

Reported Recommending
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Passed House
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Failed to Pass Senate

House File 373

February 25, 1947.

By FLETCHER (Henningsen).

Telephone, Telegraph and Express.

A BILL FOR

An Act to provide for the regulation of telephone companies by the Iowa state commerce commission and to prescribe the powers, duties and procedure of the commission under the Act.

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

1 Section 1.

2 1. The words "telephone companies" as used in
3 this Act shall embrace and include all persons, firms,
4 corporations, associations and organizations engaged
5 in the business of furnishing communications by telephone
6 within the state of Iowa. It shall be the duty of all
7 telephone companies to furnish adequate, sufficient and
8 reasonable service at a reasonable and just rate.

9 2. The word "commission" as used in this Act shall
10 mean the Iowa state commerce commission.

11 3. The term "trade" means every form of compensa-
12 tion, charge, toll, fare, rental, or any of them, charged
13 or collected by any telephone company for telephone
14 communication service offered by it and all rules,
15 regulations, practices or contracts affecting such
16 compensation, charge, toll, fare or rental.

1 Sec. 2.

2 1. Every telephone company shall file with
3 the commission within such time and in such form as
4 the commission may designate, and keep open to public
5 inspection, tariffs showing all rates established by
6 it within the jurisdiction of the commission.

7 2. The telephone company shall file with the
8 commission tariffs of the rate or rates for any new
9 service to be offered by it and such rate or rates
10 shall become effective thirty (30) days after such
11 filing, unless a shorter interval is permitted by order
12 of the commission.

13 3. After a telephone company has filed its
14 tariffs, as above set forth, it shall not charge, collect
15 or receive from any person a greater or less compensation
16 for any service rendered, or to be rendered by such
17 telephone company, than that prescribed in the tariffs
18 of such telephone company applicable thereto, nor shall
19 any person receive or accept any service from the telephone
20 company for a compensation greater or less than that
21 prescribed in such tariffs, except as otherwise provided
22 herein. However, any telephone company may furnish any
23 service rendered by it, without charge or at reduced rates
24 to any of its officers, directors, employees, pensioned
25 employees, its agents, or employees or other telephone
26 companies.

4. Any telephone company desiring to make any change in any rate which has been duly established, under this Act, shall file new tariffs or plainly indicate such change upon the tariffs filed and in force at that time. Such proposed changed rates shall not go into effect until after thirty (30) days' notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force and the time when the change in rates will go into effect. The commission, in its discretion, may require the telephone company to also give such notice of the proposed change to other interested persons as the commission may direct. The commission, for good cause shown, may allow changes in rates without requiring thirty (30) days' notice under such conditions as it may prescribe.

5. Whenever there is filed with the commission by any telephone company any tariff stating proposed changed rate or rates, the commission may, either upon complaint or upon its own initiative, enter upon a hearing concerning the lawfulness of such rate or rates; and, pending such hearing and decision thereon, the commission by delivering to the telephone company affected thereby a statement in writing of its reasons therefor, may at any time before they become effective suspend the operation of such rate or rates, but not for a longer period than

53 ninety (90) days beyond the time when such rate or rates
54 would otherwise go into effect, unless the commission
55 shall find that a longer time shall be required, in which
56 case the commission may extend the period for not to
57 exceed six months;
58 provided and notwithstanding any such order of
59 suspension, the telephone company may put such
60 suspended rate or rates into effect on the date when
61 it or they would have become effective if not so
62 suspended by filing with the commission bond in a reason-
63 able amount approved by the commission, conditioned
64 upon the refund, in a manner to be prescribed by order
65 of the commission, to the persons entitled thereto, of
66 the amount of the excess if the rate or rates so put
67 into effect are finally determined to be excessive.

68 If, after hearing, the commission finds any such
69 rate or rates to be unreasonable or unjustly discrimi-
70 natory or in any wise in violation of law, the commission
71 shall determine the just or reasonable rate or rates to
72 be charged or applied by the telephone company for the
73 service in question and shall fix the same by order to
74 be served upon the telephone company; and such rate or
75 rates are thereafter to be observed until changed as
76 provided in this Act.

77 6. Whenever the commission, after hearing had
78 after reasonable notice upon its own motion or upon

79 complaint, finds that the existing rates in effect
80 and collected by any telephone company for any service
81 offered by it to the public are unjust, unreasonable,
82 insufficient or discriminatory, or in any wise in violation
83 of any provision of law, the commission shall determine
84 the just, reasonable and sufficient rates to be thereafter
85 observed and in force, and shall fix the same by order
86 as herein provided.

87 7. The commission shall have authority to
88 prescribe a uniform system of accounts to be kept by
89 telephone companies, which among other things, shall
90 provide for the setting up of adequate depreciation
91 charges and which shall conform to the system approved
92 by the federal communications commission and to require
93 annual reports to be made on such forms as the
94 commission may prescribe and such additional reports
95 as it may from time to time request.

1 Sec. 3. Whenever connection between the lines
2 or facilities of two or more telephone companies is
3 demanded under Chapter 488 of the Iowa Code of 1946,
4 in order to permit the interchange of telephone com-
5 munications between the systems of such companies and
6 the companies concerned cannot agree as to the terms
7 and conditions under which such telephone communications
8 shall be interchanged, or whenever two or more such tele-
9 phone companies, whose lines or facilities are connected

10 so as to permit an interchange of telephone communications
11 between their systems, cannot agree as to the terms and
12 conditions of continuing such interchange of telephone
13 communications, then the commission upon complaint in
14 writing by any person or upon its own initiative, after
15 hearing on reasonable notice, shall have the power to
16 order such connection established or continued and
17 telephone communications interchanged between the telephone
18 companies concerned, and the commission by order shall
19 determine such terms and conditions as are just and reason-
20 able under which such telephone communications shall be
21 interchanged.

22 2. Whenever the commission, after hearing after
23 reasonable notice had upon its own motion or upon
24 complaint, finds that the telephone communication
25 service of any telephone company is unreasonable,
26 inadequate, insufficient or discriminatory, the commission
27 shall determine the reasonable, safe, adequate, efficient
28 service to be observed, furnished or employed and shall
29 fix the same by its order, rule or regulation.

30 3. Any person having an interest in the matter
31 involved including any telephone company concerned may
32 file with the commission a complaint setting forth any
33 act or thing done or omitted to be done by any telephone
34 company in violation or claimed violation of any law
35 which the commission has jurisdiction to administer,

36 or of any order or rule of the commission. The commission
37 shall furnish to the telephone company against which the
38 said complaint is filed a copy thereof, and if a hearing
39 be required, shall fix a time and place of hearing and
40 serve reasonable notice thereof. The commission may
41 dismiss any complaint without a hearing if in its opinion,
42 a hearing is not necessary in the public interest or for
43 the protection of substantial rights.

44 4. At the time fixed for any hearing before the
45 commission or a commissioner, or the time to which the
46 same may have been continued, the complainant and the
47 person complained of shall be entitled in person or by
48 attorney to be heard and to introduce evidence.

49 5. The commission may, in addition to the
50 hearings especially provided by this Act, conduct such
51 other hearings as may be required in the administration
52 of the powers and duties, conferred upon it by this Act.
53 Reasonable notice of all such hearings shall be given
54 the persons interested therein. The commission is
55 authorized to prescribe rules of practice governing
56 procedure, for all hearings before it, that are not
57 inconsistent with the provisions of this Act.

58 6. After the conclusion of any hearing, the
59 commission shall make and file its findings and order
60 with its opinion. Its findings shall be in sufficient
61 detail to enable the court on appeal to determine the

62 controverted questions presented by the proceeding, and
63 whether proper weight was given to the evidence. A copy
64 of such order certified under the seal of the commission
65 shall be served upon the person against whom it runs, or
66 his attorney and notice thereof shall be given to the
67 other parties to the proceedings or their attorney.
68 Said order shall take effect and become operative twenty
69 (20) days after the service thereof, unless otherwise
70 provided, and shall continue in force, either for a
71 period which may be designated therein or until changed
72 or revoked by the commission or modified or vacated by
73 the court on appeal. If an order cannot, in the judgment
74 of the commission, be complied with within twenty (20)
75 days, the commission may grant and prescribe such additional
76 time as in its judgment is reasonably necessary to comply
77 with the order, and may, on application and for good cause
78 shown, extend the time for compliance fixed in its order.

79 7. In all proceedings had before the commission
80 a full and complete record shall be kept and all testimony
81 shall be taken by a reporter appointed by the commission.

1 Sec. 4. After the effective date of this Act, no
2 telephone company shall begin the construction or operation
3 of any telephone plant or system, or any extension
4 thereof, without first obtaining from the commission a
5 certificate that public convenience and necessity require
6 or will require such construction or operation, provided

7 that this provision shall not be construed as to require
8 any such telephone company to secure a certificate for
9 an extension within any municipality or district within
10 which it has heretofore lawfully commenced operations
11 or for an extension within or to territory already served
12 by it, necessary in the ordinary course of its business,
13 or for an extension into territory contiguous to that
14 already occupied by it and not receiving similar service
15 from another telephone company.

1 Sec. 5.

2 1. Appeals may be taken from any order of the
3 commission by any party to such proceedings, by filing
4 a notice of appeal with the clerk of the supreme court
5 asking a vacation or modification of the order complained
6 of. Such notice of appeal must be filed within thirty (30)
7 days after the entry of the commission's order or if a
8 petition for rehearing has been filed within thirty (30)
9 days after said petition for rehearing has been denied.
10 Such notice of appeal shall state briefly the portion
11 of the order appealed from and the grounds upon which
12 the same is claimed to be unlawful upon which the petitioner
13 will rely in the supreme court.
14 The clerk of the supreme court after the filing of said
15 notice of appeal shall serve notice thereof upon the
16 commission, who shall within thirty (30) days from the
17 service of such notice certify a complete record in said

18 case to the supreme court, including all pleadings, orders,
19 findings and opinions entered in the case, together with
20 a transcript of all testimony, including exhibits; the
21 parties and the commission may stipulate that a specified
22 portion only of the record shall be certified to the
23 court as the record on review.

24 2. The supreme court may, in its discretion, and on
25 such terms as it deems just, stay or suspend in whole or in
26 part the operation of the commission's order appealed from.

27 3. Except as specifically provided hereunder, appeals
28 under this Act shall be governed by the Rules of Civil
29 Procedure adopted by the supreme court.

30 4. The supreme court may dismiss an appeal or vacate
31 the order complained of, in whole or in part, and in its
32 discretion may remand the matter to the commission for
33 such further proceedings not inconsistent with the decree,
34 if in the opinion of the court justice may require.

1 Sec. 6.

2 1. If any part of this Act is declared to be
3 unconstitutional or void, such decision shall not affect
4 the validity of the remaining parts of this Act unless the
5 part held void is indispensable to the operation of the
6 remaining parts.