

cast one vote and each soil conservation district that is partially within the conservancy district shall cast a fractional vote that is equal to the percentage of the soil conservation district's area that is in the conservancy district.

Sec. 2. Section 1 of this Act applies to all divisions of conservancy districts into wards occurring after the effective date of this Act.

Approved May 19, 1981

CHAPTER 156
PUBLIC UTILITY REGULATION
H. F. 771

AN ACT relating to the regulation of public utilities and making an appropriation to the Iowa state commerce commission.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter 476, Code 1981, is amended by adding the following new section:

NEW SECTION. CONTINUING AUDIT OF OPERATIONS. The commission shall adopt not later than July 1, 1983, rules and policies to implement a program for the continuous review of operations of rate-regulated public utilities with respect to all matters that affect rates or charges for utility service.

Sec. 2. Chapter 476, Code 1981, is amended by adding the following new section:

NEW SECTION. REVIEW OF ANNUAL REPORTS. The commission shall review annual reports submitted by rate-regulated public utilities. The commission shall commence rate-review proceedings under this chapter if an annual report indicates that the earnings of the public utility are excessive.

Sec. 3. Chapter 476, Code 1981, is amended by adding the following new section:

NEW SECTION. RULES GOVERNING HEARINGS.

1. The commission shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within one hundred eighty days after the date of the filing of a complaint under section 476.3, unnumbered paragraph 2,* and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or commission staff for good cause shown.

2. Additional time granted to a party or to commission staff under subsection 1 shall not extend the amount of time for which a utility is

*According to enrolled Act, but see section 5

required to file a bond or other undertaking conditioned upon refund under section 476.3, unnumbered paragraph 2.

3. If in a proceeding under section 476.6 additional time is granted to a party or commission staff under subsection 1, the commission may extend the ten-month period during which a utility is prohibited from placing its entire rate increase request into effect under section 476.6, but an extension shall not exceed one-half of the aggregate amount of all additional time granted under subsection 1.

4. The commission shall adopt rules that require the commission, in rate regulatory proceedings under sections 476.3 and 476.6, to consider the use of the most current test period possible in determining reasonable and just rates, subject only to the availability of existing and verifiable data respecting costs and revenues, and in addition to consider verifiable data that exists as of the date of commencement of the proceedings respecting known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. For purposes of this subsection, a proceeding commences under section 476.6 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the commission to consider other evidence in proceedings under sections 476.3 and 476.6.

Sec. 4. Section 476.1, unnumbered paragraph 3, Code 1981, is amended to read as follows:

Mutual telephone companies in which at least fifty percent of the users are owners, co-operative telephone corporations or associations, telephone companies having less than ~~two~~ fifteen thousand stations, municipally owned utilities, and unincorporated villages which own their own distribution system ~~shall--not--be~~ are not subject to the rate regulation provided for in this chapter.

PARAGRAPH DIVIDED. ~~provided, however, that nothing contained in this chapter shall be construed to~~ This chapter does not apply to water works having less than two thousand customers, municipally owned water works, or rural water districts incorporated and organized pursuant to chapters 357A and 504A, or to a person furnishing electricity to five or fewer customers from electricity that is produced primarily for the person's own use.

PARAGRAPH DIVIDED. ~~Telephone--companies~~ A telephone company otherwise exempt from rate regulation and having telephone exchange facilities which cross state lines may elect, in a writing, filed with the commission, to have ~~their~~ its rates regulated by the commission. When ~~such a written~~ such a written election, ~~in writing,~~ has been filed with the commission, the commission shall assume rate regulation jurisdiction over ~~said--companies~~ the company.

Sec. 5. Section 476.3, Code 1981, is amended to read as follows:

476.3 COMPLAINTS--INVESTIGATION. Every public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed with the commission. ~~Whenever~~ When there is filed with the commission by any person or body politic, or filed by the commission upon its own motion, a written complaint requesting the commission to determine the

reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by any public utility subject to this chapter, in contravention of the provisions ~~thereof, such~~ of this chapter, ~~the~~ written complaint ~~thus-made~~ shall be forwarded by the commission to ~~such~~ the public utility, which shall be called upon to satisfy the complaint or to answer ~~the same~~ ~~it~~ in writing within a reasonable time to be specified by the commission. If ~~such~~ the public utility ~~shall~~ ~~does~~ not satisfy the commission with respect to the complaint within the time specified and there ~~shall~~ ~~appear~~ ~~appears~~ to be any reasonable ground for investigating ~~said~~ the complaint, ~~it shall be the duty of~~ the commission ~~to~~ ~~shall~~ promptly initiate a formal proceeding. ~~Such-a~~ ~~The~~ formal proceeding may be initiated at any time by the commission on its own motion. ~~Whenever-such~~ ~~If~~ a proceeding ~~has~~ ~~been~~ ~~is~~ initiated upon application or motion, the commission shall set the case for hearing and give ~~such~~ notice ~~thereof~~ as it deems appropriate. ~~Whenever~~ ~~When~~ the commission, after a hearing held after reasonable notice, finds any public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the commission shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be ~~thereafter~~ observed and enforced.

If, as a result of either a review procedure conducted under section 1 of this Act or a review conducted under section 2 of this Act, a complaint is filed by commission staff alleging that a utility's rates are excessive, the disputed amount shall be specified in the complaint. The public utility shall, within the time prescribed by the commission, file a bond or undertaking approved by the commission conditioned upon the refund in a manner prescribed by the commission of amounts collected after the date of filing of the complaint in excess of rates or charges finally determined by the commission to be lawful. If upon hearing the commission finds that the utility's rates are unlawful, the commission shall order a refund, with interest, of amounts collected after the date of filing of the complaint in excess of amounts which would have been collected under the rates finally approved, provided that the commission shall not order a refund that is greater than the amount specified in the complaint, plus interest, and provided that if the commission fails to render a decision within one hundred eighty days following the date of filing of the complaint, the commission shall not order a refund of any excess amounts that are collected after the expiration of that one hundred eighty-day period and prior to the date the decision is rendered.

A determination of utility rates by the commission pursuant to this section that is based upon a departure from previously established regulatory principles shall apply prospectively from the date of the decision.

Sec. 6. Section 476.6, unnumbered paragraphs 4, 5 and 6, Code 1981, are amended to read as follows:

~~Whenever there is filed with the commission by any~~ At the time a public utility subject to rate regulation files with the commission any new or changed rates, charges, schedules or regulations, the commission may, prior to the effective date thereof, docket the case as a formal proceeding and set

~~the case for hearing. The commission shall give such notice of such formal proceedings as it deems appropriate~~ the public utility also shall submit factual evidence, written argument, and affidavits containing testimonial evidence to be offered in support of the filing, provided that this requirement shall not apply if the public utility is a rural electric cooperative. The public utility may, as a part of its filing or separately at any subsequent time, submit a request for authority to place part or all of the proposed rates, charges, schedules or regulations into effect on a temporary basis and until permanent rates, charges, schedules or regulations take effect under this section.

~~After the initiation of such formal proceedings and pending the final decision thereon, the commission may, at any time before they become effective, suspend the operation of such new or changed rates, charges, schedules or regulations, but not for a period longer than twelve months from the date when they would have become effective if not suspended.~~ After the filing by a public utility subject to rate regulation of new or changed rates, charges, schedules or regulations, the commission may, prior to the expiration of thirty days after the filing date, docket the case as a formal proceeding and set the case for hearing. The commission shall give such notice of formal proceedings as it deems appropriate. Unless the commission otherwise orders, the docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules or regulations until temporary or permanent rates, charges, schedules or regulations are approved by the commission or otherwise take effect under this section.

~~However, a public utility may at any time after rates, charges, schedules or regulations have been suspended for ninety days~~ Upon the request of a public utility, the commission shall, when required by this paragraph, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commission conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules or regulations finally approved by the commission. In determining that portion of the new or changed rates, charges, schedules or regulations to be placed in effect prior to a final decision, the commission shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the commission held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the commission in an applicable rate case was rendered more than twelve months prior to the date of filing of the request for temporary rates, the commission shall in addition consider financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority within ninety days after the date of filing of the

request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 3, subsection 3 of this Act, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission. If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. The commission shall establish a rate of interest to be paid by a public utility to persons receiving refunds. The rate of interest shall be a reasonable rate as determined by the commission, but not less than five percent per annum, and the interest shall be compounded annually. The public utility shall not place into effect any portion of any suspended rates, charges, schedules or regulations of any subsequent rate filing relating to services with respect to which a rate filing is pending within twelve months following the date a prior application was filed or until after the date the commission has issued a final order in any previously filed rate proceedings, whichever date is earlier, unless the public utility applies to the commission for authority and receives authority to place a portion of the subsequent filed rate filing into effect on an interim basis.

Sec. 7. Section 476.10, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Whenever the commission shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 1 of this Act, the commission may employ additional

temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the commission to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the commission by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section.

Sec. 8. The Iowa state commerce commission shall investigate the practice of allowing a public utility to recover advertising costs from its customers. The commission shall recommend to the general assembly not later than January 15, 1982, whether or not it is appropriate to adopt legislation to disallow a portion of advertising costs when determining costs of operations for rate-making purposes. The Code editor shall not codify this section.

Sec. 9. Sections 5 and 6 of this Act apply to proceedings commenced under sections 476.3 or 476.6, respectively, on or after the effective date of this Act.

Approved June 13, 1981

CHAPTER 157

TELEPHONE DIRECTORY ASSISTANCE

S. F. 284

AN ACT striking the provision which prohibits a telephone company from imposing a charge for directory assistance.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter 476, Code 1981, is amended by adding the following new section:

NEW SECTION. TELEPHONE DIRECTORY ASSISTANCE CHARGES. Notwithstanding contrary provisions of section 476.6, a public utility shall not implement a charge for telephone directory assistance or implement a new or changed rate for telephone directory assistance except pursuant to a tariff that has been filed with the commission and finally approved by the commission.

Sec. 2. Section 476.6, unnumbered paragraph 1, Code 1981, is amended to read as follows: