



Geri D. Huser, Chair
Richard W. Lozier, Jr., Board Member
Joshua J. Byrnes, Board Member

TO: Members of the General Assembly
FROM: Iowa Utilities Board
DATE: January 11, 2021
RE: Iowa Utilities Board (IUB) Policy Legislation

Division I. Administration

Administrative Law Judge (Section 1.)

Background:

The IUB is seeking the authority to appoint or designate an administrative law judge (ALJ) within IUB to conduct proceedings that are currently handled by the full Board.

Proposal:

The section gives the Iowa Utilities Board authorization to have an administrative law judge on staff. This will assist with IUB's goals of delivering excellent customer service, ensuring compliance with legal requirements, and maximizing employee effectiveness by utilizing an individual with particular subject matter expertise.

Assessments of Utilities (Section 2.)

Background:

Previously, the IUB has done an advanced, estimated assessment to all utilities at the beginning of a fiscal year. At the end of that fiscal year, the IUB would total actual time and resources spent, and then reconcile that number against the initial assessment, which resulted in refunds or further assessments to utilities. This was an administratively process for both the IUB and the utilities that are billed.

Proposal:

Codifies current practice of issuing an advanced, estimated assessment to a limited number of utilities, while still billing all utilities for direct costs. Utilities that receive an advanced estimated assessment continue to be reconciled at the end of the fiscal year. This practice has significantly reduced the need for staff to send out statements issuing refunds and invoices for further assessments.

Division II. Pipeline

Civil Penalties (Section 3.)

Background:

The IUB receives federal funding to administer the Pipeline Safety Program on behalf of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA). Under this program, the IUB, under federal certification, conducts field inspections of natural gas facilities and operations for compliance with federal and state standards for safe construction, operations, and maintenance, and personnel performance. Funds are awarded on the basis of the application that the IUB submits each year. IUB is eligible for up to 80 percent reimbursement of costs incurred up to the maximum award.

A condition of state pipeline safety grant certification is that the state must have civil penalty authority to enforce pipeline safety standards that is “substantially the same” as the federal authority (49 USC § 60105(b)(7)). PHMSA, which has not been rigorously enforcing this provision, has indicated it will begin reducing federal fund allotments to penalize states that do not have civil penalty amounts similar to the federal penalties.

The last time that Iowa’s civil penalties were revised was in 2013 in SF 91, when penalties were increased from a maximum of \$10,000 per day/violation and up to \$500,000 for a related series of violations to \$100,000 per day and up to \$1,000,000 for a series of violations. This change affects intrastate pipelines only, as only those pipelines are under IUB jurisdiction. Interstate pipelines are already subject to federal penalties.

Proposal:

Align Iowa’s civil penalties with the federal levels by referring to the C.F.R provision on such penalties. This will eliminate the need for IUB to file legislation on a continual basis to match PHMSA dollar amounts for fines.

Inspection Fees - Interstate Natural Gas Pipelines (Section 4.)

Background:

Iowa Code § 479A.7 requires interstate pipeline companies to pay the IUB an annual inspection fee of fifty cents per mile of pipeline (or a fraction thereof) for each inch of diameter of the pipeline. This fee doesn’t cover the IUB’s current annual costs of conducting inspections.

Proposal:

Remove the current per-mile per-inch structure, thereby leaving the IUB to use its existing authority to directly assess and bill the interstate pipeline company for the direct costs incurred for any inspection. This process was completed for intrastate pipelines in HF 2446 (2018).

Division III. Telecommunications Services

Definition of Competitive Local Exchange Service Provider and Local Exchange Carrier (Section 5. & 6.)

Background:

Language in HF 2446 (2018) repealed Iowa Code § 479.96 which contained definitions for “Competitive Local Exchange Service Provider” and “Local Exchange Carrier” for the purpose of implementing telecommunications deregulation. Other Code chapters, which were not affected by HF 2446, relied upon the specific definitions.

Proposal:

Add definitions to §34A and §423 that were repealed to ensure that these agencies can continue their operations as intended. (§34A (911 Emergency Telephone Systems) and §423 (Streamlined Sales and Use Tax Act)).

Change in Assessment - Dual Party Relay (Section 7.)

Background:

Iowa Code § 477C requires applicable telecommunications carriers to remit quarterly payments into the Dual Party Relay (DPR) Fund. The money in this fund pays for relay services and equipment for persons that require telecommunications assistance.

Proposal:

Allowing the Board to identify when payments will be remitted to the DPR Fund will result in the telecommunications industry and IUB to more efficiently utilize time and resources.