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Placed on File.

**House File 302**  
By DEN HERDER and MURRAY.

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

## A BILL FOR

An Act to authorize the Iowa state commerce commission to regulate the rates and services of public utilities, to define public utilities for the purpose of such regulation, and to provide for appeals from orders and decisions of the Iowa state commerce commission.

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

1 Section 1. Commission authority. The Iowa state commerce  
2 commission is hereby authorized and directed to regulate the  
3 rates and services of public utilities to the extent and in  
4 the manner hereinafter provided.

1 Sec. 2. Definitions. For purposes of this Act the  
2 following terms shall have the following meaning:

3 1. "Public utility" shall include any person, partnership,  
4 business association, co-operative, or corporation, domestic  
5 or foreign, owning or operating any facilities for:

6 a. Furnishing gas by piped distribution system or  
7 electricity to the public for compensation.

8 b. Furnishing communications services to the public for  
9 compensation.

10 c. Furnishing water by piped distribution system to the  
11 public for compensation.

12 Mutual telephone companies in which at least fifty (50)  
13 percent of the users are owners, telephone companies having  
14 less than two thousand (2,000) stations, municipally-owned  
15 utilities, and cooperative corporations or associations shall

16 not be subject to the provisions relating to rate regulation.  
17 Nothing contained in this act shall be construed to apply to  
18 municipally-owned waterworks.

19 2. "Municipal council" means the city or town council of  
20 any city or town wherein the property of the public utility  
21 or any part thereof is located.

22 3. "Municipality" means any city or town wherein property  
23 of a public utility or any part thereof is located.

24 4. "Rate" shall mean and include every compensation,  
25 charge, joint rate, toll, rental, classification, or schedule  
26 of charges or any of them demanded, observed, charged or  
27 collected by the public utility for any service or product  
28 or commodity offered by it to the public, and any rules,  
29 tariffs, regulations, practices, franchises or contracts  
30 affecting any such compensation, charge toll, rental or  
31 classification.

1 Sec. 3. Commission powers.

2 1. The commission shall regulate every public utility in  
3 this state and do all things necessary and convenient in the  
4 exercise of such power and jurisdiction. The commission shall  
5 have broad general powers to effect the purposes of the Act  
6 notwithstanding the fact that certain specific powers are  
7 hereinafter set forth.

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

14 to such classification.

15 3. The commission shall adopt comprehensive rules and  
16 regulations relative to all inspections, tests, audits and  
17 investigations.

18 4. It shall be the duty of the commission to intervene  
19 in all cases and proceedings before federal or state regulatory  
20 agencies in which utility rates paid by consumers within the  
21 state of Iowa are or may be directly or indirectly affected.

22 5. The commission shall have authority to inquire into  
23 the management of the business of all public utilities, shall  
24 keep itself informed as to the manner and method in which the  
25 same is conducted, and may obtain from any public utility all  
26 necessary information to enable the commission to perform  
27 its duties.

28 6. The commission or any commissioner or any agent thereof  
29 shall upon demand have the right to inspect the books, accounts,  
30 papers, records and memoranda of any public utility, to  
31 examine under oath, any officer, agent or employee of such  
32 public utility in relation to its business and affairs, and  
33 to require the public utility to fill out and answer fully  
34 such questionnaires concerning its business affairs as may  
35 be requested by the commission. Any person, other than a  
36 commissioner, who shall make such demand shall produce his  
37 authority to make such inspection.

38 7. The commission may require the production within this  
39 state at such time and place as it may designate of any books,  
40 accounts, papers or records kept by said public utility  
41 without the state and affecting the business of the said  
42 public utility within the state, or verified copies in lieu

43 thereof.

44 8. The commission shall publish biennial reports containing  
45 a brief and condensed outline of its activities and proceedings,  
46 together with a financial statement showing the receipts,  
47 expenditures and disposition of all funds, and the number of  
48 officers, assistants and employees.

1 Sec. 4. Records public; exceptions; use.

2 1. Except as otherwise provided by law, all facts and  
3 information in the possession of the commission shall be public,  
4 and all reports, records, files, books, accounts and papers in  
5 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 withhold from the public any facts or information in its  
9 possession, such facts may be withheld for such period,  
10 not 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  
13 the head of said department or agency. The manner in which  
14 these records may be used shall be prescribed by the commission  
15 but not the use to which the information taken from the records  
16 is put.

1 Sec. 5. Standard measurements; accurate appliances.

2 1. The commission shall fix adequate and serviceable  
3 standards for the measurement of quality, pressure, initial  
4 voltage or other condition pertaining to the supply of the  
5 product or service rendered by any public utility, and  
6 prescribe reasonable regulations for examining and testing  
7 of such product or service and for the measurement thereof.

8     2. The commission shall establish reasonable rules,  
9 regulations, specifications, standards and tests to secure  
10 and determine the accuracy of all meters and appliances for  
11 measurements. Said rules may include the assessment of  
12 reasonable fees to cover the costs of testing said measuring  
13 devices.

14     3. This section shall not limit powers vested in municipal  
15 councils.

1     Sec. 6. Agents of commission; powers and duties. For  
2 the purpose of making any investigation or conducting any  
3 hearing with regard to any public utility the commission shall  
4 have the power to appoint, by an order in writing, agents  
5 whose duties and powers shall be prescribed by such order.  
6 The commission may conduct any number of investigations  
7 simultaneously through different agents and may delegate to  
8 any agent the taking of testimony. Such investigation and  
9 hearing shall be made and conducted in the manner and at the  
10 place directed by the commission. Such agents shall have  
11 power to administer oaths in making investigations or  
12 conducting hearings and the commission may provide for a  
13 record to be made of any hearing or investigation. Agents  
14 shall report their findings and recommendations to the  
15 commission. The commission may consider the evidence and  
16 record introduced before or made by the agents, and it may  
17 hear additional evidence, hold further hearings and make  
18 further investigation. The order or decision of the  
19 commission shall have the same force and effect as though  
20 the entire hearing and investigation had been held before  
21 the commission.

1     Sec. 7. Entry upon premises. The commission, its agents,  
2 experts or examiners may enter upon any premises occupied by  
3 any public utility for the purpose of making the examinations  
4 and tests provided in this chapter and may occupy reasonable  
5 space therefor.

1     Sec. 8. Uniform accounting.

2     1. Every public utility is required, for all its business,  
3 to keep and render its books, accounts, papers and records  
4 accurately and faithfully in the manner and form prescribed  
5 by the commission. The commission may provide for the  
6 examination and audit of all accounts, and all items shall  
7 be allocated to the accounts in the manner prescribed by  
8 the commission.

9     2. The accounts of public utilities shall be closed  
10 annually on the thirty-first (31) day of December and a  
11 balance sheet of that date prepared. On or before the  
12 May 1 following, an annual report including the balance  
13 sheet together with such other information as the commission  
14 shall request, verified by an officer of the public utility,  
15 shall be filed with the commission.

1     Sec. 9. Depreciation rates and practices; findings by  
2 commission.

3     1. Every public utility shall file with the commission,  
4 at such time as may be required by the commission, its  
5 estimate of the average annual rate of depreciation required  
6 for each of its classes of fixed capital used for public  
7 utility purposes, and of the composite annual rate of  
8 depreciation required for such fixed capital as an aggregate,  
9 which shall constitute the public utility's estimates of the

10 amount which should be returned to it out of its rates for  
11 service, to meet the depreciation of its property.

12 2. The commission shall review the same, and either  
13 certify the estimates to the public utility or certify to the  
14 public utility the percentages which it considers reasonable  
15 and proper, together with the reason for its determinations.  
16 In revising the reasonable and proper percentages of  
17 depreciation the commission shall give consideration to the  
18 experience of the public utility in accumulating a depreciation  
19 reserve under previous rates, the retirements actually made  
20 and such other factors as may be relevant. In case the fixed  
21 capital accounts of the public utility are not so subdivided  
22 as to permit the rates for the various classes of fixed  
23 capital used for public utility purposes to be applied,  
24 the estimates submitted by the public utility and the  
25 percentages determined by the commission may be based upon  
26 the aggregate of such fixed capital.

27 3. After the commission shall have submitted its findings,  
28 the public utility shall have thirty (30) days within which  
29 to make application to the commission for a hearing or else  
30 the commission's findings shall have the effect of an order.

31 4. The depreciation rates finally determined shall  
32 constitute the percentages to be used in any proceeding  
33 involving the rates or practices of such public utility.  
34 However, if it is found that the percentages of depreciation  
35 previously certified are no longer reasonable and proper,  
36 the commission shall certify new percentages in the manner  
37 provided by this section.

1 ~~to~~ 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  
4 public utilities, and shall prescribe the necessary forms,  
5 regulations and instructions for the keeping of construction  
6 accounts, which shall clearly distinguish all operating  
7 expenses from new construction.

8 2. The commission shall be empowered to verify  
9 construction cost, where the cost appears to be unreasonable,  
10 by an appraisal or such other means as the commission shall  
11 deem fit. If the value of construction as determined by  
12 investigation shall be less than the claimed cost, then the  
13 lesser value shall be the value of the property for rate-  
14 making purposes. In determining the value of property for  
15 rate-making purposes, the value of construction work in  
16 progress shall not be allowed.

1 Sec. 11. Utility charges and service. Every public  
2 utility is required to furnish reasonably adequate service  
3 and facilities. No public utility may use the corporate  
4 structure of an affiliated company to collect its charges  
5 for service in order that the affiliated company may avoid  
6 regulation in this state by the commission.

7 The charge made by any public utility for any heat, gas,  
8 light, water or power produced, transmitted, delivered or  
9 furnished or any telephone message conveyed or for any  
10 service rendered or to be rendered in connection therewith  
11 shall be reasonable and just, and every unjust or unreasonable  
12 charge for such service is prohibited and declared unlawful.

13 In the determination of fair and reasonable rates the  
14 commission shall determine the rate base by using the original

15 cost less depreciation of the property of said utility used  
16 or useful in its service to the public within the state of  
17 Iowa.

1 Sec. 12. Merchandising by utilities. Every public utility  
2 as defined in section two (2) engaged in the production,  
3 transmission, delivery, or furnishing of heat, light or  
4 power either directly or indirectly to or for the use of the  
5 public shall keep separate accounts to show all profits or  
6 losses resulting for the sale of appliances or other  
7 merchandise. No such profit or loss shall be taken into  
8 consideration by the commission in arriving at any rate to  
9 be charged for service by any such public utility.

1 Sec. 13. Schedules and regulations.

2 1. Within ninety (90) days from the effective date of  
3 this act all public utilities presently operating within the  
4 state of Iowa shall file with the commission tariff schedules,  
5 on forms prescribed by the commission, showing all rates in  
6 force at the time this act became effective. No changes shall  
7 be made in any rates from and after the effective date of this  
8 act without the prior approval of the commission.

9 2. Within ninety (90) days from the effective date of this  
10 act every public utility shall file with the commission all  
11 rules and regulations affecting the service or product of  
12 said utility as well as all franchises, contracts, agreements  
13 or arrangements relating to the conditions of service. These  
14 may not be changed without prior approval of the commission.

1 Sec. 14. Burden of proof. In any investigation, action  
2 or proceeding relating to rates:

3 1. If the public utility requests a rate increase, the  
4 burden of proof is upon such utility to show that the existing  
5 rates are unjust and unreasonable and that the proposed rates  
6 are reasonable and just.

7 2. If a complaint is made that existing rates are too  
8 high, the burden of proof is on the public utility to show  
9 that the existing rates are just and reasonable.

1 Sec. 15. Reduction in rates; retroactive effect. If the  
2 rates of any public utility shall be based upon the cost of  
3 any service furnished to said utility which is in turn furnished  
4 or distributed by said utility to the public served by it,  
5 and the charges for which are regulated by any authority of  
6 the 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  
9 the utility's rates shall be changed by reason of the change  
10 in cost of service resulting from the change in charges as  
11 prescribed by such federal authority; and any such change in  
12 rates by the commission may be made effective as of the  
13 effective date of the order of the federal authority prescribing  
14 such change in charges. In any such case, the commission may  
15 determine and require payment by the utility to its customers  
16 of any sums which it may have received from them subsequent  
17 to such effective date of its said order in excess of the  
18 rates so prescribed by the commission.

1 Sec. 16. 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 schedules  
6 required under this Act, including schedules of joint rates,  
7 as may at the time be in force, or to demand, collect or  
8 receive any rate not specified in such schedules.

9 2. If any public utility shall give any unreasonable  
10 preference or advantage to any person or shall subject any  
11 person to any unreasonable prejudice or disadvantage, such  
12 public utility shall be deemed guilty of unjust discrimination  
13 which is hereby prohibited.

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

21 4. Nothing herein shall be construed to prevent any  
22 telephone company from furnishing free telephone service or  
23 telephone service at reduced rates to its officers, agents,  
24 families of employees in the armed services, employees or  
25 pensioned employees.

1 Sec. 17. Changes in rates, rules or regulations; approval  
2 required; public notice and hearing. Whenever any public utility  
3 governed by the provisions of this Act shall desire to make  
4 any change in any rate, it shall file with the commission a  
5 schedule showing the changes desired to be made. Such changes  
6 shall be plainly indicated by proper amendments or supplements  
7 to existing tariffs, schedules or classifications or in new

8 issues thereof.

9 When the commission receives a request from a public utility  
10 for a change in its rates, it shall require public notice  
11 to be given as prescribed by the commission to all parties  
12 affected thereby and may set the matter for a public hearing.

13 When the commission receives a request of a public utility  
14 for a change in any rule, regulation or practice pertaining  
15 to service of such public utility, the commission may require  
16 public notice be given to all parties affected thereby and  
17 may order a public hearing to be held.

1 Sec. 18. Investigations of rates, rules and regulations.

2 It shall be the duty of the commission upon complaint made  
3 in writing to investigate all the rates, rules and regulations  
4 of the public utility governed by the provisions of this Act.

5 The commission may also hold such investigations on its own  
6 initiative at such times as it deems reasonable and necessary.

7 The commission shall immediately notify the public utility  
8 involved that a complaint has been made and proceed with the  
9 investigation.

10 No commission order made as a result of such complaint  
11 shall be entered without formal public hearing. The  
12 commission shall give the public utility and the complainant  
13 ten (10) days notice of the time and place of such hearing.

14 Both the public utility and complainant shall be entitled  
15 to be heard and shall have process to enforce the attendance  
16 of witnesses.

17 If, after hearing and investigation, the commission shall  
18 find that such rates, rules or regulations are unjust,  
19 unreasonable, unjustly discriminatory or unduly preferential,

20 the commission shall have the power to fix and order substituted  
21 therefor such rates, rules and regulations as shall be just  
22 and reasonable.

1 Sec. 19. Witness fees and mileage.

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

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

1 Sec. 20. 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 and used in the same manner as depositions in civil actions  
5 in district courts are taken and used. Any expense incurred  
6 or authorized by the commission in taking such depositions  
7 shall be charged to the appropriation for the commission.

1 Sec. 21. Stenographic records. A full and complete  
2 record shall be kept of all proceedings before the commission  
3 or its agent on any formal investigation or hearing and all  
4 testimony shall be taken down by a court reporter or a

5 stenographer appointed or employed by the commission.

1 Sec. 22. Transcripts as evidence. A transcribed copy  
2 of the evidence and proceedings, or any specific part thereof,  
3 taken by the stenographer appointed by the commission and  
4 being certified by such stenographer to be a true and correct  
5 transcript of all the testimony or of a particular witness,  
6 or of other specific part thereof, shall be received in  
7 evidence with the same effect as if such reporter were  
8 present and testified to the fact so certified. A copy of  
9 such transcript shall be furnished at cost to any party to  
10 such investigation or hearing requesting the same.

1 Sec. 23. Orders and determinations; time of taking effect.  
2 Every order or determination made by the commission shall be  
3 in full force and effect thirty (30) days after being made  
4 except as provided in section twenty-seven (27) of this Act  
5 relating to rehearings. All parties to the proceeding, or  
6 their attorneys, shall be immediately served notice of such  
7 decision. Every such order or determination shall be prima  
8 facie lawful and reasonable until finally adjudged otherwise  
9 in an appeal instituted pursuant to the provisions of section  
10 twenty-eight (28) of this Act.

1 Sec. 24. Utilities to conform to orders. All public  
2 utilities shall make such changes in their schedules on  
3 file as may be necessary to comply with an order of the  
4 commission, and no change of rates shall thereafter be  
5 made by said public utility without the approval of the  
6 commission.

1 Sec. 25. 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  
4 to the public utility and after opportunity to be heard,  
5 rescind, alter or amend any order fixing rates, or any other  
6 order made by the commission, and may reopen any case  
7 following the issuance of an order therein, for the taking  
8 of further evidence or for any other reason. Any order  
9 rescinding, altering, amending or reopening a prior order  
10 shall have the same effect as an original order.

1 Sec. 26. Test, conditional, emergency and supplemental  
2 orders; waiver of conditions in orders. The commission may  
3 issue orders calling for a test of actual results under the  
4 requirements prescribed by such order, during which test  
5 period the commission may retain jurisdiction of the subject  
6 matter. The commission is empowered to issue conditional,  
7 temporary, emergency and supplemental orders. Where an  
8 order is issued upon certain stated conditions any party  
9 acting upon any part of such order shall be deemed to have  
10 accepted and waived all objections to the condition contained  
11 in such order.

1 Sec. 27. Rehearings before commission.

2 1. Within twenty (20) days after the service by the  
3 commission of an order or determination, any party to the  
4 proceeding and any other person aggrieved by such decision  
5 and directly affected thereby may apply to the commission  
6 for a rehearing in respect to any matters determined in said  
7 decision. The application for rehearing shall set forth  
8 specifically the ground or grounds on which the applicant  
9 contends said decision to be unlawful or unreasonable.  
10 The commission may grant the application and hold such

11 rehearing on such grounds as it may specify, or it may  
12 refuse a rehearing, if in its judgment sufficient reason  
13 therefor exists.

14 2. No appeal from an order or determination of the  
15 commission shall accrue in any court to any person or  
16 corporation unless the appellant, within twenty (20) days  
17 after the service thereof, shall have made application to  
18 the commission for a rehearing on the points to be appealed.  
19 No person or corporation shall on appeal urge or rely on any  
20 ground not so set forth in said application for rehearing.

21 3. Applications for rehearing shall be governed by such  
22 general rules as the commission may establish. In case a  
23 rehearing is granted the proceedings thereupon shall conform  
24 as nearly as may be to the proceedings in an original hearing,  
25 except as the commission may otherwise direct. After such  
26 rehearing, the commission may reverse, change, modify or  
27 suspend the original decision. Any decision, order or  
28 determination made after such rehearing reversing, changing,  
29 modifying, or suspending the original determination shall  
30 have the same force and effect as an original decision,  
31 order or determination. Only one rehearing shall be granted  
32 by the commission, but this shall not be construed to prevent  
33 any party from filing a new application or complaint. No  
34 order of the commission shall become effective while an  
35 application for a rehearing or a rehearing shall be pending  
36 and until ten (10) days after such application for a rehearing  
37 is denied, expressly or by implication, or the commission has  
38 announced its final determination on rehearing.

39 4. Any application for a rehearing not granted within

40 ten (10) days from the date of filing thereof may be taken  
41 by the party making the application to be denied.

42 5. It is hereby declared that the legislative powers  
43 of the state, insofar as they are involved in the issuance  
44 of orders and decisions by the commission, have not been  
45 completely exercised until the commission has acted upon an  
46 application for rehearing, as provided for by this section  
47 and by the rules of the commission, or until such application  
48 for rehearing has been denied by implication, as above  
49 provided for.

1 Sec. 28. Appeal to district court from commission order.

2 1. An appeal from an order or determination of the  
3 commission may be taken by any party to the proceeding.  
4 Such appeal shall be taken to the district court of Polk  
5 County, Iowa or to the district court of the county where  
6 the public utility's principal place of business is located  
7 in the state of Iowa. Said appeal must be taken within  
8 twenty (20) days from the effective date of the commission's  
9 order or determination made as the result of a rehearing  
10 or from the date of a denial of an application for rehearing.

11 2. The appeal shall be taken by serving the chairman of  
12 the commission with a written notice in the same manner as  
13 the original notice served in a civil case. When said notice  
14 is so served, the return thereon shall be filed in the office  
15 of the clerk of the district court where the action is to be  
16 instituted and docketed as other cases with the public utility  
17 as the plaintiff and the commission as defendant.

1 Sec. 29. Stay of proceedings. The institution of an  
2 appeal shall not stay enforcement of the commission's

3 decision, but the district court, where the appeal is filed,  
4 may order a stay upon such terms as it deems proper, except  
5 as otherwise provided in section thirty-four (34) of this Act.

1 Sec. 30. Record on appeal. Within forty (40) days after  
2 service of the notice for appeal upon the commission, or  
3 within such further time as the court may allow, the  
4 commission shall transmit to the district court hearing  
5 the appeal, the original or a certified copy of the entire  
6 record of the proceedings in which the decision appealed  
7 from was made, including all pleadings, notices, testimony,  
8 exhibits, findings, decisions, orders and exceptions therein;  
9 but by stipulation of all parties to the appeal the record  
10 may be shortened by eliminating any portion thereof. Any  
11 party other than the commission refusing to stipulate to limit  
12 the record may be taxed by the court for the additional costs.  
13 The record may be typewritten or printed. The exhibits may  
14 be typewritten, photostated or otherwise reproduced, or  
15 upon motion of any party, or by order of the court, the  
16 original exhibits shall accompany the record. The court may  
17 require or permit subsequent corrections or additions to the  
18 record when deemed desirable.

1 Sec. 31. 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  
5 the 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  
12 together with any modified or new findings or decision.

1 Sec. 32. Scope of appeal.

2 1. The review shall be conducted by the court without a  
3 jury and shall be confined to the record, except that in cases  
4 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 unlawful 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  
19 of the commission, as well as the 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. 33. 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 any  
4 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  
10 or thing concerning which he may have testified or produced  
11 any documentary evidence; provided, that no person so  
12 testifying shall be exempted from prosecution or punishment  
13 for perjury in so testifying.

1 Sec. 34. Injunction procedure.

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

12 2. No injunction shall issue in any such appeal, or in  
13 any other proceeding or action, suspending or staying any  
14 order of the commission from becoming effective, unless an  
15 undertaking shall be entered into on the part of the  
16 petitioner or plaintiff, by proper surety, in such sum as the  
17 court or the presiding judge thereof shall direct to the effect

18 that the petitioner or plaintiff will pay all damages which  
19 the opposite party may sustain by the delay or prevention of  
20 the order of the commission from becoming effective, and to  
21 such further effect as such judge or court shall in discretion  
22 direct.

1 Sec. 35. 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 appeal  
4 shall be taken in the manner provided by law governing appeals  
5 from the district court in other civil cases.

1 Sec. 36. Certificates. No public utility governed by  
2 the provisions of this Act shall transact business in the  
3 state of Iowa until it shall have obtained a certificate from  
4 the commission that public convenience will be promoted by  
5 the transaction of said business and permitting said applicant  
6 to transact the business of a public utility in this state.  
7 This section shall not apply to any utility governed by the  
8 provisions of this Act transacting business as a public utility  
9 in the state of Iowa on the effective date of this Act.

10 The commission shall, as soon as practicable after the  
11 effective date of this Act, issue certificates of convenience  
12 and authority to all public utilities transacting business  
13 in the state of Iowa on the effective date of this Act and  
14 said certificates shall define the areas or territories  
15 served or to be served by said public utility. No public  
16 utility shall extend its service area after the effective  
17 date of this Act unless it holds a valid and existing  
18 certificate of convenience and authority covering said  
19 area.

1 Sec. 37. Grants to be indeterminate. Every certificate,  
2 license or permit granted after May 1, 1963 by the commission  
3 to any public utility shall have the effect of an indeterminate  
4 permit subject to the provisions of this chapter.

1 Sec. 38. Municipality to regulate utilities. Every  
2 municipal council shall have power:

3 1. To determine by franchise as provided in chapter  
4 three hundred ninety-seven (397) of the Code the quality and  
5 character of each kind of product or service to be furnished  
6 or rendered by any public utility within the municipality and  
7 all other terms and conditions, upon which such public utility  
8 may be permitted to occupy the streets, highways, or other  
9 public places within the municipality.

10 2. To require of any public utility such additions and  
11 extensions to its physical plant within said municipality as  
12 shall be reasonable and necessary in the interest of the  
13 public, and to designate the location and nature of all such  
14 additions and extensions, the time within which they must be  
15 completed, and all conditions under which they must be  
16 constructed, subject to review by the commission as provided  
17 in this section.

18 3. To provide a penalty for noncompliance with the  
19 provisions of any ordinance or resolution adopted pursuant  
20 to the provisions hereof.

21 Upon complaint made by such public utility or by any  
22 complainant as provided in section eighteen (18) of this  
23 Act the commission shall set a hearing and if it shall find  
24 such contract, ordinance or resolution to be unreasonable,  
25 such contract, ordinance or resolution shall be void.

26 The commission shall have original and concurrent  
27 jurisdiction with municipalities to require extensions of  
28 service and to regulate service of public utilities. Nothing  
29 in this section shall be construed as limiting the power of  
30 the commission to act on its own motion to require extensions  
31 of service and to regulate the service of public utilities.

32 No public utility furnishing and selling gaseous fuel  
33 or undertaking to furnish or sell such gaseous fuel in a city  
34 or town where such fuel has not theretofore been sold to  
35 the public shall change the character or kind of such fuel  
36 by substituting for manufactured gas any natural gas or any  
37 mixture of natural and manufactured gas for the distribution  
38 and sale in any city or town, or undertake the sale of  
39 natural gas in any city or town where no gaseous fuel was  
40 previously sold, unless the municipal council thereof shall,  
41 by authorization, passage or adoption of appropriate  
42 contract, ordinance or resolution, approve and authorize  
43 the same; provided that any contract, ordinance or  
44 resolution enacted pursuant to this subsection shall not  
45 be inconsistent or in conflict with any certificate granted  
46 pursuant to proceedings authorized under section thirty-nine  
47 (39) of this Act.

1 Sec. 39. Extension of public utility services.

2 1. No utility within its certified area shall construct  
3 service facilities or provide or sell service to a customer  
4 then served by another utility certified in the same area  
5 without first having obtained the written permission of the  
6 other utility, unless the commission, after notice and hearing,  
7 finds that the service being rendered by such other utility

8 is not reasonably efficient and sufficient.

9     2. No utility within its certified area shall extend  
10 service facilities or provide or sell service to a prospective  
11 customer not presently being served unless its existing  
12 service facilities are nearer the proposed point of delivery  
13 on the premises to be served than the service facilities of  
14 any other utility certified in the same area without first  
15 having obtained the written permission of said other utility,  
16 unless the commission, after notice and hearing, so finds and  
17 determines after consideration of the factors set forth in  
18 subsection five (5) of this section.

19     3. Nothing contained herein shall preclude any public  
20 utility from extending electric service to its own property  
21 or facilities or to another such for resale.

22     4. No utility shall provide or furnish service in, to  
23 or for an incorporated city or town or within the corporate  
24 limits thereof as the same may be from time to time extended,  
25 if the said city or town is served by another utility, except  
26 as provided hereinafter.

27     a. If the boundaries of any city or town, which is served  
28 by a municipally owned utility, shall be extended to include  
29 property owned and operated by another utility, then the  
30 municipally-owned utility shall furnish service within such  
31 extended boundaries upon payment to the other utility of a  
32 fair and reasonable price for the properties, to be agreed  
33 upon by each of said utilities, or upon a fair and reasonable  
34 exchange of properties to be agreed upon by each of said  
35 utilities, which agreement in either event shall be submitted  
36 to the commission for approval and be approved prior to

37 furnishing said service by said municipally owned utility.

38 b. If no agreement to purchase is reached between said  
39 utilities, the municipally owned utility shall make an offer  
40 in writing to purchase for a stated price the involved  
41 properties owned by the other utility and at the same time  
42 shall file an application with the commission requesting  
43 approval of such price. If the application is granted,  
44 the commission shall order the utility owning the properties  
45 to cease operation in the area upon tender of such price.

46 c. If the boundaries of any city or town, which has  
47 granted a franchise to a utility, shall be extended to include  
48 properties owned and operated by another utility, then both  
49 utilities shall furnish service within such extended boundaries  
50 within the purview of subsections one (1) and two (2) of this  
51 section for a period of ten (10) years subsequent to the date  
52 of the extension of such boundaries, provided, however, the  
53 utility not holding such franchise shall agree to abide by  
54 and operate in conformity with all the terms, conditions and  
55 provisions of the said franchise.

56 d. If the utility not holding such franchise shall not  
57 abide by and operate in conformity with all the terms,  
58 conditions and provisions of the said franchise, or in the  
59 event that at the expiration of the aforesaid ten (10) years  
60 subsequent to the date of the extension of such boundaries,  
61 the commission, after notice and hearing, finds and determines  
62 that it is not for the best interest of the public for both  
63 utilities to furnish service within such extended boundaries  
64 considering the factors set forth in subsection five (5) of  
65 this section, the utility holding the franchise from said

66 city or town shall furnish service within such extended  
67 boundaries upon payment to the other utility of a fair and  
68 reasonable price for the properties to be agreed upon by each  
69 of said utilities or upon a fair and reasonable exchange of  
70 properties to be agreed upon by each of said utilities,  
71 which agreement in either event shall be submitted to the  
72 commission and approved prior to the utility's furnishing  
73 said service.

74 e. If no agreement to purchase is reached between said  
75 utilities, the utility holding such franchise shall make an  
76 offer in writing to pay a stated price for the involved  
77 properties owned by the other utility, and at the same time  
78 shall file an application with the commission requesting  
79 approval of such price. If the application is granted, then  
80 the commission shall order the utility owning the properties  
81 to cease operation in the area upon tender of such price.

82 5. Any interested party may institute proceedings before  
83 the commission under this section. The rules of procedure  
84 of the commission shall be followed as to notice, hearing,  
85 determination and appeal. In applying the rules herein,  
86 the commission shall give primary consideration to the  
87 following:

- 88 a. The best interest of the public.
- 89 b. The possibility of economic waste due to duplication of  
90 facilities.
- 91 c. The characteristics of any prospective load.
- 92 d. The effect of any transaction on the ability of the  
93 utilities involved to continue efficient and sufficient  
94 service to all their customers.

95 e. Any and all pertinent factors affecting the ability  
96 of any utility to furnish efficient and sufficient service.  
97 6. Injunction. Pending investigation and finding by the  
98 commission as to whether public convenience and necessity  
99 require a second utility, the furnishing of any public  
100 utility service in any municipality contrary to the  
101 provisions of this section may be enjoined at the suit of  
102 the state or of any public utility having an interest therein.

1 Sec. 40. Facilities granted other utilities.

2 1. Every public utility and every person having conduits,  
3 subways, poles, towers, transmission wires or other equipment  
4 on, over or under any street or highway, shall for a reasonable  
5 compensation, permit the use of the same by any other public  
6 utility; by the state of Iowa or by any political subdivision  
7 thereof; and every utility for the conveyance of telephone  
8 messages shall permit physical connections to be made, between  
9 its lines and facilities by another such utility; provided,  
10 however, that public convenience and necessity require such  
11 use or physical connections, and such use or physical  
12 connections will not result in irreparable injury to the  
13 owners or other users of the equipment or facilities, nor in  
14 any substantial detriment to the service to be rendered by  
15 such public utilities. The term "physical connection," as  
16 used in this section, shall mean such number of trunk lines  
17 or complete wire circuits and connections as may be required  
18 to furnish reasonably adequate telephone service between  
19 such public utilities.

20 2. In case of failure to agree upon such use or physical

21 connections or the terms and conditions upon which the same  
22 shall be made, any interested person may file a complaint  
23 with the commission, and the commission after hearing had  
24 upon reasonable notice shall determine whether the use or  
25 physical connection may be permitted, and if permitted  
26 prescribe reasonable terms, conditions and compensation  
27 therefor.

1 Sec. 41. Relations with affiliated interests; definition;  
2 contracts with affiliates filed and subject to commission  
3 control.

4 1. "Affiliated interests" with a public utility means  
5 and includes the following:

6 a. Every corporation and person owning or holding directly  
7 or indirectly five (5) percent or more of the securities  
8 of such public utility.

9 b. Every corporation and person in any chain of  
10 successive ownership of five (5) percent or more of securities.

11 c. Every corporation five (5) percent or more of whose  
12 voting securities is owned by any person or corporation owning  
13 five (5) percent or more of the securities of such public  
14 utility or is owned by any person or corporation in any such  
15 chain of successive ownership of five (5) percent or more of  
16 securities.

17 d. Every person who is an officer or director of such  
18 public utility or of any corporation in any chain of  
19 successive ownership of five (5) percent or more of  
20 securities.

21 e. Every corporation operating a public utility or a

22 servicing organization for furnishing supervisory, construction,  
23 engineering, accounting, legal and similar services to  
24 utilities, which has one or more officers or one or more  
25 directors in common with such public utility, and every  
26 other corporation which has directors in common with such  
27 public utility.

28 f. Every corporation or person which the commission may  
29 determine as a matter of fact after investigation and hearing  
30 is actually exercising any substantial influence over the  
31 policies and actions of such public utility even though such  
32 influence is not based upon stockholding, stockholders,  
33 directors or offices to the extent specified in this section.

34 g. Every corporation or person who or which the commission  
35 may determine as a matter of fact after investigation and  
36 hearing is actually exercising such substantial influence over  
37 the policies and actions of such public utility in conjunction  
38 with one or more other corporations or persons with which or  
39 whom they are related by ownership or blood relationship or  
40 by action in concert that together they are affiliated with  
41 such public utility within the meaning of this section even  
42 though no one of them alone is so affiliated.

43 2. The term "person" in the foregoing subsection shall  
44 not be construed to exclude trustees, lessees, holders of  
45 beneficial equitable interests, voluntary associations,  
46 receivers and partnerships.

47 3. No contract or arrangements providing for the  
48 furnishing of management, supervisory, construction, engineering,  
49 accounting, legal, financial or similar services, and no

50 contract or arrangement for the purchase, sale, lease or  
51 exchange of any property, right, or thing, or for the  
52 furnishing of any service, property, right or thing, other  
53 than those above enumerated, hereinafter made or entered  
54 into between a public utility and any affiliated interest  
55 as defined in this chapter, shall be valid or effective for  
56 rate-making purposes unless and until such contract or  
57 arrangement shall have received the written approval of  
58 the commission. It shall be the duty of every public  
59 utility to file with the commission a verified copy of any  
60 such contract or arrangement, or a verified summary of any  
61 such unwritten contract or arrangement, whether written or  
62 unwritten, entered into prior to the effective date of this  
63 section and in force and effect at that time. The commission  
64 shall approve such contract or arrangement hereafter made or  
65 entered into only if it shall clearly appear and be  
66 established upon investigation that it is reasonable and  
67 consistent with the public interest; otherwise the contract  
68 or arrangement shall not be approved. No such contract  
69 or arrangement shall receive the commission's approval unless  
70 satisfactory proof is submitted to the commission of the  
71 cost to the affiliated interest of rendering the services  
72 or of furnishing the property or service described herein  
73 to each public utility. No proof shall be satisfactory  
74 within the meaning of the foregoing sentence unless it  
75 includes the original, or verified copies, of the relevant  
76 cost records and other relevant accounts of the affiliated  
77 interest, or such abstract thereof or summary taken  
78 therefrom as the commission may deem adequate, properly

79 identified and duly authenticated; provided, however, that  
80 the commission may, where reasonable, approve or disapprove  
81 such contracts or arrangements without the submission of  
82 such cost records or accounts.

83 4. The provisions of this section requiring the written  
84 approval of the commission shall not apply to transactions  
85 with affiliated interests where the amount of consideration  
86 involved is not in excess of ten thousand dollars (\$10,000)  
87 or five (5) percent of the par value of outstanding common  
88 stock, whichever is smaller; provided, however, that  
89 regularly recurring payments under a general or continuing  
90 arrangement which aggregate a greater annual amount shall  
91 not be broken down into a series of transactions to come  
92 within the aforesaid exemption. Such transactions shall be  
93 valid or effective without commission approval under this  
94 section. However, in any proceeding involving the rates or  
95 practices of the public utility, the commission may exclude  
96 from the accounts of such public utility any payment or  
97 compensation made pursuant to such transaction unless the  
98 public utility shall establish the reasonableness of such  
99 payment or compensation.

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

1     Sec. 42. Loans to officers or directors.

2     1. No public utility shall, except in accordance with  
3 such rules and regulations as the commission after public  
4 hearing shall from time to time prescribe, lend its funds  
5 or credit to any one or more of its officers or directors or  
6 to any corporation, except a public utility subject to the  
7 regulatory powers of the commission, which holds, directly  
8 or indirectly through any chain or ownership, five (5) per-  
9 cent or more of the stock of such public utility or renders  
10 any managerial, supervising, engineering, legal, accounting  
11 or financial service to such public utility (a) by becoming  
12 surety, grantor or indorser upon any obligations, contingent  
13 or otherwise, of such officer, director or corporation ;  
14 (b) by loaning funds, securities or other like assets to any  
15 such officer, director or corporation ; or (c) by the purchase  
16 in the open market, or otherwise, of any obligation upon  
17 which such officer, director, or corporation may be liable  
18 solely or jointly with others.

19     2. Any contract made in violation of this section shall

20 be void and subject to cancellation and recoument by action  
21 at law.

22 3. The provisions of this section shall extend to the  
23 removal or extension of such existing contracts.

1 Sec. 43. Voluntary dissolution. No corporation owning  
2 or operating a public utility shall be dissolved, except upon  
3 consent of the public service commission to be issued only  
4 after hearing by the commission, on at least thirty (30)  
5 days notice given to each municipality in which such utility  
6 is operated, and an opportunity to be heard furnished to  
7 all such municipalities and stockholders in such corporation.

1 Sec. 44. Reorganization of public utilities; consolidations  
2 and mergers. The reorganization, consolidation or merger of  
3 a public utility under the jurisdiction of this act shall be  
4 subject to the supervision and control of this commission and  
5 no such reorganization, consolidation or merger shall be had  
6 or given effect without the written approval of the commission.  
7 Certificates of convenience and authority issued by the  
8 commission may be transferred only after written application  
9 and approval of the commission. No plan for reorganization,  
10 consolidation or merger shall be approved by the commission  
11 unless it shall be established by the applicant that the  
12 plan is consistent with the public interest.

1 Sec. 45. Abandonment; commission approval required. No  
2 public utility shall abandon or discontinue any plant, lines,  
3 extension of lines, or service thereon without first securing  
4 the approval of the commission. In granting its approval the  
5 commission may impose such terms, conditions or requirements

6 as in its judgment are necessary to protect the public interest.

1 Sec. 46. Assessment of utilities for commission's expenses.

2 Whenever the commission shall deem it necessary in order to

3 carry out the duties imposed upon it by this Act for the purpose

4 of determining rate matters to investigate the books, accounts,

5 practices, and activities of, or make appraisals of the property

6 of any public utility, or to render any engineering or

7 accounting services to any public utility, such public

8 utility shall pay the actual costs of such investigation,

9 appraisal, or service. The commission shall ascertain such

10 expenses, and shall render a bill therefor, by certified

11 mail, to the public utility, either at the conclusion of the

12 investigation, appraisal, or services, or from time to time

13 during its progress, which bill shall constitute notice of

14 said assessment and demand payment thereof. The total amount

15 of such expense in any one calendar year, for which any

16 public utility shall become liable, shall not exceed three-

17 tenths of one ( $3/10$  of 1) percent of its gross operating

18 revenues derived from intrastate public utility operations

19 in the last preceding calendar year.

20 Immediately after the effective date of this Act, the

21 commission shall assess to all public utilities subject to

22 the provisions of this Act in proportion to their respective

23 gross operating revenues derived from intrastate public

24 utility operations during the preceding calendar year, the

25 sum of three hundred thousand dollars (\$300,000). Thereafter

26 the commission shall annually, within ninety (90) days after

27 the close of each fiscal year, ascertain the total of its

28 expenditures during each year, excluding the total sum  
29 necessary to pay the salaries of the commissioners but  
30 including all other expenses which are reasonably attributable  
31 to the performance of its duties under this Act and shall  
32 deduct therefrom all amounts chargeable directly to any  
33 specific utility under this Act. The remainder shall be  
34 assessed by the commission to the several public utilities  
35 in proportion to their respective gross operating revenues  
36 during the last calendar year derived from intrastate public  
37 utility operations. The total amount which may be assessed  
38 to the public utilities under authority of this paragraph shall  
39 not exceed two-tenths of one ( $\frac{2}{10}$  of 1) percent of the total  
40 gross operating revenues of such public utilities during such  
41 calendar year derived from intrastate public utility operations.  
42 The assessment under this section for public utilities  
43 exempted from rate regulation under this Act shall be  
44 computed at one-half ( $\frac{1}{2}$ ) the rate used in computing the  
45 assessment of other public utilities.

1 Sec. 47. General penalty; utility responsible for agents.

2 1. If any public utility shall violate any provision of  
3 this chapter or shall do any act therein prohibited, or  
4 shall fail or refuse to perform any duty enjoined upon it  
5 for which a penalty has not been provided, or shall fail,  
6 neglect or refuse to obey any lawful requirement or order  
7 made by the commission or any judgment or decree made by any  
8 court upon its application, for every such violation, failure  
9 or refusal such public utility shall forfeit not less than  
10 twenty-five dollars (\$25) nor more than one thousand dollars

11 (1,000) to the state treasurer.

12 2. Every day during which any public utility or any  
13 officer, agent or employee thereof shall fail to observe  
14 and comply with any order or direction of the commission or  
15 to perform any duty required by this chapter shall constitute  
16 a separate and distinct violation.

1 Sec. 48. Interference with commission's equipment. Any  
2 person who shall destroy, injure or interfere with any  
3 apparatus or appliance owned or operated by or in charge of  
4 the commission or its agent shall be punished by fine not  
5 exceeding one hundred dollars (\$100) or imprisonment not  
6 exceeding thirty (30) days or both. Any public utility  
7 permitting the destruction of, injury to, or interference  
8 with, any such apparatus or appliance, shall forfeit not  
9 exceeding one thousand dollars (\$1,000) for each offense.

1 Sec. 49. Transmission lines; interference; regulation.

2 All public utilities owning or using transmission lines,  
3 cables, or conductors for the transmission of electrical  
4 energy or communications upon, along, across, or under the  
5 streets, highways, or public places shall so locate and  
6 maintain same as to avoid injury to or interference with  
7 the transmission facilities of other public utilities and  
8 shall take all reasonable precautions and shall observe  
9 all generally accepted engineering and safety practices  
10 with respect to design, construction, and maintenance  
11 procedures for the protection of life and property.

12 The commission shall have power to investigate all complaints  
13 relating to failure of a public utility to comply with the

14 requirements of this section and to order such corrective  
15 action as it finds necessary. The commission shall have  
16 power to adopt and enforce reasonable rules and regulations  
17 for the purpose of implementing the provisions of this section.  
18 Nothing herein contained shall be construed as depriving  
19 cities and towns of power to adopt appropriate ordinances,  
20 in exercise of their general police powers, with respect  
21 to the location, maintenance, design standards, and other  
22 matters affecting the public safety, for the regulation of  
23 transmission lines within their corporate limits.

1 Sec. 50. 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 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. 51. Precedence. Those provisions of chapter four  
2 hundred eighty-eight (488) of the Code and any other state statutes  
3 in conflict with the provisions of this chapter are hereby  
4 declared inoperative insofar as public utilities as defined  
5 in this chapter are concerned, and the provisions of this  
6 chapter shall take precedence over same.

1 Sec. 52. Section three hundred ninety-seven point  
2 twenty-eight (397.28), Code 1962, is hereby amended by  
3 inserting a period immediately following the word  
4 "purposes" in line eleven (11) and striking the balance  
5 of said section.

## EXPLANATION OF HOUSE FILE 302

This bill would give the Iowa state commerce commission the authority to regulate rates and services of public utilities providing electric, gas, water and telephone services.

None of the provisions of this bill would apply to municipally-owned water systems. Its provisions relating to rate regulation would not apply to cooperatives, municipally-owned utilities, mutual telephone companies where at least 50 percent of the users are owners, and telephone companies with less than 2,000 stations.

This bill, which is patterned after the Wisconsin statute, spells out the duties and authority of the commission so that it may adequately perform its regulatory functions. In addition to a broad grant of authority, the bill permits the commission to do such things as require financial reports, check and verify construction costs and depreciation schedules, and decide questions of service extension.

On rate matters, the bill permits a utility, the commission or other interested parties to initiate a hearing for rate changes. The bill spells out the procedures for notice, hearing, rehearing, and appeal to the district and supreme court on petitions for rate changes. The bill requires rates to be determined on a basis of original cost less depreciation of a utility's property.

On territorial matters the bill requires:

a. That when a city or town which owns its own utilities annexes an area, the city or town would then provide the utility service to the annexed area after proper proceedings to pay for the property of the utility which formerly served the area.

b. That when a city or town which does not own utility facilities annexes an area served by a utility that does not have a franchise, then both utilities would continue to serve their areas for ten years. The nonfranchised utility would have to agree to abide by the terms of the franchise of the other utility. If the nonfranchised utility fails to abide by the franchise, or if at the end of ten years, the commission finds that it is in the public interest for only one utility to serve the two areas, the franchised utility shall serve both areas after proper proceedings to pay for the property of the nonfranchised utility.