

House File 483 - Introduced

HOUSE FILE 483
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 137)

A BILL FOR

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

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DIVISION I
ADMINISTRATION

Section 1. Section 476.2, Code 2021, is amended by adding the following new subsection:

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

Sec. 2. Section 476.10, subsection 1, paragraph b, Code 2021, is amended to read as follows:

b. The board shall ascertain the total of the division's expenses incurred during each fiscal year in the performance of its duties under law. The board shall add to the total of the division's expenses the certified expenses of the consumer advocate as provided under [section 475A.6](#). The board shall deduct all amounts charged directly to any person from the total expenses of the board and the consumer advocate. The board may assess the amount remaining after the deduction to all persons providing service over which the board has jurisdiction in proportion to the respective gross operating revenues of such persons from intrastate operations during the last calendar year over which the board has jurisdiction. For purposes of determining gross operating revenues under this section, the board shall not include gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such a member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only

1 to the entities providing that type of service over which the
2 board has jurisdiction. The board may make the remainder
3 assessments under this paragraph ~~on a quarterly basis to some~~
4 or all persons providing service over which the board has
5 jurisdiction, based upon estimates of the expenditures for
6 the fiscal year for the utilities division and the consumer
7 advocate. Not more than ninety days following the close of the
8 fiscal year, the utilities division shall conform the amount
9 of the prior fiscal year's assessments to the requirements of
10 this paragraph. For gas and electric public utilities exempted
11 from rate regulation pursuant to **this chapter**, the remainder
12 assessments under this paragraph shall be computed at one-half
13 the rate used in computing the assessment for other persons.

14 DIVISION II

15 PIPELINE

16 Sec. 3. Section 479.31, subsection 1, Code 2021, 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. 4. Section 479A.7, Code 2021, 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 that
4 is directly attributable to the costs of conducting annual
5 inspections pursuant to this chapter. The annual inspection
6 fee shall be paid for the calendar year in advance between
7 January 1 and February 1 of each year.

8 DIVISION III

9 TELECOMMUNICATIONS SERVICES

10 Sec. 5. Section 34A.2, subsections 8 and 14, Code 2021, are
11 amended to read as follows:

12 8. "*Competitive local exchange service provider*" means the
13 same as defined in section 476.96 any person, including a
14 municipal utility, that provides local exchange services, other
15 than a local exchange carrier or a non-rate-regulated wireline
16 provider of local exchange services under an authorized
17 certificate of public convenience and necessity within a
18 specific geographic area described in maps filed with and
19 approved by the board as of September 30, 1992.

20 14. "*Local exchange carrier*" means the same as defined in
21 section 476.96 any person that was the incumbent and historical
22 rate-regulated wireline provider of local exchange services
23 or any successor to such person that provides local exchange
24 services under an authorized certificate of public convenience
25 and necessity within a specific geographic area described in
26 maps filed with and approved by the board as of September 30,
27 1992.

28 Sec. 6. Section 423.3, subsection 47A, Code 2021, is amended
29 to read as follows:

30 47A. a. The sales price from the sale or rental of central
31 office equipment or transmission equipment primarily used
32 by local exchange carriers and competitive local exchange
33 service providers as defined in section 476.96, Code 2017;
34 by franchised cable television operators, mutual companies,
35 municipal utilities, cooperatives, and companies furnishing

1 communications services that are not subject to rate regulation
2 as provided in [chapter 476](#); by long distance companies as
3 defined in [section 477.10](#); or for a commercial mobile radio
4 service as defined in [47 C.F.R. §20.3](#) in the furnishing of
5 telecommunications services on a commercial basis.

6 b. For the purposes of [this subsection](#), ~~“central:~~

7 (1) “Central office equipment” means equipment utilized
8 in the initiating, processing, amplifying, switching, or
9 monitoring of telecommunications services. “Central office
10 equipment” also includes ancillary equipment and apparatus
11 which support, regulate, control, repair, test, or enable such
12 equipment to accomplish its function.

13 (2) “Competitive local exchange service provider” means any
14 person, including a municipal utility, that provides local
15 exchange services, other than a local exchange carrier or a
16 non-rate-regulated wireline provider of local exchange services
17 under an authorized certificate of public convenience and
18 necessity within a specific geographic area described in maps
19 filed with and approved by the board as of September 30, 1992.

20 (3) “Local exchange carrier” means any person that was
21 the incumbent and historical rate-regulated wireline provider
22 of local exchange services or any successor to such person
23 that provides local exchange services under an authorized
24 certificate of public convenience and necessity within a
25 specific geographic area described in maps filed with and
26 approved by the board as of September 30, 1992.

27 (4) “Transmission equipment” means equipment utilized
28 in the process of sending information from one location to
29 another location. ~~“Central office equipment”~~ and ~~“transmission~~
30 “Transmission equipment” also ~~include~~ includes ancillary
31 equipment and apparatus which support, regulate, control,
32 repair, test, or enable such equipment to accomplish its
33 function.

34 Sec. 7. Section 477C.7, subsection 2, Code 2021, is amended
35 to read as follows:

1 2. The entities subject to assessment shall remit the
2 assessed amounts quarterly, as determined by the board, to a
3 special fund, as defined under section 8.2, subsection 9. The
4 moneys in the fund are appropriated solely to plan, establish,
5 administer, and promote the relay service and equipment
6 distribution programs.

7

EXPLANATION

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

10 This bill relates to matters under the purview of the
11 utilities division of the department of commerce.

12 The bill provides the Iowa utilities board with authority
13 to employ or appoint an independent administrative law judge
14 to preside over any hearing or proceeding before the board.
15 Certain provisions applicable to the employment or appointment
16 of administrative law judges by state agencies do not apply to
17 appointments by the board.

18 Current law requires the board to deduct all amounts charged
19 directly to any person subject to the jurisdiction of the
20 board for providing utility services from the total annual
21 expenses of the board and the consumer advocate. The board may
22 assess the remaining amount on a quarterly basis to all persons
23 providing service over which the board has jurisdiction in
24 proportion to their respective gross operating revenues. The
25 bill strikes the requirement that these assessments be made on
26 a quarterly basis and allows the board to make the assessments
27 to some or all persons providing service over which the board
28 has jurisdiction.

29 Current law allows the board to impose a civil penalty of up
30 to \$100,000 for each violation of Code chapter 479, relating
31 to pipelines and underground gas storage, or any rule or order
32 issued pursuant to the Code chapter, provided that the maximum
33 penalty does not exceed \$1 million for any related series of
34 violations. The bill removes these maximum amounts and instead
35 provides that a civil penalty levied by the board shall be in

1 accordance with specified federal law.

2 Current law requires pipeline companies operating pipelines
3 or underground gas storage under Code chapter 479A to pay the
4 board an annual inspection fee of 50 cents for each mile of
5 pipeline located in Iowa. The bill removes this set fee and
6 instead allows the board to charge pipeline companies with
7 annual inspection fees that are directly attributable to the
8 costs of conducting inspections.

9 The bill removes cross references in Code section 34A.2
10 to repealed Code section 476.96, which included definitions
11 for "competitive local exchange service provider" and "local
12 exchange carrier", and provides new definitions for such terms.
13 "Competitive local exchange service provider" is defined as
14 any person, including a municipal utility, that provides local
15 exchange services, other than a local exchange carrier or a
16 non-rate-regulated wireline provider of local exchange services
17 under an authorized certificate of public convenience and
18 necessity within a specific geographic area described in maps
19 filed with the board as of September 30, 1992. "Local exchange
20 carrier" is defined as any person that was the incumbent and
21 historical rate-regulated wireline provider of local exchange
22 services or any successor to such person that provides local
23 exchange services under an authorized certificate of public
24 convenience and necessity within a specific geographic area
25 described in maps filed with the board as of September 30,
26 1992.

27 The bill amends Code section 423.3, subsection 47A, to
28 modify the definitions of "central office equipment" and
29 "transmission equipment". The bill provides "central office
30 equipment" includes ancillary equipment and apparatus which
31 enable central office equipment to accomplish its function.
32 Additionally, the bill provides "transmission equipment",
33 including ancillary equipment and apparatus which enable
34 transmission equipment, to accomplish its function.

35 The bill defines "competitive local exchange service

1 provider", for purposes of Code section 423.3, subsection 47A,
2 as any person, including a municipal utility, that provides
3 local exchange services, other than a local exchange carrier
4 or a non-rate-regulated wireline provider of local exchange
5 services under an authorized certificate of public convenience
6 and necessity within a specific geographic area described in
7 maps filed with the board as of September 30, 1992. The bill
8 defines "local exchange carrier", for purposes of Code section
9 423.3, subsection 47A, as any person that was the incumbent and
10 historical rate-regulated wireline provider of local exchange
11 services or any successor to such person that provides local
12 exchange services under an authorized certificate of public
13 convenience and necessity within a specific geographic area
14 described in maps filed with the board as of September 30,
15 1992.

16 Current law requires wireless carriers and wireline local
17 exchange carriers providing telecommunications service in the
18 state to remit the amounts assessed to fund the dual party
19 relay service to a special fund on a quarterly basis. The bill
20 provides that these remittances will be made as determined by
21 the board.