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Failed to Pass House

Senate File 309

February 20, 1947.
Passed on File.

By HENNINGSEN

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

9 2. The word "commission" as used in this Act shall mean the
10 Iowa State Commerce Commission.

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

1 Sec. 2.

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

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

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

23 4. Any telephone company desiring to make any change in any
24 rate which has been duly established, under this Act, shall file
25 new tariffs or plainly indicate such change upon the tariffs filed
26 and in force at that time. Such proposed changed rates shall not
27 go into effect until after thirty (30) days' notice to the

28 commission, which notice shall plainly state the changes proposed
29 to be made in the rates then in force and the time when the change
30 in rates will go into effect. The commission, in its discretion,
31 may require the telephone company to also give such notice of the
32 proposed change to other interested persons as the commission may
33 direct. The commission, for good cause shown, may allow changes
34 in rates without requiring thirty (30) days' notice under such
35 conditions as it may prescribe.

36 5. Whenever there is filed with the commission by any
37 telephone company any tariff stating proposed changed rate or
38 rates, the commission may, either upon complaint or upon its own
39 initiative, enter upon a hearing concerning the lawfulness of
40 such rate or rates; and, pending such hearing and decision
41 thereon, the commission by delivering to the telephone company
42 affected thereby a statement in writing of its reasons therefor,
43 may at any time before they become effective suspend the operation
44 of such rate or rates, but not for a longer period than ninety
45 (90) days beyond the time when such rate or rates would otherwise
46 go into effect, unless the commission shall find that a longer
47 time shall be required, in which case the commission may extend
48 the period for not to exceed six months; provided and
49 notwithstanding any such order of suspension, the telephone
50 company may put such suspended rate or rates into effect on the
51 date when it or they would have become effective if not so
52 suspended by filing with the commission bond in a reasonable
53 amount approved by the commission, conditioned upon the refund,

54 in a manner to be prescribed by order of the commission, to the
55 persons entitled thereto, of the amount of the excess if the rate
56 or rates so put into effect are finally determined to be
57 excessive.

58 If, after such hearing, the commission finds any such rate
59 or rates to be unreasonable or unjustly discriminatory or in any
60 wise in violation of law, the commission shall determine the just
61 or reasonable rate or rates to be charged or applied by the
62 telephone company for the service in question and shall fix the
63 same by order to be served upon the telephone company ; and such
64 rate or rates are thereafter to be observed until changed as
65 provided in this Act.

66 6. Whenever the commission, after hearing had after
67 reasonable notice upon its own motion or upon complaint, finds
68 that the existing rates in effect and collected by any telephone
69 company for any service offered by it to the public are unjust,
70 unreasonable, insufficient or discriminatory, or in any wise in
71 violation of any provision of law, the commission shall determine
72 the just, reasonable and sufficient rates to be thereafter
73 observed and in force, and shall fix the same by order as herein
74 provided.

75 7. The commission shall have authority to prescribe a
76 uniform system of accounts to be kept by telephone companies which,
77 among other things, shall provide for the setting up of adequate
78 depreciation charges and which shall conform to the system
79 approved by the Federal Communications Commission and to require

80 annual reports to be made on such forms as the commission may
81 prescribe and such additional reports as it may from time to time
82 request.

1 Sec. 3.

2 1. Whenever connection between the lines or facilities of
3 two or more telephone companies is demanded under Chapter 488 of
4 the Iowa Code of 1946, in order to permit the interchange of
5 telephone communications between the systems of such companies and
6 the companies concerned cannot agree as to the terms and conditions
7 under which such telephone communications shall be interchanged, or
8 whenever two or more such telephone companies, whose lines or
9 facilities are connected so as to permit an interchange of
10 telephone communications between their systems, cannot agree as to
11 the terms and conditions of continuing such interchange of
12 telephone communications, then the commission upon complaint in
13 writing by any person or upon its own initiative, after hearing on
14 reasonable notice, shall have the power to order such connection
15 established or continued and telephone communications interchanged
16 between the telephone companies concerned, and the commission by
17 order shall determine such terms and conditions as are just and
18 reasonable under which such telephone communications shall be
19 interchanged.

20 2. Whenever the commission, after hearing after reasonable
21 notice had upon its own motion or upon complaint, finds that
22 the telephone communication service of any telephone company is
23 unreasonable, inadequate, insufficient or discriminatory, the

24 commission shall determine the reasonable, safe, adequate,
25 efficient service to be observed, furnished or employed and shall
26 fix the same by its order, rule or regulation:

27 3. Any person having an interest in the matter involved
28 including any telephone company concerned may file with the
29 commission a complaint setting forth any act or thing done or
30 omitted to be done by any telephone company in violation or
31 claimed violation of any law which the commission has
32 jurisdiction to administer, or of any order or rule of the
33 commission. The commission shall furnish to the telephone
34 company against which the said complaint is filed a copy thereof,
35 and if a hearing be required, shall fix a time and place of
36 hearing and serve reasonable notice thereof. The commission may
37 dismiss any complaint without a hearing if in its opinion a
38 hearing is not necessary in the public interest or for the
39 protection of substantial rights.

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

45 5. The commission may, in addition to the hearings
46 especially provided by this Act, conduct such other hearings as
47 may be required in the administration of the powers and duties
48 conferred upon it by this Act. Reasonable notice of all such
49 hearings shall be given the persons interested therein. The

50 commission is authorized to prescribe rules of practice
51 governing procedure, for all hearings before it, that are not
52 inconsistent with the provisions of this Act.

53 6. After the conclusion of any hearing, the commission shall
54 make and file its findings and order with its opinion. Its
55 findings shall be in sufficient detail to enable the court on
56 appeal to determine the controverted questions presented by the
57 proceeding, and whether proper weight was given to the evidence.
58 A copy of such order certified under the seal of the commission
59 shall be served upon the person against whom it runs, or his
60 attorney and notice thereof shall be given to the other parties to
61 the proceedings or their attorneys. Said order shall take effect
62 and become operative twenty (20) days after the service thereof,
63 unless otherwise provided, and shall continue in force, either for
64 a period which may be designated therein or until changed or
65 revoked by the commission or modified or vacated by the court on
66 appeal. If an order cannot, in the judgment of the commission, be
67 complied with within twenty (20) days, the commission may grant
68 and prescribe such additional time as in its judgment is
69 reasonably necessary to comply with the order, and may, on
70 application and for good cause shown, extend the time for
71 compliance fixed in its order.

72 7. In all proceedings had before the commission a full and
73 complete record shall be kept and all testimony shall be taken by
74 a reporter appointed by the commission.

2 1. After the effective date of this Act, no telephone company
3 shall begin the construction or operation of any telephone plant
4 or system, or any extension thereof, without first obtaining from
5 the commission a certificate that public convenience and
6 necessity require or will require such construction or operation,
7 provided that this provision shall not be construed as to require
8 any such telephone company to secure a certificate for an
9 extension within any municipality or district within which it has
10 heretofore lawfully commenced operations or for an extension within
11 or to territory already served by it, necessary in the ordinary
12 course of its business, or for an extension into territory
13 contiguous to that already occupied by it and not receiving
14 similar service from another telephone company.

1 Sec. 5.

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

14 within thirty (30) days from the service of such notice certify a
15 complete record in said case to the supreme court, including all
16 pleadings, orders, findings and opinions entered in the case,
17 together with a transcript of all testimony, including exhibits;
18 the parties and the commission may stipulate that a specified
19 portion only of the record shall be certified to the court as the
20 record on review.

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

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

27 4. The supreme court may dismiss an appeal or vacate the
28 order complained of, in whole or in part, and in its discretion
29 may remand the matter to the commission for such further
30 proceedings not inconsistent with the decree, if in the opinion of
31 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 the
4 validity of the remaining parts of this Act unless the part held
5 void is indispensable to the operation of the remaining parts.