February 20, 1951. **Senate File 380**
Passed on File. By McCARVILLE, LYNES, AUGUSTINE and RIDOUT.

Passed Senate, Date .....
Vote: Ayes..... Nays.....
Passed House, Date .....
Vote: Ayes..... Nays.....
Approved .....

A BILL FOR

An Act granting to the "Public Service Commission of Iowa" certain authority and powers; designating its proceedings and procedure; defining terms used in Act; enumerating the duties of the commission; providing penalties for violation of commission orders or provisions of this Act; specifying services to be provided and rates to be charged; providing regulations with which utilities, as defined by this Act, must comply to do business within state; designating requirements for organization and regulation of a utility, as defined by this Act; authorizing commission to intercede in contract negotiations; providing for granting of facilities of one utility to another; providing for valuation of utility property by commission; providing for accounting systems, examination and audits, and publication of balance sheets; providing for manner of establishing depreciation percentages; providing for information on and verification of construction costs; permitting division and distribution of surplus property by a mutually owned telephone company; requiring reports to commission and investigation of costs of reports; requiring reports from and publication by the commission; designating records of commission as public, with exceptions; requiring commission to prescribe standard commercial units of products or service; requiring filing of rate schedules and regulations and publication thereof; providing for the establishment of joint tolls; requiring investigation of interstate rates, specifying the manner in which rates may be changed and requiring publication of changes; prohibiting discrimination in compensation for services, with exceptions; granting authority to

commission to appoint agents and defining powers of such agents; providing for examination of evidence by commission; requiring utilities to fill out questionnaire and deliver documents; providing for complaints by consumers and manner of hearing same; providing for summary investigation by commission and procedure thereafter; providing for complaint by utility; providing for witness fees and mileage; providing for depositions and stenographic records; providing for transcript as evidence; authorizing fixing of reasonable rates, charges and services or to amend existing ones and requiring utilities to conform to them; providing for test on commission orders; establishing effective date of commission orders; providing for appeal to district court and the method and scope of same; providing for appeal to supreme court; providing for rehearing by commission and requiring such before appeal; providing for injunctions and restricting them; requiring testimony and production of documents although incriminating, and providing immunity; providing for the necessity of procuring orders to transact business and to make extension or improvements in certain cases; authorizing commission to require procuring of certificate of convenience and necessity, and providing procedure for same; granting commission authority to procure an injunction for violation of its orders in certain cases; prescribing procedure for indeterminate permits and extension where there is competing service; validating permits and franchises granted prior to May 1, 1951, providing for granting of indeterminate permit on surrender of existing license or franchise; providing for commission's control over contracts with affiliates and defining affiliates; providing for filing with commission all pension or allied plans and setting forth regulation controlling same and contributions to it; providing for certain requirements; when financing replacements, extensions or improvements; providing for loans to officers and directors under certain circumstances and penalty for violation; requiring filing of all publicity or training material and surveys, with exceptions; denying franchises, permits and licenses to foreign corporations; establishing which licenses, permits

or franchises shall be indeterminate permits; validating certain franchises and permits; prohibiting discrimination, defining same and providing a penalty; providing for treble damages against utilities in certain cases; providing for rate change where rate is based on cost of service to utility and its cost has been changed by federal authority; providing penalty for failure of individual to comply with the provisions of this Act and to utility when such failure was at direction of utility or general officer thereof; providing penalty for utilities violation of provisions of this Act and holding utility liable for acts of agent; authorizing commission to temporarily alter or suspend rates in certain cases; granting to commission authority to require and direct manner of providing adequate and safe transmission lines; providing that provisions of Act shall not act as waiver or release in certain cases; providing that rates of May 1, 1951, shall govern, unless prescribed procedure is followed; providing for reorganization or abandonment by utilities on commission approval; providing for payment of commission expenditures by utilities and authorizing the manner of determining and collecting same; providing for collection of bills rendered for expenditures by distress and prescribing manner thereof; placing the burden of proof in certain instances; giving precedence to provisions of this Act.

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

1 Section 1. Definitions. The following words and phrases
2 as used in this chapter, unless a different meaning is plainly
3 required by the context, shall have the following meanings:
4 1. "Telephone company" means and embraces every
5 corporation, partnership, individual or association, their
6 lessees or their receivers appointed by any court, that may
7 own, operate, manage, control or have franchise rights for
8 any plant or equipment, or any part of a plant or equipment

9 in any county, town, village or city in this state, engaged
10 in the business of furnishing means of communication by
11 telephone.
12 2. "Utility" or "public utility" shall be limited to
13 and mean "telephone company" as hereinbefore defined.
14 3. A mutually owned telephone company is a telephone
15 company whose subscribers own either fifty-one per cent or
16 more of the stock in the company, or own fifty-one per cent
17 of the physical property used in furnishing telephone service,
18 such as telephone lines, poles, telephone instruments and
19 associated equipment. Unless the words "mutually owned
20 telephone company" are used the definition for "telephone
21 company" shall apply as set out in subsection one (1) above
22 to all telephone companies.
23 4. "Indeterminate permit" means and embraces every grant
24 directly or indirectly from the state to any public utility
25 of power, right or privilege to own, operate, manage or control
26 any plant or equipment or any part of a plant or equipment
27 within this state for the production, transmission, delivery
28 or furnishing of any public utility service, and such permit
29 shall continue in force until it shall be terminated according
30 to law.
31 5. "Commission" shall mean the "Public Service Commission
32 of Iowa."
33 6. "Commissioner" shall mean one of the members of the
34 public service commission of Iowa.

35 7. "Rate" shall mean and include every compensation,
36 charge, toll, rental and classification, or any of them
37 demanded, observed, charged or collected by the public utility
38 for any service or product or commodity offered by it to the
39 public, and any rules, regulations, practices, franchises or
40 contracts affecting any such compensation, charge, toll, rental
41 or classification.

1 Sec. 2. Commission's powers.

2 1. The commission is vested with power and jurisdiction
3 to supervise and regulate every public utility in this state,
4 and to do all things necessary and convenient in the exercise
5 of such power and jurisdiction.

6 2. The commission shall provide for a comprehensive
7 classification of service for each public utility, and such
8 classification may take into account the quantity used, the
9 time when used, the purpose for which used, and any other
10 reasonable consideration. Each public utility is required to
11 conform its schedules of rates, tolls and charges to such
12 classification.

13 3. The commission shall have power to adopt reasonable
14 rules and regulations relative to all inspections, tests, audits
15 and investigations.

16 4. (a) The commission shall have authority to inquire
17 into the management of the business of all public utilities,
18 and shall keep itself informed as to the manner and method
19 in which the same is conducted, and may obtain from any public

20 utility all necessary information to enable the commission to
21 perform its duties.
22 (b) Each public utility shall furnish to the commission
23 in such form and at such times as the commission shall require,
24 the following information respecting the identity of the holders
25 of its capital stock, in order to enable the commission to
26 determine whether such holders constitute an affiliated
27 interest within the meaning of this chapter; the names of each
28 holder of one percentum (1%) or more of the capital stock
29 of such public utility; the nature of the property right
30 or other legal or equitable interest, which the holder has in
31 such stock, and any other similarly relevant information which
32 the commission shall prescribe and direct.
33 (c) In the event any public utility shall fail to furnish
34 the commission with information required of it by the commission,
35 the commission may issue an order directing the delinquent
36 public utility to furnish such information forthwith, or to
37 show good cause why such information cannot be obtained.
38 Failure of any public utility to comply with such order of the
39 commission shall be deemed a violation of this chapter, within
40 the meaning of section sixty-five (65).
41 5. The commission or any commissioner or any person
42 employed by the commission for that purpose shall, upon demand,
43 have the right to inspect the books, accounts, papers, records
44 and memoranda of any public utility, and to examine, under oath,
45 any officer, agent or employee of such public utility in

46 relation to its business and affairs. Any person other than
47 one of said commissioners, who shall make such demand, shall
48 produce his authority to make such inspection.
49 6. The commission may require, by order or subpoena,
50 served on any public utility as an original notice is served
51 in a civil case, the production within this state at such time
52 and place as it may designate, of any books, accounts, papers
53 or records kept by said public utility without the state, or
54 verified copies in lieu thereof, if the commission shall so
55 order. Any public utility failing or refusing to comply with
56 any such order or subpoena shall, for each day it shall so
57 fail or refuse, forfeit to the treasurer of the state not less
58 than fifty dollars ($50.00) nor more than five hundred dollars
59 ($500.00).
1 Sec. 3. Utility charges and service; reasonable and
2 adequate; manner of determining.
3 1. Every public utility is required to furnish reasonably
4 adequate service and facilities. The charge made by any public
5 utility for any telephone message conveyed therewith shall be
6 reasonable and just, and every unjust or unreasonable charge
7 for such service is prohibited and declared unlawful.
9 2. For rate-making purposes the commission may consider
10 two or more municipalities as a regional unit where the same
11 public utility serves said municipalities, if in its opinon
12 the public interest so requires.

13 3. No public utility may use the corporate structure of
14 an affiliated company to collect its charges for service in
15 order that the affiliated company may avoid regulation in this
16 state by the commission.

17 4. The commission's requirements as to reasonableness
18 of rates shall apply to each separate telephone exchange and to
19 each unit of service furnished at the exchange or exchanges
20 consisting of local services, tolls, rentals and all miscellaneous
21 services.

22 5. Whenever it shall come to the knowledge of the commission,
23 either from its own investigation or by complaint made to it
24 in any manner whatsoever, that the rates charged by any public
25 utility on interstate business are unjust or unreasonable,
26 or that the rates, rules or practices of such public utility
27 discriminate unjustly against the citizens, industries, or
28 interests of this state; places any of the citizens, industries,
29 or interests of this state at an unreasonable disadvantage,
30 as compared with other states, the commission immediately
31 shall call the attention of such public utility, operating in
32 this state, to the facts and to request them to change such
33 rates, rules and practices.

34 6. The commission shall determine, if possible, from any
35 federal regulatory agency the cost of rendering interstate
36 toll service to and from points outside of the state to telephone
37 companies operating in counties, cities, towns or villages in
38 this state, so that the commission may place proper evaluation

39 on the toll commissions received by telephone companies in this
40 state from interstate toll service. The commission is authorized
41 to intercede in any interstate toll rate contract negotiations
42 for any telephone company in the state for the purpose of securing
43 a fair proration of the interstate toll business and revenues
44 handled by the telephone company. The commission is authorized
45 to take this action on its own initiative.

1 Sec. 4. Facilities granted other utilities; physical
2 telephone connections; petition; investigation.

3 1. Every public utility and every person having conduits,
4 subways, poles, towers, transmission wires or other equipment
5 on, over or under any street or highway, shall for a reasonable
6 compensation, permit the use of the same by any public utility,
7 whenever public convenience and necessity requires such use, and
8 such use will not result in irreparable injury to the owner or
9 other users of such equipment, nor in any substantial detriment
10 to the service to be rendered by such owners or other users;
11 and every utility for the conveyance of telephone messages
12 shall permit physical connections to be made, and telephone
13 services to be furnished, between any telephone system operated
14 by it, and the telephone toll line operated by another such
15 public utility, or between its toll line and the telephone
16 system of another such public utility, or between its toll
17 line and the toll line of another such public utility, or between
18 its telephone system and the telephone system of another such
19 public utility, whenever public convenience and necessity require

20 such physical connections, and such physical connections will
21 not result in irreparable injury to the owners or other users
22 of the facilities of such public utilities, nor in any substantial
23 detriment to the service to be rendered by such public utilities.
24 The term "physical connection" as used in this section, shall
25 mean such number of trunk lines or complete wire circuits and
26 connections as may be required to furnish reasonably adequate
27 telephone service between such public utilities.
28 2. In case of failure to agree upon such use or the conditions
29 or compensation for such use, or in case of failure to agree
30 upon such physical connections, or the terms and conditions
31 upon which the same shall be made, any public utility or any
32 other person interested may apply to the commission, and if
33 after investigation and hearing, the commission shall ascertain
34 that public convenience and necessity require such use or such
35 physical connections, and that such use or such physical connections
36 would not result in irreparable injury to the owner or other users
37 of such equipment or of the facilities of such public utilities,
38 nor in any substantial detriment to the service to be rendered
39 by such owner or such public utilities or other users of such
40 equipment or facilities, it shall by order direct that such use
41 be permitted and prescribe reasonable conditions and compensation
42 for such joint use, and that such physical connections be made,
43 and determine how and within what time such connections shall be
44 made, and by whom the expense of making and maintaining such
45 connections shall be paid.

46 3. Such use so ordered shall be permitted and such physical
47 connections so ordered shall be made, and such conditions and
48 compensation so prescribed shall be the lawful conditions and
49 compensation for such use, and the lawful terms and conditions
50 upon which such physical connections shall be made, observed,
51 followed and paid. Any such order may be, from time to time,
52 revised by the commission.

1 Sec. 5. Utility property; valuation; revaluation.
2 1. The commission shall value all the property of every
3 public utility actually used and useful for the convenience of
4 the public. In making such valuation the commission may avail
5 itself of any information in possession of the state tax commission.
6 2. Before final determination of such value the commission
7 shall, after notice to the public utility, hold a public hearing
8 as to such valuation.
9 3. The commission shall within five (5) days after such
10 valuation is determined serve a statement thereof upon the public
11 utility interested.
12 4. The commission may at any time make a revaluation of
13 such property.

1 Sec. 6. Uniform accounting; forms; books; office.
2 1. Every public utility shall keep and render to the
3 commission in the manner and form prescribed by the commission
4 uniform accounts of all business transacted.
5 2. Every public utility engaged directly or indirectly
6 in any other business than that of conveyance of telephone

7 messages shall, if required by the commission, keep and render
8 separately to the commission in like manner and form the accounts
9 of all such other business, in which case all the provisions of
10 this chapter shall apply to the books, accounts, papers and records
11 of such other business.

12 3. Every public utility is required to keep and render
13 its books, accounts, papers and records accurately and faithfully
14 in the manner and form prescribed by the commission, and to
15 comply with all directions of the commission relating to such
16 books, accounts, papers and records.

17 4. The commission shall consult with other state and
18 federal regulatory bodies for the purpose of eliminating accounting
19 deficiencies with regard to the keeping of public utility
20 accounts before prescribing any system of accounts to be kept
21 by a public utility.

1 Sec. 7. Balance sheet filed annually. The accounts of public
2 utilities shall be closed annually on the thirty-first (31) day
3 of December and a balance sheet of that date promptly taken
4 therefrom. On or before the first (1) day of March following,
5 such balance sheet together with such other information as the
6 commission shall require, verified by an officer of the public
7 utility, shall be filed with the commission.

1 Sec. 8. Audit and inspection, balance sheet, publication.

2 1. The commission shall provide for the examination and
3 audit of all accounts, and all items shall be allocated to the
4 accounts in the manner prescribed by the commission.

5 2. Each public utility having an annual gross income of
6 twenty-five thousand dollars ($25,000.00) or more shall publish
7 at least once each year in a newspaper having a general circulation
8 in the territory served by such utility a true balance sheet
9 and income account of its financial affairs. If the accounts
10 of any public utility are kept by districts, publication shall
11 be made separately for each district in a newspaper having a
12 general circulation therein, and shall, in addition to the balance
13 sheet and income account for the entire company, include a
14 condensed income and operating statement for the district.
15 The form and time of making publication as required herein shall
16 be prescribed by the commission.

1 Sec. 9. Depreciation rates and practices; findings by
2 commission; dividends from reserves; retirements.

3 1. Every public utility shall file with the commission,
4 within such time as may be required by the commission, its
5 estimate of the average annual rate of depreciation required for
6 each of its classes of fixed capital used for public utility
7 purposes, and of the composite annual rate of depreciation required
8 for such fixed capital as an aggregate, which shall constitute
9 the public utility's estimates of the amount which should be
10 returned to it out of its rates for service, to meet the
11 depreciation of its property.

12 2. After the submission of such estimates, the commission
13 shall review the same. If it shall determine that the estimates
14 submitted are reasonable and proper, it shall certify that

15 determination to the public utility. If it shall determine that
16 the estimates submitted are not reasonable and proper, it shall
17 certify to the public utility the percentages which it considers
18 reasonable and proper. In case the fixed capital accounts of
19 the public utility are not so subdivided as to permit the rates
20 for the various classes of fixed capital used for public utility
21 purposes to be applied, the estimates submitted by the public
22 utility and the percentages determined by the commission may
23 be based upon the aggregate of such fixed capital.

24 3. After the commission shall have certified to the public
25 utility its findings as to the percentages required for depreciation,
26 such public utility shall have thirty days (30) within which to
27 make application to the commission for a hearing and order.
28 If the public utility does not make application to the commission
29 for a hearing and order within the time set, the commission's
30 certification of findings shall have the effect of an order
31 and the public utility shall have the right of appeal therefrom
32 as provided in this chapter.

33 4. The commission may provide, in order to meet changing
34 conditions, that public utilities shall submit the estimates
35 herein referred to from time to time, and in case it requires
36 such resubmission of estimates, it shall follow the procedure
37 with reference to certifying its findings as provided above.
38 In revising the reasonable and proper percentages of depreciation
39 the commission shall give consideration to the experience of
40 the public utility in accumulating a depreciation reserve under

41 previous rates, the retirements actually made and such other
42 factors as may be relevant.
43 5. When the commission shall have established, by
44 certification or order, the reasonable and proper percentages
45 of depreciation, such percentages shall constitute the percentages
46 to be used in any proceeding involving the rates or practices
47 of such public utility, provided that if at the time of such
48 proceeding it is found that the percentages of depreciation
49 previously established are no longer reasonable and proper the
50 commission shall establish reasonable and proper percentages for
51 the purpose of such proceeding and certify such new percentages
52 in the manner provided by this section.
53 6. When the commission shall have established for any
54 public utility, by certification or order, the percentages
55 necessary for depreciation on fixed capital used for public
56 utility purposes, such public utility shall credit to its
57 depreciation reserve in each accounting period such amount as
58 may be required to provide for depreciation at the percentage or
59 percentages established. If the public utility is a corporation
60 it shall be unlawful for such corporation to pay any dividend
61 out of earnings for any fiscal period subsequent to the
62 commission's certification or order, or carry any portion of its
63 earnings to its surplus account, except out of earnings remaining
64 after crediting its depreciation reserve in accordance with the
65 rates established by the commission; provided, that after
66 application and hearing the commission may, upon a finding that

67 it is necessary in the public interest, exempt a public utility
68 from the duty of crediting to the depreciation reserve in any
69 accounting period a greater amount than is possible without
70 impairing its
71 ability to pay dividends for the current calendar year.
72 7. If a public utility desires to account for depreciation
73 on a sinking fund basis and the commission determines that such
74 basis of accounting for depreciation may reasonably be employed,
75 the commission shall establish, in the manner hereinbefore
76 referred to, the composite rate to be applied to the aggregate
77 fixed capital used for public utility purposes to determine the
78 amount which shall be charged to operating expenses, and the
79 interest rate applicable to the reserve balance at which
80 additional credits to the reserve shall be computed. In such
81 cases the total amount to be credited to the reserve shall be
82 the amount charged to operating expenses, plus the amount
83 obtained by applying the interest rate to the reserve balance.
84 Public utilities which account for depreciation on a sinking
85 fund basis shall be subject to the same restrictions and
86 regulations in their accounting for the entire amounts to be
87 credited to the depreciation reserve as are applicable to those
88 public utilities which make the entire provision for depreciation
89 by other methods permitted herein.
90 8. No public utility shall charge to its depreciation
91 reserve anything except losses on property actually retired from
92 service.
1 Sec. 10. Construction; accounting; verification of cost.

2 1. The commission shall keep itself informed of all new
3 construction, extensions and additions to the property of public
4 utilities, and shall prescribe the necessary forms, regulations
5 and instructions for the keeping of construction accounts, which
6 shall clearly distinguish all operating expenses from new construction.
7 2. The commission shall be empowered to verify construction
8 cost, where to it the cost appears to be unreasonable, by
9 procuring a qualified appraisal and/or by such other reasonable
10 means as the commission shall deem fit. This verification
11 by the commission may be undertaken whether the project be
12 completed or incompleted. The public utility shall pay for all
13 costs associated with such an investigation. The true value
14 of the construction as determined by the investigation shall
15 be the value of the property for rate determination.
1 Sec. 11. Profit sharing and sliding scales.
2 1. A mutually owned telephone company may enter into any
3 reasonable arrangement with its customers or consumers or with
4 its employees, for the division or distribution of its surplus
5 profits, or providing for a sliding scale of charges, or other
6 financial device that may be practicable and advantageous to
7 the parties interested. No such arrangement or device shall
8 be lawful until it shall be found by the commission to be
9 reasonable and just and consistent with the purposes of this
10 chapter. Such arrangement shall be under the supervision and
11 regulation of the commission.
12 2. The commission shall order such rates, charges and

13 regulations as may be necessary to give effect to such arrange-
14 ment, but the power to make such other and further changes in
15 rates, charges and regulations as the commission may determine
16 to be necessary and reasonable and to revoke its approval and
17 amend or rescind all orders relative thereto is vested in the
18 commission.

1 Sec. 12. Report by utilities to commission, to others;
2 items.

3 1. Each public utility shall furnish to the commission in
4 such form and at such times as the commission shall require,
5 such accounts, reports and information as shall show in itemized
6 detail and separately per unit: The depreciation; the salaries
7 and wages; legal expenses; taxes and rentals; the quantity and
8 value of materials used; the receipts from residuals, by-products,
9 services or other sales; the total and net cost; the gross and
10 net profit; the dividends and interest; surplus or reserve;
11 the prices paid by consumers; and in addition such other items,
12 whether of a nature similar to those hereinbefore enumerated
13 or otherwise, as the commission may prescribe in order to show
14 completely and in detail the entire operation of the public
15 utility in furnishing the unit of its product or service to
16 the public.

17 2. No telephone company or mutually owned telephone company
18 in a county, city, town or village, unless affiliated in some
19 manner with another telephone company or holding company; or
20 which serves subscribers in four (4) or more counties, cities,

21 towns or villages; or which operates in a city of over five
22 thousand (5,000) population, shall be required to report under
23 this section except as to earnings, operating expenses, salaries
24 and wages (housing service furnished to employees in lieu of
25 wages), including depreciation and maintenance, cost of renewals,
26 extensions and improvements to the property and the nature and
27 amount of service furnished in such detail as the commission
28 shall deem necessary, provided that in case of any investigation
29 by the commission upon formal complaint, the commission may
30 require the detailed reports as to units provided for in this
31 section.

32 3. The commission shall receive copies of and investigate
33 any and all reports requested of a public utility in this state
34 by any corporation, partnership, individual, association, their
35 lessee, trustee or their receiver appointed by any court, for
36 the purpose of determining whether or not the request is reason-
37 able as a cost in the operation of the public utility. If the
38 cost is unreasonable and it is found not to be necessary to the
39 operation of the public utility, the cost of furnishing the
40 report shall be denied as an operating cost of the public
41 utility. This shall not prohibit, however, anyone who has
42 legal rights in a public utility from making these reports at
43 their own expense.

1 Sec. 13. Commission's reports.

2 1. The commission shall publish biennial reports showing
3 its proceedings and showing in tabular form the details per

4 unit as provided in section twelve (12) for all the public
5 utilities, and such monthly or occasional reports as it may
6 deem advisable.
7 2. The commission shall publish in its reports the value
8 of all the property actually used and useful for the convenience
9 of the public and the value of the physical property actually
10 used and useful for the convenience of the public, of every
11 public utility as to whose rates, charges, service or regulations
12 any hearing has been held by the commission or the value of
13 whose property has been ascertained by it.
1 Sec. 14. Records public; exceptions; use.
2 1. All facts and information in the possession of the
3 commission shall be public, and all reports, records, files,
4 books, accounts, papers and memoranda of every nature whatsoever
5 in its possession shall be open to inspection by the public at
6 all reasonable times, except that whenever the commission shall
7 determine it to be necessary in the interest of the public to
8 withhhold from the public any facts or information in its
9 possession, such facts may be withheld for such period, not
10 exceeding ninety (90) days as the commission may determine.
11 2. The commission shall allow the use by other state
12 departments and agencies of its records, when requested by the
13 head of said department or agency. The manner in which these
14 records may be used shall be prescribed by the commission but
15 not the use to which the information taken from the records is
16 put.

1 Sec. 15. Units of product or service. The commission
2 shall prescribe for each public utility suitable and convenient
3 standard commercial units of product or service.

1 Sec. 16. Publish schedules; regulations; files; joint
2 rates.

3 1. Every public utility shall file with the commission
4 schedules showing all rates, tolls, and charges which it has
5 established and which are in force at the time for any service
6 performed by it within the state, or for any service in connection
7 therewith or performed by any public utility controlled or
8 operated by it. The rates, tolls and charges shown on such
9 schedules shall not exceed the rates, tolls and charges in
10 force May 1st, 1951.

11 2. Every public utility shall file with and as a part of
12 such schedule all rules and regulations that, in the judgment
13 of the commission, in any manner affect the service or product,
14 or the rates charged or to be charged for any service or product,
15 as well as any contracts, agreements or arrangements relating
16 to the service or product or the rates to be charged for any
17 service or produce to which the schedule is applicable as the
18 commission may by general or special order direct.

19 3. A copy of so much of said schedules as the commission
20 shall deem necessary for the use of the public shall be printed
21 in plain type, and kept on file in every station or office of
22 such public utility where payments are made by the consumers
23 or users in such form and place as to be readily accessible to

24 the public.

25 4. Where a schedule of joint rates or charges is in force
26 between public utilities, such schedules shall in like manner
27 be printed and filed with the commission, and so much thereof
28 as the commission shall deem necessary for the use of the public,
29 shall be filed in every such station or office as provided in
30 subsection three (3).

31 5. Whenever public utilities for the conveyance of
32 telephone messages are furnishing joint telephone service to
33 the public, or shall be required to furnish such service, and
34 shall refuse or neglect to establish joint tolls, the commission
35 may after notice and a public hearing, establish, by order, such
36 joint tolls, and if the utilities shall fail to agree upon the
37 apportionment thereof within twenty (20) days after the service
38 of such order, the commission may, upon a like hearing, issue
39 a supplemental order declaring the apportionment of such
40 joint tolls, and the same shall take effect as part of the
41 original order.

1 Sec. 17. Investigation of interstate rates.

2 1. The commission shall exercise constant diligence in
3 informing itself of the rates, rules and practices of telephone
4 companies engaged in the transmission of messages or intelligence
5 from points in this state beyond its limits and from points in
6 other states to points in this state and in territory wholly
7 ouside of the state.

1 Sec. 18. Changes in rates; approval of increases required;

2 publicity.

3 1. The rate schedules of any utility shall include all
4 rules applicable to the rendition or discontinuance of the
5 service to which the rates specified in such schedules are
6 applicable. No change shall be made by any utility in its
7 schedules except by filing the change as proposed with the
8 commission. No change in any utility rule which purports to
9 curtail the obligation or undertaking of service of such utility
10 shall be effective without the written approval of the commission
11 after hearing; provided, that the commission may, by emergency
12 order, make any such rule, as filed, effective from the date
13 of such order, pending final approval thereof after hearing as
14 herein provided. Every such proposed change which constitutes
15 a decrease in rates shall be effective at the time specified
16 in the change as filed but not earlier than ten (10) days after
17 the date of filing the same with the commission, unless during
18 such ten (10) day period the commission, either upon complaint
19 or upon its own motion, shall, by order, suspend the operation
20 of any such proposed change. Such suspension shall be effective
21 for a period not exceeding four (4) months, during which period
22 the commission shall investigate all matters relative to the
23 reasonableness or lawfulness of the change or changes in schedules
24 as filed; and shall thereafter, by order, approve or disapprove
25 the same. No order disapproving any such change shall be made
26 without first affording to the utility an opportunity for hearing;
27 but a disapproval so made shall render the proposed change

28 ineffective. If the commission shall suspend the proposed
29 change in any schedule as herein provided, it may, on notice
30 to the utility of its objections to the change in schedule as
31 proposed and after opportunity afforded to the utility to be
32 heard with respect to such objections, prescribe a schedule
33 which, revised on the basis of such objections, it finds to
34 be lawful and reasonable, in lieu of any schedule disapproved
35 as herein provided. The commission upon application of any
36 utility may direct that a proposed reduction in rates shall
37 be made effective less than ten (10) days after filing the same.
38 2. No change in schedules which constitutes an increase
39 in rates to consumers shall be made except by order of the
40 commission, after an investigation and hearing.
41 3. When the commission receives a request from a public
42 utility for a change in charges it shall be obligated to make
43 a public press release giving the reasons on which the public
44 utility founds its request for such charges.
1 Sec. 19. Publicity and publication of revised schedules.
2 1. Copies of all new schedules shall be filed as provided
3 in section sixteen (16) in every section and office of such
4 public utility where payments are made by consumers or users
5 ten (10) days prior to the time the same are to take effect,
6 unless the commission shall prescribe a lesser time.
7 2. There shall be published in a newspaper in which legal
8 notices are published, of general circulation where an exchange
9 is located, a notice of all rate changes affecting that exchange.

10 Said notice shall set forth the date the new rate or rates
11 shall go into effect, together with the old rate and the new
12 rate for each item of service.

1 Sec. 20. Discrimination forbidden; exemptions.

2 1. It shall be unlawful for any public utility to charge,
3 demand, collect or receive a greater or less compensation for
4 any service performed by it within the state, or for any
5 service in connection therewith, than is specified in such
6 schedules, including schedules of joint rates, as may at the
7 time be in force, or to demand, collect or receive any rate,
8 toll or charge not specified in such schedule.

9 2. Nothing herein shall release any telephone company
10 from carrying out any contract now existing between it and any
11 municipality, state or political subdivision thereof for the
12 furnishing of any service free or at reduced rates. Any contract
13 for telephone service at discriminatory rates, other than
14 those herein exempted, shall be terminated by the company as
15 soon as the same becomes terminable by its terms.

16 3. Nothing herein shall be construed to prevent any
17 telephone company from furnishing free telephone service or
18 telephone service at reduced rates to its officers, agents,
19 servants, families of employees in the armed services, employees
20 or pensioned employees.

1 Sec. 21. Schedule forms prescribed. The commission
2 may prescribe the form in which the schedules are issued by
3 any public utility.

1 Sec. 22. Agents of commission; powers.

2 1. For the purpose of making any investigation with
3 regard to any public utility the commission shall have the
4 power to appoint, by an order in writing, an agent whose duties
5 shall be prescribed by such order.

6 2. In the discharge of his duties such agent shall have
7 every power whatsoever of an inquisitorial nature granted to
8 the commission; the authority to take depositions in accordance
9 with the rules of civil procedure is hereby granted to such agent.

10 3. The commission may conduct any number of investigations
11 contemporaneously through different agents, and may delegate
12 to any agent the taking of testimony bearing upon any investigation
13 or at any hearing. The decision of the commission shall be
14 based upon its records and upon the evidence before it as
15 provided by section twenty-three (23).

1 Sec. 23. Examination of evidence by commission. Whenever
2 in a contested case it is impracticable for the members of the
3 commission who participated in the decision to hear or read all
4 the evidence, the final decision shall not be made until a
5 summary of the evidence prepared by the person conducting the
6 hearing, together with his recommendations as to the findings
7 of fact and the decision in the proceeding has been prepared
8 and furnished to each party, and a reasonable opportunity has
9 been offered to each party to file written exceptions to such
10 summary and proposed findings and decision, and to argue with
11 respect to them orally and in writing before all the members

12 who are to participate in the decision. The commission's
13 findings of fact may be made upon the basis of such summary
14 and the filed exceptions thereto, as herein provided. The parties
15 may by written stipulation waive compliance with this section.

1 Sec. 24. Questionnaires to utilities.

2 1. Any public utility receiving from the commission any
3 blanks with directions to fill the same shall cause the same
4 to be properly filled out so as to answer fully, specifically
5 and correctly each question therein propounded, and in case it
6 is unable to answer any question, it shall give a good and
7 sufficient reason for such failure; and such answer shall be
8 verified under oath by the president, secretary, superintendent
9 or general manager of such public utility and returned to the
10 commission at its office within the period fixed by the commission.

11 2. When required every public utility shall deliver to
12 the commission any or all maps, proofiles, contracts, reports of
13 engineers and all documents, books, accounts, papers and records
14 or copies of any or all of the same, with a complete inventory
15 of all its property, in such form as the commission may direct.

1 Sec. 25. Complaint by consumers; hearing; notice; order;
2 costs.

3 1. Upon a complaint made against any public utility by
4 any mercantile, agricultural or manufacturing society or by any
5 body politic or municipal organization or by any twenty-five (25)
6 persons that any of the rates, tolls, charges or schedules or
7 any joint rate or any regulation, measurement, practice or act

8 or the conveyance of any telephone message or any service in
9 connection therewith is in any respect unreasonable, insufficient
10 or unjustly discriminatory, or that any service is inadequate
11 or cannot be obtained, the commission shall proceed, with or
12 without notice, to make such investigation as it may deem necessary,
13 but no order shall be entered by the commission without a formal
14 public hearing.

15 2. The commission shall, prior to such formal hearing,
16 notify the public utility complained of that a complaint has
17 been made, and ten (10) days after such notice has been given
18 the commission may proceed to set a time and place for a hearing
19 and an investigation as hereinafter provided.

20 3. The commission shall give the public utility and the
21 complainant, ten (10) days' notice of the time and place when
22 and where such hearing will be held and such matters considered
23 and determined. Both the public utility and complainant shall
24 ben entitled to be heard and shall have process to enforce the
25 attendance of witnesses.

26 4. The notice provided for in subsections two (2) and
27 three (3) may be combined but if combined the notice shall be
28 less than twenty (20) days.

1 Sec. 26. Separate rate hearings; absence of direct damage.
2 The commission may, in its discretion, when complaint is made
3 of more than one (1) rate or charge, order separate hearings
4 thereon, and may consider and determine the several matters
5 complained of separately and at such times as it may prescribe.

6 No complaint shall at any time be dismissed because of the
7 absence of direct damage to the complainant.

1 Sec. 27. Summary investigations. Whenever the commission
2 shall believe that any rate or charge may be unreasonable or
3 unjustly discriminatory or that any service is inadequate
4 or cannot be obtained or that an investigation of any matter
5 relating to any public utility should for any reason be made,
6 it may on its own motion summarily investigate the same with
7 or without notice.

1 Sec. 28. Procedure after summary investigation.
2 1. If, after making such summary investigation, the
3 commission becomes satisfied that sufficient grounds exist
4 to warrant a formal hearing being ordered as to the matters
5 investigated, it shall set a time and place for a hearing.
6 2. Notice of the time and place for such hearing shall
7 be given to the public utility and to such other interested
8 persons as the commission shall deem necessary, as provided in
9 section twenty (25) and thereafter proceedings shall be
10 had and conducted in reference to the matter investigated in
11 like manner as though complaint had been filed with the commission
12 relative to the matter investigated, and the same order or
13 orders may be made in reference thereto as if such investigation
14 had been made on complaint.

1 Sec. 29. Utilities may complain. Any public utility may
2 make complaint as to any matter affecting its own product or
3 service.

1 Sec. 30. Witness fees and mileage.

2 1. Each witness who shall appear before the commission
3 or its agents, by its order, shall receive for his attendance
4 the fees and mileage now provided for witnesses in civil cases
5 in the district court which shall be audited and paid by the
6 state in the same manner as other expenses are audited and paid,
7 upon the presentation of proper vouchers sworn to by such
8 witnesses and approved by the chairman of the commission. Said
9 fees and mileage shall be charged to the appropriation for the
10 public service commission.

11 2. No witness subpoened at the instance of parties other
12 than the commission shall be entitled to compensation from the
13 state for attendance or travel, unless the commission shall
14 certify that his testimony was material to the matter investigated.

1 Sec. 31. Depositions. The commission or any party may
2 in any investigation or hearing cause the depositions of
3 witnesses residing within or without the state to be taken
4 in the manner prescribed by law for like depositions in civil
5 actions in district courts. Any expense incurred or authorized
6 by the commission in taking such depositions shall be charged
7 to the appropriation for the commission.

1 Sec. 32. Stenographic records. A full and complete record
2 shall be kept of all proceedings had before the commission or
3 its agent on any formal investigation or hearing had and all
4 testimony shall be taken down by the stenographer appointed
5 by the commission.

1 Sec. 33. Transcripts as evidence; free to parties.

2 1. A transcribed copy of the evidence and proceedings or
3 any specific part thereof, on any investigation or hearing
4 taken by the stenographer appointed by the commission, being
5 certified by such stenographer to be a true and correct
6 transcript of all the testimony or of a particular witness, or
7 of other specific part thereof, carefully compared by him with
8 his original notes, and to be a correct statement of the
9 evidence and proceedings had on such investigation or hearing
10 so purporting to be taken and transcribed, shall be received
11 in evidence with the same effect as if such reporter were
12 present and testified to the fact so certified.

13 2. A copy of such transcript shall be furnished on
14 demand free of cost to any party to such investigation or
15 hearing.

1 Sec. 34. Lawful rates; reasonable service.

2 1. Whenever upon an investigation made under the provisions
3 of this chapter the commission shall find rates, tolls, charges,
4 schedules or joint rates to be unjust, unreasonable, insufficient
5 or unjustly discriminatory or preferential or otherwise
6 unreasonable or unlawful, the commission shall determine and
7 by order fix reasonable rates, tolls, charges, schedules or
8 joint rates to be imposed, observed and followed in the future
9 in lieu of those found to be unreasoanable or unlawful.

10 2. Whenever the commission shall find any regulations,
11 measurements, practices, acts or service to be unjust,

12 unreasonable, insufficient, preferential, unjustly discriminatory
13 or otherwise unreasonable or unlawful, or shall find that any
14 service is inadequate, or that any service which can be reasonably
15 demanded cannot be obtained, the commission shall determine
16 and by order fix reasonable measurements, regulations, acts,
17 practices or service to be furnished, imposed, observed and
18 followed in the future in lieu of those found to be unreasonable,
19 inadequate or otherwise unlawful, and shall make such other order
20 respecting such measurement, regulation, act, practice or service
21 as shall be just and reasonable.

1 Sec. 35. Utilities to conform to orders. All public
2 utilities to which the order applies shall make such changes
3 in their schedules on file as may be necessary to make the
4 same conform to said order, and no change shall thereafter be
5 made by any public utility in such rates, tolls or charges, or
6 joint rates, without the approval of the commission.

1 Sec. 36. Change, amendment and rescission of orders;
2 reopening cases. The commission may at any time, on its own
3 motion or upon motion of an interested party, and upon notice to
4 the public utility and after opportunity to be heard, rescind,
5 alter or amend any order fixing rates, tolls, charges or
6 schedules, or any other order made by the commission, and may
7 reopen any case following the issuance of an order therein,
8 for the taking of further evidence or for any other reason.
9 Any order rescinding, altering, amending or reopening a prior
10 order shall have the same effect as an original order.

1 Sec. 37. Test, conditional, emergency and supplemental
2 orders; waiver of conditions in orders. The commission may issue
3 orders calling for a test of actual results under the requirements
4 prescribed by such order, during which test period the commission
5 may retain jurisdiction of the subject matter. The commission
6 is empowered to issue conditional, temporary, emergency and
7 supplemental orders. Where an order is issued upon certain
8 stated conditions any party acting upon any part of such order
9 shall be deemed to have accepted and waived all objections to
10 the condition contained in such order.

1 Sec. 38. Orders and determinations; time of taking effect.
2 Every decision made by the commission constituting an order or
3 determination shall be in force and effective twenty (20) days
4 after the same has been filed and has been served by personal
5 delivery or by mailing a copy thereof to all parties to the
6 proceeding in which such decision was made or to their
7 attorneys, unless the commission shall specify a different date
8 upon which the same shall be effective. Every such order
9 from and after the effective date thereof shall be prima facie
10 lawful and reasonable until finally adjudged otherwise in an
11 appeal instituted pursuant to the provisions of section thirty-nine
12 (39).

1 Sec. 39. Appeal to district court from commission order.
2 1. An appeal from a decision made by the commission
3 constituting an order or determination may be taken by a public
4 utility affected thereby to the district court of Polk County,

5 Iowa, or the district court of the county where the public utility's
6 principal place of business is located in the State of Iowa,
7 within twenty (20) days after such decision shall be in force
8 and effect, as provided in section thirty-eight (38).
9 2. The appeal shall be taken by a written notice to the
10 chairman of the commission and served as an original notice. When
11 said notice is so served it shall with the return thereon be
12 filed in the office of the clerk of the district court where the
13 action is to be instituted, and docketed as other cases with
14 the public utility as the plaintiff and the commission as defendant.
1 Sec. 40. Stay of proceedings. The institution of an
2 appeal shall not stay enforcement of the commission's decision;
3 but the district court, where the appeal is filed, may order a
4 stay upon such terms as it deems proper, except as otherwise
5 provided in section forty-six.
1 Sec. 41. Record on appeal. Within forty days after service
2 of the petition for appeal upon the commission, or within such
3 further time as the court may allow, the commission shall
4 transmit to the district court hearing the appeal the original
5 or a certified copy of the entire record of the proceedings
6 in which the decision appealed from was made, including all
7 pleadings, notices, testimony, exhibits, findings, decisions,
8 orders and exceptions, therein; but by stipulation of all
9 parties to the appeal the record may be shortened by eliminating
10 any portion thereof. Any party, other than the commission

11 refusing to stipulate to limit the record may be taxed by the
12 court for the additional costs. The record may be typewritten
13 or printed. The exhibits may be typewritten, photostated or
14 otherwise reproduced, or, upon motion of any party, or by
15 order of the court, the original exhibits shall accompany
16 the record. The court may require or permit subsequent
17 corrections or aditions to the record when deemed desirable.

1 Sec. 42. Additional evidence. If before the date set
2 for trial, application is made to the district court for
3 leave to present additional evidence on the issues in the
4 case, and it is shown to the satisfaction of the court that the
5 additional evidence is material and that there were good
6 reasons for failure to present it in the proceedings before
7 the commission, the court may order that the additional
8 evidence be taken before the commission upon such terms as
9 the court may deem proper. The commission may modify its
10 findings and decision by reason of the additional evidence
11 and shall file with the court the additional evidence together
12 with any modified or new findings or decision.

1 Sec. 43. Scope of appeal.

2 1. The review shall be conducted by the court without
3 a jury and shall be confined to the record, except that in
4 cases of alleged irregularities in procedure before the commission,
5 testimony thereon may be taken in the court. The court may
6 affirm the decision of the commission, or may reverse or
7 modify it if the substantial rights of the appellant have

8 been prejudiced as a result of the administrative findings,
9 inferences, conclusions or decisions being:
10 (a) Contrary to constitutional rights or privileges; or
11 (b) In excess of the statutory authority or jurisdiction
12 of the commission, or affected by other error of law; or
13 (c) Made or promulgated upon lawful procedure; or
14 (d) Unsupported by substantial evidence in view of the
15 entire record as submitted; or
16 (e) Arbitrary or capricious.
17 2. Upon such review due weight shall be accorded the
18 experience, technical competence and specialized knowledge of
19 the public utility involved, as well as discretionary authority
20 conferred upon it. The right of the appellant to challenge
21 the constitutionality of any Act or of its application to it
22 shall not be foreclosed or impaired by the fact that it has
23 applied for or holds a license, permit or privilege under
24 such Act.
1 Sec. 44. Appeals to Supreme Court. Any party, including
2 the commission, may secure a review of the final judgment of
3 the district court by appeal to the supreme court. Such
4 appeal shall be taken in the manner provided by law for appeals
5 from the district court in other civil cases, except that the
6 time for appeal shall be limited to 20 days from the entry of
7 judgment.
1 Sec. 45. Rehearings before commission; condition precedent
2 to appeal; limitation upon objections in review proceeding;

3 final step in exercise of legislative powers.

4 1. Within twenty (20) days after the service by the commission
5 of any decision constituting an order or determination, any
6 party to the proceeding and any other person, aggrieved by
7 such decision and directly affected thereby, may apply to the
8 commission for a rehearing in respect to any matters determined
9 in said decision. The commission may grant and hold such
10 rehearing on said matters, or upon such of them as it may
11 specify in the order granting such rehearing, if in its
12 judgment sufficient reason therefor exists.

13 2. The application for rehearing shall set forth
14 specifically the ground or grounds on which the applicant
15 contends said decision to be unlawful or unreasonable. No
16 cause of action arising out of any decision constituting an
17 order or determination of the commission or an appeal therefrom,
18 as provided in sections 39, 40, 44, shall accrue in any court
19 to any person or corporation unless the plaintiff or petitioner
20 in such action or proceeding, within 20 days after the service
21 of said decision, shall have made application to the commission
22 for a rehearing in the proceeding in which such decision was
23 made. No person or corporation shall in any court urge or
24 rely on any ground not so set forth in said application for
25 rehearing.

26 3. Applications for rehearing shall be governed by such
27 general rules as the commission may establish. In case a
28 rehearing is granted the proceedings thereupon shall conform

29 as nearly as may be to the proceedings in an original hearing,
30 except as the commission may otherwise direct. If in the
31 commission's judgment, after such rehearing, it shall appear
32 that the original decision, order or determination is in any
33 respect unlawful or unreasonable, the commission may reverse,
34 change, modify or suspend the same accordingly. Any devision,
35 order or determination made after such rehearing reversing,
36 changing, modifying, or suspending the original determination
37 shall have the same force and effect as an original decision,
38 order or determination. Only one rehearing shall be granted
39 by the commission; but this shall not be construed to prevent
40 any party from filing a new application or complaint. No
41 order of the commission shall become effective while an
42 application for a rehearing or a rehearing shall be pending
43 and until ten (10) days after such application for a rehearing
44 is either denied, expressly or by implication, or the commission
45 has announced its final determination on rehearing. Provided,
46 however, that nothing in the foregoing provision shall limit
47 the power of the commission to declare an emergency and issue
48 orders as authorized by section 66.

49 4. Any application for a rehearing not granted, within
50 twenty (20) days from the date of filing thereof, may be taken
51 by the party making the application to be denied.

52 5. It is hereby declared that the legislative powers of
53 the state, in so far as they are involved in the issuance of
54 orders and decisions by the commission, have not been

55 completely exercised until the commission has acted upon an
56 application for rehearing, as provided for by this section
57 and by the rules of the commission, or until such application
58 for rehearing has been denied by implication, as above
59 provided for.

1 Sec. 46. Injunction procedure.

2 1. No injunction shall issue in an appeal from an order
3 of the commission, suspending or staying any such order except
4 upon application to the district court or presiding judge
5 thereof, notice to the commission and any other party, and
6 hearing, and no injunction shall issue in any other proceeding
7 or action, in any court, which shall have the effect of delaying
8 or preventing any order of the commission from becoming
9 effective, unless the parties to the proceeding before the
10 commission in which such order was made are also parties to
11 such proceeding or action.

12 2. No injunction shall issue in any such appeal, or in any
13 other proceeding or action, suspending or staying any order
14 of the commission from becoming effective, unless an
15 undertaking shall be entered into on the part of the petitioner
16 or plaintiff, by proper surety, in such sum as the court or
17 the presiding judge thereof shall direct to the effect that
18 the petitioner or plaintiff will pay all damages which the
19 opposite party may sustain by the delay or prevention of the
20 order of the commission from becoming effective, and to such
21 further effect as such judge or court shall in discretion

22 direct.

1 Sec. 47. Incriminating evidence. No person shall be
2 excused from testifying or from producing books, accounts
3 and papers in any proceeding based upon or growing out of
4 any violation of the provisions of this chapter on the ground
5 or for the reason that the testimony or evidence, documentary
6 or otherwise, required by him may tend to incriminate him
7 or subject him to penalty of forfeiture, but no person having
8 so testified shall be prosecuted or subjected to any penalty
9 or forfeiture for or on account of any transaction, matter or
10 thing concerning which he may have testified or produced any
11 documentary evidence; provided, that no person so testifying
12 shall be exempted from prosecution or punishment for perjury
13 in so testifying.

1 Sec. 48. Authorization from commission before transacting
2 business; extensions and improvements to be approved; enforcement
3 of orders; objection to charges; notice.

4 1. No public utility not legally engaged in the business
5 of furnishing communication by telephone on May 1st, 1951, in
6 any municipality where there is not in operation under an
7 indeterminate permit a public utility engaged in similar
8 service, shall commence the construction of any public utility
9 plant, extension or facility, or render service in such
10 municipality directly, or indirectly by serving any other
11 public utility or agency engaged in public utility service or
12 otherwise, unless and until it shall have obtained a certificate

13 from the commission authorizing it to transact such public
14 utility business.
15 2. No public utility shall begin the construction,
16 installation or operation of any new plant, equipment, property
17 or facility, nor the construction or installation of any
18 extension, improvement, or addition to its existing plant,
19 equipment, property, apparatus or facilities unless and until
20 it shall have complied with all applicable general or special
21 orders of the commission.
22 3. The commission may provide by general or special
23 order that any public utility shall submit, periodically or
24 at such times at the commission shall specify and in such
25 detail as the commission shall require, plans, specifications
26 and estimated costs of such proposed construction of any new
27 plant, equipment, property or facility, or such extension,
28 improvement or addition to its existing plant, equipment,
29 property, apparatus or facilities as the commission finds will
30 materially affect the public interest.
31 4. In such general or special order the commission may
32 provide that no such project as herein described shall proceed
33 until the commission has certified that public convenience
34 and necessity require such work; but, such general or special
35 order shall not require such certificate for the completion of
36 the construction and installation of plants and facilities
37 upon which construction work has begun prior to the taking
38 effect of this section or for which contracts may have been

39 entered into prior to such date. The commission may refuse
40 such certificate if it appears that the completion of such
41 project (a) will substantially impair the efficiency of the
42 service of such public utility;
43 (b) provides facilities unreasonably in excess of the
44 probable future requirements; or
45 (c) will, when placed in operation, add to the cost of
46 service without proportionately increasing the value or
47 available quantity thereof unless the public utility shall
48 waive consideration by the commission, in the fixation of
49 rates, of such consequent increase of cost of service. The
50 commission shall have power to issue a certificate for such
51 project or for such part thereof as complies with the
52 requirements of this section, or the commission may attach
53 to the issuance of its certificate such terms and conditions
54 as will insure that the project meets the requirements of this
55 section.
56 5. (a) Proceedings for such a certificate shall be
57 commenced by petition to the commission in such form and
58 furnishing such information as the commission shall by general
59 or special order prescribe. The commission shall also prescribe
60 the form of notice, to whom the same shall be given, and how
61 notice shall be given.
62 (b) A petition may include one or more municipalities,
63 may be made by one or more utilities as a joint petition, or
64 by any other person or corporation interested or by a utility

65 and such other person or corporation so interested, and the
66 commission may direct the consolidation, separation or
67 consideration of separate petitions as it may deem necessary or
68 expedient to a prompt hearing and disposition of the issue.
69 (c) Upon the filing of such petition, notice of hearing
70 thereon shall be given by any utility or person filing such
71 petition by publication in such newspapers and by posting such
72 notices in such public places or by mailing or personal service,
73 as the commission shall direct by the order provided for in
74 paragraph (b). Such notice shall be given, as herein provided,
75 at least two (2) weeks prior to hearing on such petition and
76 proof thereof filed as directed by the commission.
77 (d) The commission may by order prior to or during any
78 hearing frame and prescribe special issues and limit the issues
79 or the nature and extent of proof so as to avoid unnecessary
80 duplication or may proceed with the hearing as to part of an
81 application as it may find desirable to a full but speedy
82 hearing upon such petition.
83 (e) The certificate, when granted, shall be authorized
84 by an order following such hearing which shall contain such
85 conditions and limitations as the commission may deem necessary
86 or practicable, including exceptions or regulations as to
87 specific communities or utilities, provision for protection of
88 employees under existing labor contracts, as well as other
89 employees, so as to avoid unemployment, regulations for
90 accounting for expenses for change-over to the use of dial

91 service where necessary and to the extent necessary, provision
92 for amortization of any expenditure or other items, and such
93 other regulations, conditions and limitations as the commission
94 may consider necessary in the public interest.

95 (f) The commission shall take into consideration at the
96 time any telephone company makes application to change
97 its central office equipment from a manual operated switchboard
98 to a dial switchboard or automatic switching service the
99 safety and health factors of the community affected, particularly
100 in small communities where manual service may give more
101 adequate fire and police protection, and health protection in
102 emergency calls to doctors, veterinarian, etc. Ten users of
103 telephone service in a community, where telephone service is
104 being converted from a manual operated switchboard to a dial
105 switchboard or automatic switching, may petition the commission
106 in writing for a hearing in order to present their objections
107 to the change. The commission shall thereupon advise each of
108 said petitioners in writing of the time and place a hearing will
109 be held as requested, such hearing to take place not later
110 than 30 days after receipt by the commission of the petition
111 for hearing.

112 (g) Change from a manual operated switchboard to a dial
113 switchboard or automatic switching service by a telephone
114 company must be publicized by notice thereof being published
115 at least once a week for two successive weeks in a newspaper
116 of general circulation in the community in which such change is

117 to be made, at least sixty (60) days in advance of doing any work
118 on said conversion and same must state the contemplated change
119 in rates, if a rate change is to be made.
120 (h) Any certificate may extend to one or more utilities
121 or one or more municipalities when so directed by the order, and
122 may prescribe different conditions and regulations for each,
123 as the commission shall deem necessary to carry out the
124 purposes of this section.
125 (6) If the commission shall find that any public
126 utility has undertaken or is about to undertake such a project
127 as is herein described in violation or disregard of such
128 general or special order, the commission may in its own name
129 either before or after investigation or public hearing and
130 either before or after issuing any additional orders or
131 directions as it may deem proper, bring an action in the
132 district court of Polk county to enjoin such violation or
133 disregard of such order. Where necessary to preserve the
134 status quo the court may issue a temporary injunction pending
135 a hearing upon the merits. From any such order or judgment
136 of the district court an appeal may be taken to the supreme
137 court as provided by the rules of practice and procedure of
138 said court in civil cases.
1 Sec. 49. Competing utilities; indeterminate permits,
2 telephones.
3 1. Certificate of Necessity. No license, permit or
4 franchise shall be granted to own, operate, manage or control

5 any plant or equipment for the conveyance of telephone messages,
6 where there is in operation under an indeterminate permit
7 a public utility engaged in similar service, without first
8 securing from the commission a declaration, after a public
9 hearing of all parties interested, that public convenience
10 and necessity require such second public utility. This
11 subsection shall not prevent or impose any condition upon the
12 extension of any telephone toll line from any municipality
13 into or through any municipality for the purpose of connecting
14 with any telephone exchange in such municipality or connecting
15 with any other telephone line or system.
16 2. Telephone Extension. No public utility furnishing
17 telephone service shall install or extend any telephone
18 exchange for furnishing local service in any town where there
19 is a public utility engaged in similar service, without first
20 having served notice in writing upon the commission and such
21 other public utility of the installation or extension of such
22 exchange which it proposes to make, or make such installation
23 or extensions if the commission, within twenty (20) days after
24 the service of such notice, shall, upon investigation, find
25 and declare that public convenience and necessity do not require
26 the installation or extensions of such exchange. Any public
27 utility already engaged in furnishing local service to
28 subscribers within any city, town or village may extend its
29 exchange within such city, town or village without the authority
30 of the commission. Any public utility operating any telephone

31 exchange in any city, town or village shall, on demand, extend
32 its lines to the limits of such city, town or village for the
33 purposes mentioned and subject to the conditions and requirements
34 prescribed in section 4 and section 16, subsections 4 and 5.
35 3. Second Utility. Any permit, license or franchise
36 which shall contain any term whatsoever interfering with the
37 existence of a second public utility is hereby amended in such
38 manner as to permit the granting of a franchise for the
39 operation of such second public utility.
40 4. Injunction. Pending investigation and finding by the
41 commission as to whether public convenience and necessity
42 require a second utility, the furnishing of any telephone
43 service in any municipality contrary to the provisions of this
44 section may be enjoined at the suit of the state or of any
45 public utility having an interest therein.
1 Sec. 50. Prior permits and franchises validated. All
2 licenses, permits and franchises to own, operate, manage or
3 control any plant or equipment for the conveyance of telephone
4 messages in any municipality, granted or attempted to be
5 granted prior to May 1, 1951, to any public utility by or by
6 virtue of any ordinance pending or under consideration in the
7 municipal council of any municipality at the time of obtaining
8 of an indeterminate permit by any other public utility operating
9 therein, are hereby validated and confirmed and shall not be
10 affected by the provisions of subsection 1 of section 49.
1 Sec. 51. Surrendering of license; new authority. Any

2 telephone company operating under an existing license, permit
3 or franchise or which shall before taking effect of this act
4 acquire any license, permit, or franchise, upon filing with
5 the clerk of the municipality, which granted such franchise,
6 a written declaration that it surrenders such license, permit
7 or franchise, may receive in lieu thereof, an indeterminate
8 permit, as defined in this chapter; and such telephone company
9 shall thereafter hold such permit as defined in this chapter;
10 and such telephone company shall thereafter hold such permit
11 under all the terms, conditions and limitation of this chapter.
12 The filing of such declaration shall be deemed a waiver by
13 such telephone company of the right to insist upon the
14 fulfillment by any municipality of any contract theretofore
15 entered into relating to any rate, charge, or service made
16 subject to regulation by this chapter. Upon filing such
17 written declaration by the telephone company the clerk of
18 the municipality shall file with the commission a certificate
19 showing that fact and the date thereof and thereupon it shall
20 receive an indeterminate permit from the commission conferring
21 the same rights as if originally granted under this chapter.
1 Sec. 52. Relations with affiliated interests; definition;
2 contracts with affiliates filed and subject to commission control.
3 1. "Affiliated interests" with a public utility means
4 and includes the following:
5 (a) Every corporation and person owning or holding
6 directly or indirectly five per centum or more of the securities

7 of such public utility.

8 (b) Every corporation and person in any chain of
9 successive ownership of five per centum or more of voting
10 securities.

11 (c) Every corporation owning or holding five per centum
12 or more of whose securities is owned by any person or corporation
13 owning five per centum or more of the securities of such public
14 utility or by any person or corporation in any such chain of
15 successive ownership of five per centum or more of securities.

16 (d) Every person who is an officer or director of
17 such public utility or of any corporation in any chain of
18 successive ownership of five per centum or more of securities.

19 (e) Every corporation which has one or more officers or
20 one or more directors in common with such public utility.

21 (f) Every corporation or person which the commission
22 may determine as a matter of fact after investigation and hearing
23 is actually exercising any substantial influence over the
24 policies and actions of such public utility even though such
25 influence is not based upon stockholding, stockholders,
26 directors or offices to the extent specified in this section.

27 (g) Every corporation or person who or which the commission
28 may determine as a matter of fact after investigation and
29 hearing is actually exercising such substantial influence
30 over the policies and actions of such public utility in
31 conjunction with one or more other corporations and/or persons
32 with which or whom they are related by ownership and/or blood

33 relationship or by action in concert that together they are
34 affiliated with such public utility within the meaning of this
35 section even though no one of them alone is so affiliated.
36 2. Provided, however, that in the foregoing subsection
37 the term "person" shall not be construed to exclude trustees,
38 lessees, holders of beneficial equitable interests, voluntary
39 associations, receivers and partnerships.
40 3. No contract or arrangements providing for the furnishing
41 of management, supervisory construction, engineering, accounting,
42 legal, financial or similar services, and no contract or arrange-
43 ment for the purchase, sale, lease or exchange of any property,
44 right, or thing, or for the furnishing of any service, property,
45 right or thing, other than those above enumerated, hereinafter
46 made or entered into between a public utility and any affiliated
47 interest as defined in this chapter, shall be valid or effective
48 unless and until such contract or arrangement shall have received
49 the written approval of the commission. It shall be the duty
50 of every public utility to file with the commission a verified
51 copy of any such contract or arrangement, or a verified
52 summary of any such unwritten contract or arrangement, and
53 also of all such contracts and arrangements, whether written
54 or unwritten, entered into prior to the effective date of
55 this section and in force and effect at that time. The
56 commission shall approve such contract or arrangement hereafter
57 made or entered into only if it shall clearly appear and be
58 established upon investigation that it is reasonable and

59 consistent with the public interest; otherwise the contract
60 or arrangement shall not be approved. No such contract or
61 arrangement shall receive the commission's approval unless
62 satisfactory proof is submitted to the commission of the cost
63 to the affiliated interest of rendering the services or of
64 furnishing the property or service described herein to each
65 public utility. No proof shall be satisfactory within the
66 meaning of the foregoing sentence unless it includes the
67 original (or verified copies) of the relevant cost records
68 and other relevant accounts of the affiliated interest, or such
69 abstract thereof or summary taken therefrom as the commission
70 may deem adequate, properly identified and duly authenticated,
71 provided, however, that the commission may, where reasonable,
72 approve or disapprove such contracts or arrangements without
73 the submission of such cost records or accounts.
74 4. In any proceeding, whether upon the commission's
75 own motion or upon application or complaint, involving the
76 rates or practices of any public utility, the commission may
77 exclude from the accounts of such public utility any payment
78 or compensation to an affiliated interest for any services
79 rendered or property or service furnished, as above described,
80 under existing contracts or arrangements with such affiliated
81 interest unless such public utility shall establish the
82 reasonableness of such payment or compensation. In such
83 proceeding the commission shall disallow such payment or
84 compensation, in whole or in part, in the absence of satisfactory

85 proof that it is reasonable in amount. **In such proceeding no**
86 payment or compensation shall be approved or allowed by the
87 commission, in whole or in part, unless satisfactory proof is
88 submitted to the commission of the cost to the affiliated
89 interest of rendering the service or furnishing the property
90 or service above described to each public utility. No proof
91 shall be satisfactory, within the meaning of the foregoing
92 sentence, unless it includes the original (or verified copies)
93 of the relevant cost records and other relevant account of
94 the affiliated interest, or such abstract thereof or summary
95 taken therefrom as the commission may deem adequate, properly
96 identified and duly authenticated; provided, however, that
97 the commission may where reasonable, approve or disapprove
98 such contracts or arrangements without the submission of
99 such cost records or accounts.
100 5. The commission shall have continuing supervisory
101 control over the terms and conditions of such contracts and
102 arrangements as are herein described so far as necessary to
103 protect and promote the public interest. The commission shall
104 have the same jurisdiction over the modifications or amendment
105 of contracts or arrangements as are herein described as it
106 has over such original contracts or arrangements. The fact
107 that the commission shall have approved entry into such
108 contracts or arrangements as described herein shall not
109 preclude disallowance or disapproval of payments made pursuant
110 thereto, if upon actual experience under such contract or

111 arrangement it appears that the payments provided for or made
112 were or are unreasonable. Every order of the commission approving
113 any such contract or arrangement shall be expressly conditioned
114 upon the reserved powers of the commission to revise and amend
115 the terms and conditions thereof, if, when and as necessary to
116 provide and promote the public interest.

117 6. Whenever the commission shall find upon investigation
118 that any public utility is giving effect to any such contract
119 or arrangement without such contract or arrangement having
120 received the commission's approval, as required by this section,
121 the commission shall issue a summary order directing the public
122 utility to cease and desist from making any payments or otherwise
123 giving any effect to the terms of such contract or arrangement,
124 until such contract or arrangement shall have received the
125 approval of the commission. The district court of Polk county
126 is authorized to enforce such order to cease and desist by
127 appropriate process, including the issuance of a preliminary
128 injunction, upon the suit of the commission.

129 7. Whenever the commission shall find upon investigation
130 that any public utility is making payments to an affiliated
131 interest, although such payments have been disallowed and disapproved
132 by the commission in a proceeding involving the public utility's
133 rates or practices, the commission shall issue a summary order
134 directing the public utility to cease and desist from making
135 such payments. The district court of Polk County is authorized
136 to enforce such order to cease and desist by appropriate process,

137 including the issuance of a preliminary injunction, upon the
138 suit of the commission.

1 Sec. 53. Pensions; contributions; discontinuance; changes;
2 discriminations.

3 1. Every public utility shall file with the commission
4 any pension, welfare, profit-sharing or annuity plan created
5 or put into operation by such utility either unilaterally or
6 through collective bargaining.

7 2. No public utility shall be permitted to list any
8 contributions to any pension, welfare, profit-sharing or annuity
9 plan as an operating expense for the purpose of rate considerations
10 unless such pensions, welfare, profit-sharing or annuity plan
11 shall be on file with the commission in accordance with
12 paragraph 1 of this section.

13 3. No public utility shall discontinue, cease the operations
14 of or unilaterally change the provisions of any pension, welfare,
15 profit-sharing or annuity plan on file with the commission without
16 first securing from the commission a certificate of approval.
17 The commission shall issue such certificate of approval only after
18 hearing upon a petition for such certificate of approval and
19 after determining that the welfare of the public is served
20 thereby. All interested parties shall have an opportunity to
21 be heard, to present evidence and to cross-examine at such hearing.

22 4. Nothing in this section shall prevent any changes in
23 any pension, welfare, profit-sharing or annuity plan being
24 effected through the orderly and legal processes of collective

25 bargaining in good faith between the public utility and the
26 proper representative of its employees.
27 5. The commission shall not consider contributions paid
28 by a utility to any pension, welfare, profit-sharing or annuity
29 plan as an operating expense for the purpose of rate considerations
30 if, in the judgment of the commission, officers, or supervisory
31 personnel of the utility are discriminatorily favored as bene-
32 ficiaries of such plans in the amounts received thereunder as
33 compared with the amounts received thereunder by qualified non-
34 supervisory personnel.
1 Sec. 54. Financing; loans to officers or directors and
2 loans to and investments in securities of holding companies;
3 penalty.
4 1. Public utilities in this state other than mutually owned
5 telephone companies may be required by the commission where
6 financing or issuance of additional stock is necessary for
7 replacement, extension or improvement of plant and/or service,
8 that the funds necessary therefor shall be procured by the
9 issuance of nonconvertible refundable bonds, in the amount required
10 up to thirty-five per cent (35%) of the value of the public utility
11 property that has been approved by the commission for rate making
12 purposes. Bond issues should be required, whenever possible,
13 in those cases where failure to require such would result in
14 a possible rate increase based on values.
15 2. No public utility shall, except in accordance with such
16 rules and regulations as the commission after public hearing shall

17 from time to time prescribe, lend its funds or credit to any
18 one or more of its officers or directors or to any corporation
19 (except a public utility subject to the regulatory powers of
20 the commission) which holds, directly or indirectly through
21 any chain of ownership, five per cent or more of the stock
22 of such public utility or renders any managerial, supervising,
23 engineering, legal, accounting or financial service to such
24 public utility by (a) becoming surety, grantor or indorser
25 upon any obligations, contingent or otherwise, of such
26 officer, director or corporation; (b) by loaning funds,
27 securities or other like assets to any such officer, director
28 or corporation; or (c) by the purchase in the open market, or
29 otherwise, of any obligation upon which such officer, director,
30 or corporation may be liable solely or jointly with others.
31 3. Any contract made in violation of this section shall
32 be void and subject to cancellation and recoupment by action
33 at law. Where a contract is made contrary to the provisions
34 of this section the commission may, after notice and hearing,
35 order the public utility to take steps within thirty (30) days to
36 recover the funds or assets thus illegally loaned or transferred
37 by action at law or to take such other proceedings as may be
38 effective to release the public utility from any contract as
39 surety, guarantor or indorser.
40 4. Any director, treasurer or other officer or agent of
41 such public utility who makes or votes to authorize a transaction
42 in violation of this section shall be subject to a fine of not

43 more than ten thousand dollars ($10,000.00).

44 5. The provisions of this section shall extend to the

45 removal or extension of such existing contracts.

1 Sec. 55. Publicity; training; surveys; exceptions.

2 1. Public utilities shall furnish the commission with

3 sufficient copies of all the publicity material they use such

4 as advertisements, letters, radio scripts, press releases,

5 pamphlets, books, booklets, magazines, lectures and other

6 publicity material as developed, at the time this publicity

7 material is originally being used or as otherwise specified by

8 the commission.

9 2. All public contact training or publicity material used

10 by a public utility to train or inform its employees in whatever

11 form assembled or used shall be sent to the commission as it is

12 originally being used or as otherwise specified by the commission.

13 3. Public surveys made by a public utility shall be sent

14 to the commission at the time of completion and summary, along

15 with an explanation of need for the survey, who made the

16 survey and where the original source material of the survey

17 is located or filed and any other information that the commission

18 shall request.

19 4. Telephone companies operating less than eight

20 telephone exchanges or having less than fifteen thousand

21 subscribers in one city, served by one exchange, shall not be

22 subject to the regulations provided by this section.

1 Sec. 56. Franchise denied foreign corporations. No

2 license, permit or franchise to own, operate, manage or control
3 any plant or equipment to be used for telephone service, and not
4 subject to the regulation of the commission, shall be granted or
5 transferred to a foreign corporation.

1 Sec. 57. Grants to be indeterminate. Every license,
2 permit or franchise granted after May 1st, 1951, to any public
3 utility shall have the effect of an interminate permit subject
4 to the provisions of this chapter.

1 Sec. 58. Franchises made indeterminate. Every license,
2 permit or franchise granted prior to May 1, 1951, by the state
3 or by municipality authorizing and empowering the grantee to
4 own, operate, manage or control within this state, either
5 directly or indirectly, a public utility or any part thereof,
6 is so altered and amended as to constitute and to be an
7 indeterminate permit, and subject to all the terms, provisions,
8 conditions and limitations of this chapter, and shall have the
9 same force and effect as a license, permit or franchise granted
10 after May 1, 1951, to any public utility.

1 Sec. 59. Validation of franchises and permits. No franchise
2 affected by section 58 and no indeterminate permit shall be
3 declared invalid if such franchise or permit shall not have
4 been obtained by fraud, bribery or corrupt practices; and, when
5 the same was granted, no officer of the municipality granting
6 the same was directly or indirectly interested in such franchise
7 or permit or in the corporation obtaining same; and the
8 corporation having the same shall have, prior to the surrendering

9 of said franchise or the beginning of its public service under
10 said permit, in good faith purchased or constructed any public
11 utility, or any part thereof by such franchise authorized, and
12 said corporation in obtaining such franchise or permit shall
13 have made substantial compliance with the requirements provided
14 by law for the obtaining of said franchise or permit. Subject
15 to the foregoing exceptions, every such franchise and permit
16 is hereby legalized and confirmed.

1 Sec. 60. Discrimination; definition; penalty. If any
2 public utility or any agent or officer thereof shall directly
3 or indirectly, charge, demand, collect or receive from any
4 person a greater or less compensation for any services rendered
5 or to be rendered by it affecting or relating to the conveyance
6 of telephone messages, or for any service in connection therewith,
7 than that prescribed in the published schedules or tariffs
8 then in force or established as provided herein, or than it
9 charges, demands, collects or receives from any other person
10 for a like and contemporaneous service, such public utility
11 shall be deemed guilty of unjust discrimination which is hereby
12 prohibited, and upon conviction thereof shall forfeit not less
13 than one hundred dollars nor more than one thousand dollars for
14 each offense; and such agent or officer so offending shall be
15 punished by a fine of not less than fifty dollars nor more
16 than one hundred dollars to the state treasurer for each offense.

1 Sec. 61. Discrimination, definition, penalty. If any
2 public utility shall give any unreasonable preference or

3 advantage to any person or shall subject any person to any
4 unreasonable prejudice or disadvantage, such public utility
5 shall be deemed guilty of unjust discrimination which is
6 hereby prohibited. The furnishing of any product or service
7 at the rates and upon the terms and conditions provided for in
8 any existing contract executed prior to May 1, 1951, shall not
9 constitute a discrimination. Any public utility violating the
10 provisions of this section shall forfeit not less than fifty
11 dollars nor more than one thousand dollars to the state
12 treasurer for each offense.

1 Sec. 62. Utilities, liability for treble damages. If
2 any public utility shall do or cause to be done or permit to
3 be done any matter, act or thing prohibited or declared to be
4 unlawful by this chapter, or shall omit to do any act, matter
5 or thing required to be done by it, such public utility shall
6 be liable to the person injured thereby in treble the amount
7 of damage sustained in consequence of such violation.

1 Sec. 63. Reduction in rates; retroactive effect. If the
2 rates of any public utility shall be based upon the cost of any
3 service furnished to said utility which is in turn furnished
4 or distributed by said utility to the public served by it, and
5 the charges for which are regulated by any authority of the
6 federal government, and such charges are changed by such
7 federal authority, the commission upon complaint or upon its
8 own motion may proceed to investigate and determine whether the
9 utility's rates shall be changed by reason of the change in the

10 cost of service resulting from the change in charges as prescribed
11 by such federal authority; and any such change in rates by
12 the commission may be made effective as of the effective date
13 of the order of the federal authority prescribing such change
14 in charges. In any such case, notwithstanding the provisions
15 of section 61, the commission may determine and require
16 payment by the utility to its customers of any sums which it
17 may have received from them subsequent to such effective date
18 of its said order in excess of the rates so prescribed by the
19 commission.

1 Sec. 64. Public utilities; information, papers and
2 accounting.

3 1. Any officer, agent or employee of any public utility
4 as defined in section 1, who shall fail or refuse to fill out
5 and return any blanks as required by this chapter or shall fail
6 or refuse to answer any question therein propounded, or shall
7 knowingly give a false answer to any such question, or shall
8 evade the answer to any such question where the fact inquired
9 of is within his knowledge, or who shall, upon proper demand,
10 fail or refuse to exhibit to the commission or any commissioner
11 or any person authorized to examine the same, any book, paper,
12 account, record or memoranda of such public utility which is in
13 his possession or under his control, or who shall fail to
14 properly use and keep his system of accounting or any part
15 thereof as prescribed by the commission, or who shall refuse
16 to do any act or thing in connection with such system of
17 accounting when so directed by the commission or its authorized

18 representative, shall be punished by a fine of not less than one
19 hundred nor more than one thousand dollars for each offense.
20 2. And a penalty of not less than five hundred dollars
21 nor more than one thousand dollars shall be recovered from the
22 public utility for each offense when such officer, agent or
23 employee acted in obedience to the direction, instruction or
24 request of such public utility or any general officer thereof.
1 Sec. 65. General penalty; utility responsible for
2 agents.
3 1. If any public utility shall violate any provision of
4 this chapter or shall do any act therein prohibited, or shall
5 fail or refuse to perform any duty enjoined upon it for which
6 a penalty has not been provided, or shall fail, neglect or
7 refuse to obey any lawful requirement or order made by the
8 commission or any judgment or decree made by any court upon
9 its application, for every such violation, failure or refusal
10 such public utility shall forfeit not less than twenty-five
11 dollars nor more than one thousand dollars to the state
12 treasurer.
13 2. Every day during which any public utility or any
14 officer, agent or employee thereof shall fail to observe and
15 comply with any order or direction of the commission or to
16 perform any duty required by this chapter, shall constitute a
17 separate and distinct violation.
1 Sec. 66. Temporary alteration or suspension of rates.
2 1. The commission may by order when deemed by it
3 necessary to prevent injury to the business or interests of

4 the people or any public utility in case of any emergency to
5 be judged of by the commission, temporarily alter, amend, or
6 with the consent of the public utility concerned, suspend any
7 existing rates, schedules and order relating to or affecting
8 any public utility or part of any public utility.
9 2. Such order shall apply to one or more of the public
10 utilities in this state or to any portion thereof as may be
11 directed by the commission, and shall take effect at such
12 time and remain in force for such length of time as may be
13 prescribed by the commission.
1. Sec. 67. Transmission lines; safety and interference.
2 Every public utility which owns, operates, manages or controls
3 along or across any public or private way any wires over which
4 messages are transmitted shall construct, operate and maintain
5 such wires and the equipment used in connection therewith in
6 a reasonably adequate and safe manner and so as not to
7 unreasonably interfere with the service furnished by other
8 public utilities. The public service commission is authorized
9 to issue orders or rules, after hearing, requiring electric
10 construction and operating of such wires and equipment to be
11 safe and may revise these orders or rules from time to time
12 as may be required to promote public safety. If a complaint is
13 filed with the commission by any interested party to the effect
14 that public safety or adequate service requires changes in
15 construction, location or methods of operation, the commission
16 shall give notice to the parties in interest of the filing of

17 such complaint, and shall proceed to investigate the same and
18 shall order a hearing thereon. After such hearing the
19 commission shall order any alteration in construction or
20 location or change of methods of operation required for
21 public safety or to avoid service interference, and by whom
22 the same shall be made. The commission shall fix the proportion
23 of the cost and expense of such changes, which shall be paid
24 by the parties in interest, and fix reasonable terms and
25 conditions in connection therewith.

1 Sec. 68. Other rights of action; penalties cumulative.
2 The provisions of this chapter shall not have the effect of
3 releasing or waiving any right of action by the state or by
4 any person for any right, penalty or forfeiture which may
5 have arisen or which may arise, under any law of this state;
6 and all penalties and forfeitures accruing under this chapter
7 shall be cumulative and a suit for any recovery of one shall
8 not be a bar to the recovery of any other penalty.

1 Sec. 69. Rates of May 1, 1951, to govern; proceedings
2 to change.

3 1. Unless the commission shall otherwise order, it shall
4 be unlawful for any public utility within this state to demand,
5 collect or receive a greater compensation for any service
6 than the charge fixed on the lowest schedules of rates for
7 the same services on the first day of May, 1951.

8 2. Any public utility desiring to advance or discontinue
9 any such rate may apply to the commission in writing stating

10 the advance or discontinuation desired, giving the reasons
11 therefor.
12 3. The commission shall fix a time and place for hearing
13 and give such notice to interested parties as it shall deem
14 reasonable. After such hearing the commission shall enter an
15 order granting the application either in whole or in part or
16 denying the same.
1 Sec. 70. Reorganization subject to commission approval.
2 Reorganizations of all public utilities shall be subject to
3 the supervision and control of the commission, and no such
4 reorganization shall be had or given effect without the
5 written approval of such commission. No plan of reorganization
6 shall be approved by the commission unless it shall be
7 established by the applicant for such approval that the plan
8 of reorganization is consistent with the public interest.
1 Sec. 71. Abandonment; commission approval required. No
2 public utility shall abandon or discontinue any telephone
3 plant, lines, extension of lines, or service thereon without
4 first securing the approval of the commission. In granting its
5 approval the commission may impose such terms, conditions or
6 requirements as in its judgment are necessary to protect the
7 public interest.
1 Sec. 72. Payment of commission's expenditures by utilities.
2 1. Whenever the commission in a proceeding upon its own
3 motion, or complaint, or upon an application to it shall deem
4 it necessary in order to carry out the duties imposed upon it

5 by law to investigate the books, accounts, practices and
6 activities of, or make appraisals of the property of any public
7 utility, or to render an engineering or accounting services to
8 any public utility, such public utility shall pay the expenses
9 reasonably attributable to such investigation, and shall render a
10 bill therefor, by registered mail, to the public utility
11 either at the conclusion of the investigation, appraisal or
12 services, or from time to time during its progress, which
13 bill shall constitute notice of said assessment and demand
14 of payment thereof. Upon bill so rendered such public utility,
15 shall, within fifteen days after the mailing thereof pay to
16 the commission the amount of the expense for which it is billed,
17 and such payment when made shall be credited to the general
18 appropriation of the commission. The total amount, in any
19 one calendar year, for which any public utility shall become
20 liable, by reason of cost incurred by the commission within
21 such calendar year shall not exceed one per cent of its gross
22 operating revenues derived from intrastate operations in the
23 last preceding calendar year. Where, pursuant to this subsection,
24 costs are incurred within any calendar year which are in excess
25 of one per cent of such gross operating revenues, the excess
26 costs shall not be chargeable as part of the remainder under
27 subsection 2 of this section but shall be paid out of the
28 general appropriation to the public service commission.
29 Nothing herein contained shall prevent the commission from
30 rendering bills in one calendar year for costs incurred

31 within a previous year.

32 2. The commission shall annually, within 90 days after
33 the close of each fiscal year, ascertain the total of its
34 expenditures during such year which are reasonably attributable
35 to the performance of its duties relating to public utilities
36 and shall deduct therefrom all amounts chargeable to public
37 utilities under subsection 1 of this section. The remainder
38 shall be assessed by the commission to the several public
39 utilities in proportion to their respective gross operating
40 revenues during the last calendar year, derived from intrastate
41 operations. Such assessment shall be paid within fifteen (15) days
42 after bill has been mailed, by registered mail, to the several
43 public utilities, which shall constitute notice of said assessment
44 and demand of payment thereof. When paid said assessment shall
45 be credited to the general appropriation made to the commission.
46 The total amount which may be assessed to the public utilities
47 under authority of this subsection, shall not exceed one per
48 cent (1%) of the total gross operating revenues of such public
49 utilities during such calendar year, derived from intrastate
50 operations.

51 3. If any public utility against which a bill has been
52 rendered under subsection one (1) of this section, within fifteen (15)
53 days after the rendering of such bill shall (a) neglect or
54 refuse to pay the same, or (b) shall fail to file objections
55 to said bill with said commission, as provided hereinafter, it
56 shall be the duty of the public service commission forthwith

57 to transmit to the state treasurer a certified copy of said
58 bill, together with notice of neglect or refusal to pay said
59 bill, and on the same day said commission shall mail, by
60 registered mail, to the public utility against which said bill
61 has been rendered a copy of said notice which it has transmitted
62 to the state treasurer. Within ten (10) days after the receipt
63 of such notice and certified copy of such bill the state treasurer
64 shall proceed forthwith to levy the amount stated on such bill
65 to be due, with interest, by distress and sale of any goods
66 and chattels, including stocks, securities, bank accounts,
67 evidences of debt, and accounts receivable belonging to such
68 delinquent public utility. Such levy by distress and sale
69 shall be governed by the provisions of section seventy-three.
70 4. a. Within fifteen days after the date of mailing
71 any bill as provided by subsections one and two the public
72 utility against which such bill has been rendered may file
73 with the public service commission objections setting out in
74 detail the grounds upon which said objector regards said bill
75 to be excessive, erroneous, unlawful or invalid. The commission,
76 after notice to the objector, shall proceed forthwith to hold
77 a hearing upon such objections, not less than five (5) nor more
78 than ten (10) days after such notice. If after such hearing the
79 commission finds any part of said bill to be excessive,
80 erroneous, unlawful or invalid it shall record its findings
81 upon its minutes and transmit to the objector by registered
82 mail an amended bill, in accordance with such findings. Such

83 amended bill shall have in all ways the same force and effect
84 under this section as an original bill rendered under subsections
85 one and two.
86 b. If after such hearing the commission finds the
87 entire bill unlawful or invalid it shall notify the objector
88 by registered mail of such determination, in which case said
89 original bill shall be deemed null and void.
90 c. If after such hearing the commission finds that
91 the bill as rendered is neither excessive, erroneous, unlawful
92 or invalid either in whole or in part it shall record such
93 findings upon its minutes, and transmit to the objector by
94 registered mail notice of such finding.
95 d. If any bill against which objections have been
96 filed shall not be paid within ten (10) days after notice of a
97 finding that such objections have been overruled and disallowed
98 by the commission has been mailed to the objector as herein
99 provided, the commission shall give notice of such delinquency
100 to the state treasurer and to the objector, in the manner
101 provided in subsection three. The state treasurer shall then
102 proceed to collect the amount of said bill as provided in
103 subsection three. If an amended bill is not paid within ten (10)
104 days after a copy thereof is mailed to the objector by registered
105 mail, the commission shall notify the state treasurer and the
106 objector as in the case of delinquency in the payment of an
107 original bill. The state treasurer shall then proceed to collect
108 the amount of said bill as provided in the case of an original

109 bill.

110 5. No suit or proceeding shall be maintained in any
111 court for the purpose of restraining or in any wise delaying
112 the collection or payment of any bill rendered under subsections
113 one and two of this section. Every public utility against which
114 a bill is rendered shall pay the amount thereof, and after such
115 payment may in the manner herein provided, at any time within two
116 (2) years from the date the payment was made, present a claim to
117 the next legislative session to recover the amount paid with legal
118 interest thereon from date of payment, upon the ground that said
119 assessment was excessive, erroneous, unlawful or invalid in whole
120 or in part. If it is finally determined in such action that any
121 part of the bill for which payment was made was excessive, erroneous,
122 unlawful or invalid, the state treasurer shall make a refund to
123 the claimant as directed by the court, which shall be charged to
124 the appropriations to the public service commission.

125 6. No action for recovery of any amount paid pursuant
126 to this section shall be maintained in any court unless
127 objections have been filed with the commission as herein
128 provided. In any action for recovery of any payments made
129 under this section the claimant shall be entitled to raise
130 every relevant issue of law, but the commission's findings
131 of fact made pursuant to this section shall be prima facie
132 evidence of the facts therein stated.

133 7. The following shall be deemed to be findings of
134 fact of the commission, within the meaning of this section:

135 (a) determinations of fact expressed in bills rendered pursuant
136 to this section; (b) determinations of fact set out in those
137 minutes of the commission which record the action of the
138 commission in passing upon said bills, and in passing upon
139 objections thereto.

140 8. The procedure by this section providing for determining
141 the lawfulness of bills and the recovery back of payments made
142 pursuant to such bills shall be exclusive of all other remedies
143 and procedures.

144 9. If any subsection of this section or any part thereof
145 or the application thereof to any person or circumstances be
146 held invalid, neither the validity of the remainder of the act
147 nor that of any other clause, sentence or provision of this
148 section or the application thereof to other persons or circumstances
149 shall be affected thereby, inasmuch as the legislature hereby
150 declares that the provisions of each subsection are desirable
151 and feasible even though it may eventually be held that other
152 subsections or any part thereof are invalid.

1 Sec. 73. Collection by distress.

2 1. In case any public utility shall refuse or neglect
3 to pay the bill rendered to it as provided by subsections 1,
4 2 and 3 of section 72, the state treasurer may in his
5 discretion levy on the same by distress and sale of any goods
6 and chattels belonging to such public utility, wherever the
7 same may be found within the state, and shall receive therefor
8 the fees allowed by law to the sheriff for levy and sale of

9 goods upon execution.

10 2. The state treasurer shall give public notice of the
11 time and place of such sale at least ten days previous thereto
12 by publication in a newspaper of general circulation in the
13 community where the property was located when levied on.
14 Such notice to contain a description of the property to be
15 sold and the time and place where the sale is to be held. The
16 sale shall be a public auction in the daytime and the property
17 sold shall be present; such property may be released by the
18 payment of the bill rendered and charges for which the same
19 is liable to be sold; if the purchase money on such sale shall
20 not be paid at such time as the state treasurer shall require
21 he may again, in his discretion, expose such property for sale
22 or sue in his name of office the purchaser for the purchase
23 money and recover the same with costs and ten per centum
24 damages.

25 3. If the property so levied upon shall be sold for more
26 than the amount of the bill rendered and costs the surplus
27 shall be returned to the public utility which was the owner
28 thereof; and if it cannot be sold for want of bidders the
29 state treasurer shall return a statement of the fact and return
30 the property to the public utility from whose possession he
31 took same; and the bill rendered, if unsatisfied shall be
32 collected in the same manner as if no levy had been made.

1 Sec. 74. Burden of proof. In any investigation action
2 or proceeding arising under, or growing out of any action

3 initiated by the commission upon its own motion the burden of
4 proof shall be upon the public utility to establish the
5 reasonableness of existing rates, rules and practices.

1 Sec. 75. Precedence. Those provisions of chapter 488
2 of the 1950 Code of Iowa and any other state statutes in
3 conflict with the provisions of this chapter are hereby declared
4 inoperative in so far as public utilities as defined in this
5 chapter are concerned, and the provisions of this chapter shall
6 take precedence over same.

1 Sec. 76. Constitutionality. If any section, subsection,
2 clause, sentence, or phrase of this act is for any reason held
3 to be unconstitutional and invalid, such decision shall not
4 affect the validity of the remaining portions of this act.
5 The legislature hereby declares that it would have passed
6 this act and each section, subsection, clause, sentence or
7 phrase hereof irrespective of whether any one or more of the
8 sections, subsections, clauses, sentences or phrases be declared
9 unconstitutional.

1 Sec. 77. Publication clause. This act being deemed of
2 immediate importance shall be in full force and effect from
3 and after its passage and publication, as provided by law, in
4 the ....., a newspaper
5 published at ....., Iowa, and in the .....
6 ....., a newspaper published
7 at ....., Iowa.