges to some or all
33 persons providing service over which the board has jurisdiction
34 in proportion to the respective gross operating revenues
35 of such persons from intrastate operations during the last

1 calendar year over which the board has jurisdiction. For
2 purposes of determining gross operating revenues under this
3 section, the board shall not include gross receipts received
4 by a cooperative corporation or association for wholesale
5 transactions with members of the cooperative corporation
6 or association, provided that the members are subject to
7 assessment by the board based upon the members' gross operating
8 revenues, or provided that such a member is an association
9 whose members are subject to assessment by the board based upon
10 the members' gross operating revenues. If any portion of the
11 remainder can be identified with a specific type of utility
12 service, the board shall assess an estimate of those expenses
13 only to the entities providing that type of service over which
14 the board has jurisdiction. The board may make the remainder
15 assessments under this paragraph on a quarterly basis, based
16 upon estimates of the expenditures for the fiscal year for
17 the utilities division and the consumer advocate. Not more
18 than ninety days following the close of the fiscal year, the
19 utilities division shall conform the amount of the prior fiscal
20 year's assessments to the requirements of this paragraph. For
21 gas and electric public utilities exempted from rate regulation
22 pursuant to [this chapter](#), the remainder assessments under
23 this paragraph shall be computed at one-half the rate used in
24 computing the assessment for other persons.

25 Sec. 5. Section 476.55, subsection 2, paragraph a,
26 unnumbered paragraph 1, Code 2019, is amended to read as
27 follows:

28 Notwithstanding [section 476.1D](#), the board may receive
29 a complaint from a local exchange carrier that another
30 local exchange carrier has engaged in an activity that is
31 inconsistent with antitrust laws and the policies which
32 underlie them. For purposes of [this subsection](#), "*local exchange*
33 *carrier*" means ~~the same as defined in section 476.96~~ any person
34 that was the incumbent and historical rate-regulated wireline
35 provider of local exchange services or any successor to such

1 person that provides local exchange services, and includes a
2 city utility authorized pursuant to [section 388.2](#) to provide
3 local exchange services. If, after notice and opportunity for
4 hearing, the board finds that a local exchange carrier has
5 engaged in an activity that is inconsistent with antitrust laws
6 and the policies which underlie them, the board may order any
7 of the following:

8 Sec. 6. Section 477C.7, subsection 2, Code 2019, is amended
9 to read as follows:

10 2. The entities subject to assessment shall remit the
11 assessed amounts ~~quarterly~~ to a special fund, as defined under
12 section 8.2, subsection 9, at intervals as directed by the
13 board. The moneys in the fund are appropriated solely to
14 plan, establish, administer, and promote the relay service and
15 equipment distribution programs.

16 Sec. 7. Section 479.31, subsection 1, Code 2019, is amended
17 to read as follows:

18 1. A person who violates [this chapter](#) or any rule or
19 order issued pursuant to [this chapter](#) shall be subject to a
20 civil penalty levied by the board ~~not to exceed one hundred~~
21 ~~thousand dollars for each violation~~ in accordance with 49
22 C.F.R. §190.223. Each day that the violation continues shall
23 constitute a separate offense. ~~However, the maximum civil~~
24 ~~penalty shall not exceed one million dollars for any related~~
25 ~~series of violations~~. Civil penalties collected pursuant to
26 this section shall be forwarded by the chief operating officer
27 of the board to the treasurer of state to be credited to the
28 general fund of the state and appropriated to the division of
29 community action agencies of the department of human rights for
30 purposes of the low income home energy assistance program and
31 the weatherization assistance program.

32 Sec. 8. Section 479A.7, Code 2019, is amended to read as
33 follows:

34 **479A.7 Annual inspection fee.**

35 A The board may, in accordance with section 476.10, charge

1 a pipeline company shall pay with an annual inspection fee of
2 fifty cents per mile of pipeline or fraction thereof for each
3 inch of diameter of the pipeline located in this state. The
4 annual inspection fee shall be paid for the calendar year in
5 advance between January 1 and February 1 of each year that
6 is directly attributable to the costs of conducting annual
7 inspections pursuant to this chapter.

8

EXPLANATION

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

11 This bill modifies provisions relating to the utilities
12 division of the department of commerce.

13 The bill removes cross references throughout the Code to
14 repealed Code section 476.96, which included definitions for
15 "competitive local exchange service provider" and "local
16 exchange carrier", and provides new definitions for such terms
17 in those Code sections. "Competitive local exchange service
18 provider" is defined as any person, including a municipal
19 utility, that provides local exchange services, other than
20 a local exchange carrier or a non-rate-regulated wireline
21 provider of local exchange services. "Local exchange carrier"
22 is defined as any person that was the incumbent and historical
23 rate-regulated wireline provider of local exchange services
24 or any successor to such person that provides local exchange
25 services.

26 The bill provides the Iowa utilities board with authority
27 to employ or appoint an independent administrative law judge
28 to preside over any hearing or proceeding before the board.
29 Certain provisions applicable to the employment or appointment
30 of administrative law judges by state agencies do not apply to
31 appointments by the board.

32 Current law requires the board to deduct all amounts charged
33 directly to any person subject to the jurisdiction of the
34 board for providing utility services from the total annual
35 expenses of the board and the consumer advocate. The board may

1 assess the remaining amount to all persons providing service
2 over which the board has jurisdiction in proportion to their
3 respective gross operating revenues. The bill allows the board
4 to charge such assessments based on estimated amounts, and to
5 be assessed to some or all persons providing service over which
6 the board has jurisdiction.

7 Current law requires telecommunications carriers subject to
8 assessments under Code chapter 477C to remit the assessments
9 to a special fund quarterly. The bill removes the requirement
10 that assessments under Code chapter 477C be remitted quarterly
11 and instead allows the board to direct the intervals of when
12 such assessments are to be remitted.

13 Current law allows the board to impose a civil penalty of up
14 to \$100,000 for each violation of Code chapter 479, relating
15 to pipelines and underground gas storage, or any rule or order
16 issued pursuant to the Code chapter, provided that the maximum
17 penalty does not exceed \$1 million for any related series of
18 violations. The bill removes these maximum amounts and instead
19 provides that a civil penalty levied by the board shall be in
20 accordance with specified federal law.

21 Current law requires pipeline companies operating pipelines
22 or underground storage under Code chapter 479A to pay the board
23 an annual inspection fee of 50 cents for each mile of pipeline
24 located in Iowa. The bill removes this set fee and instead
25 allows the board to charge pipeline companies with annual
26 inspection fees that are directly attributable to the costs of
27 conducting inspections.