

Reprinted 4/2/51

HOUSE FILE 771

BY COMMITTEE ON COMMERCE

MAR 24 1931

Place On Calendar.

(Formerly Study Bill 305)

Passed House, Date 3.31.31 (1960) Passed Senate, Date _____

Vote: Ayes 96 Nays 3 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the regulation of public utilities by
 2 providing for the continuing audit of utility operations,
 3 the review of annual reports by the commission, the
 4 exemption of certain telephone companies from rate
 5 regulation, the exemption of certain water companies
 6 from commission regulation, the retroactive refund of
 7 excess charges collected after notice to the utility,
 8 the requirement that the commission approve temporary
 9 rates to be collected during rate-making proceedings,
 10 and time limitations for commission decisions in rate-
 11 making proceedings, to take effect upon publication.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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771

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

3 NEW SECTION. CONTINUING AUDIT OF OPERATIONS.

4 1. The commission shall continuously review the operations
5 of public utilities that are subject to rate regulation with
6 respect to all matters that affect rates or charges for utility
7 service.

8 2. The commission shall adopt not later than July 1, 1984,
9 rules and policies to implement a continuing audit program.
10 The commission shall submit to the general assembly meeting
11 in January, 1982, the additional budgetary needs of the
12 commission for purposes of fulfilling the requirements of
13 this section.

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

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

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

23 NEW SECTION. RULES GOVERNING HEARINGS. The commission
24 shall adopt rules pursuant to chapter 17A to provide for the
25 completion of proceedings under section 476.3 within one
26 hundred eighty days after the date of the filing of a com-
27 plaint, and to provide for the completion of proceedings under
28 section 476.6 within twelve months after the date of filing
29 of the new or changed rate, charge, schedule or regulation.
30 These rules shall include deadlines for the submission or
31 completion of comments, reports and hearings. The rules shall
32 provide the utility that is party to the proceedings and the
33 commission with sufficient time to prepare and submit comments
34 and reports. The rules may provide for the extension of a
35 deadline or for the extension of the time for completion of

1 the proceedings upon the request of the utility or the
2 commission for good cause shown. An extension of a deadline
3 granted upon the request of the utility shall also extend
4 the amount of time for which the utility is required to file
5 a bond or other undertaking conditioned upon refund under
6 section 476.3 and the amount of time under which the commission
7 may restrict the utility from placing its entire rate increase
8 request into effect under bond under section 476.6, unless
9 the utility demonstrates that the commission is responsible
10 for the need for the extension. An extension of a deadline
11 granted upon the request of the commission shall not extend
12 the amount of time for which the utility is required to file
13 a bond or other undertaking conditioned upon refund under
14 section 476.3 or the amount of time under which the commission
15 may restrict the utility from placing into effect its entire
16 rate increase request under bond under section 476.6.

17 Sec. 4. Section 476.1, unnumbered paragraph 2, Code 1981,
18 is amended to read as follows:

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

26 PARAGRAPH DIVIDED. ~~provided, however, that nothing~~
27 ~~contained in this chapter shall be construed to~~ This chapter
28 does not apply to water works having less than two thousand
29 customers, municipally owned water works, or rural water
30 districts incorporated and organized pursuant to chapters
31 357A and 504A.

32 PARAGRAPH DIVIDED. ~~Telephone companies~~ A telephone company
33 otherwise exempt from rate regulation and having telephone
34 exchange facilities which cross state lines may elect, in
35 writing, filed with the commission, to have ~~their~~ its rates

1 regulated by the commission. When ~~such~~ an election, in
2 writing, has been filed with the commission, the commission
3 shall assume rate regulation jurisdiction over ~~said-companies~~
4 the company.

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

7 476.3 COMPLAINTS--INVESTIGATION. Every public utility
8 shall furnish reasonably adequate service at rates and charges
9 in accordance with tariffs filed with the commission. ~~Whenever~~
10 When there is filed with the commission by any person or body
11 politic, or filed by the commission upon its own motion, a
12 written complaint requesting the commission to determine the
13 reasonableness of the rates, charges, schedules, service,
14 regulations, or anything done or omitted to be done by any
15 public utility subject to this chapter, in contravention of
16 the provisions ~~thereof~~, ~~such~~ of this chapter, the written
17 complaint ~~thus-made~~ shall be forwarded by the commission to
18 ~~such~~ the public utility, which shall be called upon to satisfy
19 the complaint or to answer ~~the-same~~ it in writing within a
20 reasonable time to be specified by the commission. If ~~such~~
21 the public utility ~~shall~~ does not satisfy the commission with
22 respect to the complaint within the time specified and there
23 ~~shall-appear~~ appears to be any reasonable ground for
24 investigating ~~said~~ the complaint, ~~it-shall-be-the-duty-of~~
25 the commission ~~to~~ shall promptly initiate a formal proceeding.
26 ~~Such-a~~ The formal proceeding may be initiated at any time
27 by the commission on its own motion. ~~Whenever-such~~ If a
28 proceeding ~~has-been~~ is initiated upon application or motion,
29 the commission shall set the case for hearing and give ~~such~~
30 notice ~~thereof~~ as it deems appropriate. ~~Whenever~~ When the
31 commission, after a hearing held after reasonable notice,
32 finds any public utility's rates, charges, schedules, service,
33 or regulations are unjust, unreasonable, discriminatory, or
34 otherwise in violation of any provision of law, the commission
35 shall determine just, reasonable, and nondiscriminatory rates,

1 charges, schedules, service, or regulations to be thereafter
2 observed and enforced.

3 If, as a result of either an audit conducted under sec-
4 tion 1 of this Act or a review conducted under section 2 of
5 this Act, a complaint is filed alleging that a utility's rates
6 are excessive, the disputed amount shall be specified in the
7 complaint. The public utility shall, within the time
8 prescribed by the commission, file a bond or undertaking
9 approved by the commission conditioned upon the refund in
10 a manner prescribed by the commission of amounts collected
11 after the date of filing of the complaint in excess of rates
12 or charges finally determined by the commission to be lawful.
13 If upon hearing the commission finds that the utility's rates
14 are unlawful, the commission shall order a refund, with
15 interest, of amounts collected after the date of filing of
16 the complaint in excess of amounts which would have been
17 collected under the rates finally approved, provided that
18 the commission shall not order a refund that is greater than
19 the amount specified in the complaint, plus interest, and
20 provided that if the commission fails to render a decision
21 within one hundred eighty days following the date of filing
22 of the complaint, plus any additional time due to extensions
23 ordered under section 3 of this Act, the commission shall
24 not order a refund of any excess amounts that are collected
25 after the expiration of that one hundred eighty-day period,
26 plus any additional time due to extensions ordered under
27 section 3 of this Act, and prior to the date the decision
28 is rendered.

29 Sec. 6. Section 476.6, unnumbered paragraph 6, Code 1981,
30 is amended to read as follows:

31 ~~However, a public utility may~~ at any time after rates,
32 charges, schedules or regulations have been suspended ~~for~~
33 ninety-days, a public utility may request the authority to
34 place in effect any or all of the suspended rates, charges,
35 schedules or regulations by filing with the commission a bond

1 or other undertaking approved by the commission conditioned
2 upon the refund in a manner to be prescribed by the commission
3 of any amounts collected in excess of the amounts which would
4 have been collected under rates, charges, schedules or regu-
5 lations finally approved by the commission. In determining
6 that portion of the utility's proposed increase in rates and
7 charges to be placed in effect prior to a final decision,
8 the commission shall apply previously established regulatory
9 principles and shall, at a minimum, permit rates and charges
10 which will allow the utility to earn a return on common stock
11 equity equal to that which the commission held reasonable
12 and just in the most recent rate case involving the same type
13 of utility service. The commission shall render a decision
14 on the request for temporary rates within ninety days after
15 receipt of the request, plus any additional time due to
16 extensions ordered under section 3 of this Act. If the
17 commission fails to render a final decision with respect to
18 the new or proposed rates, charges, schedules or regulations
19 within twelve months after the date of filing, plus any addi-
20 tional time due to extensions ordered under section 3 of this
21 Act, the utility may place in effect subject to refund any
22 portion of the suspended rates, charges, schedules or
23 regulations not previously authorized for collection on an
24 interim basis by filing with the commission a bond or other
25 undertaking approved by the commission. The commission shall
26 establish a rate of interest to be paid by a public utility
27 to persons receiving refunds. The rate of interest shall
28 be a reasonable rate as determined by the commission, but
29 not less than five percent per annum, and the interest shall
30 be compounded annually. The public utility shall not place
31 into effect any portion of any suspended rates, charges,
32 schedules or regulations of any subsequent rate filing relating
33 to services with respect to which a rate filing is pending
34 within twelve months following the date a prior application
35 was filed or until after the date the commission has issued

1 a final order in any previously filed rate proceedings, which-
2 ever date is earlier, unless the public utility applies to
3 the commission for authority and receives authority to place
4 a portion of the subsequent ~~filed~~ rate filing into effect
5 on an interim basis.

6 Sec. 7. The Iowa state commerce commission shall
7 investigate the practice of allowing a public utility to
8 recover advertising costs from its customers. The commission
9 shall recommend to the general assembly whether or not it
10 is appropriate to adopt legislation to disallow a portion
11 of advertising costs when determining costs of operations
12 for rate-making purposes. The Code editor shall not codify
13 this section.

14 Sec. 8. Sections 4 and 5 of this Act apply to proceedings
15 commenced under sections 476.3 or 476.6, respectively, on
16 or after the effective date of this Act.

17 Sec. 9. This Act, being deemed of immediate importance,
18 shall be in effect from and after its publication in the
19 Washington Evening Journal, a newspaper published in Washing-
20 ton, Iowa, and in The Nevada Evening Journal, a newspaper
21 published in Nevada, Iowa.

22 EXPLANATION

23 This bill relates to the regulation of public utilities
24 by the Iowa commerce commission.

25 Section 1 would require the commission to develop not later
26 than July 1, 1984, a program to permit the continuous review
27 of the operations of rate-regulated public utilities with
28 respect to all matters affecting rates and charges for utility
29 service. The commission would submit its additional revenue
30 needs in January of 1982.

31 Section 2 requires the commission to review annual reports
32 submitted by rate-regulated public utilities. If an annual
33 report indicated excessive profits, the commission would be
34 required to commence formal proceedings to review the utility's
35 rates and charges.

1 Section 3 requires the commission to adopt administra-
2 tive rules that establish schedules and deadlines to be met
3 in the processing of rate-making proceedings and rate-review
4 proceedings.

5 Section 4 revises the section that establishes the jurisdic-
6 tion of the commerce commission. The substantive amendments
7 would exempt water companies having fewer than 2,000 customers
8 from any regulation by the commerce commission. In addition,
9 the existing provision exempting telephone companies having
10 fewer than 2,000 stations from rate regulation is modified
11 so that companies having fewer than 15,000 stations would
12 be exempt from rate regulation. The affected paragraph of
13 the Code also is restructured so that the different subject
14 matters are separated.

15 Section 5 would authorize the commission to file a com-
16 plaint against a public utility alleging excessive rates when
17 indicated by an audit conducted under section 1 or a review
18 conducted under section 2. The disputed amount would be
19 stated in the complaint, and if the commission determined
20 after hearing that the utility's rates were excessive the
21 commission would order a refund retroactive to the date of
22 filing of the complaint, subject to certain limitations.

23 Section 6 alters the manner in which a rate-regulated
24 public utility may place in effect a proposed rate, charge,
25 schedule, or regulation which has been suspended by the
26 commerce commission pending a final decision on the filing
27 by the commission. Under existing law a utility may place
28 the proposed rates, charges, schedules, or regulations into
29 effect ninety days after suspension by filing with the
30 commission a bond or undertaking, approved by the commission,
31 conditioned upon a refund of the amounts collected under bond
32 in excess of the amounts which would have been collected under
33 rates, charges, schedules, or regulations finally approved
34 by the commission. Under the amended language a utility would
35 have to request authority from the commission to place into

1 effect temporary rates, charges, schedules, or regulations.
2 The commission would be required to consider certain accounting
3 principals in determining what portion of suspended rates,
4 charges, schedules, or regulations to authorize on an interim
5 basis. If the commission failed to render a decision within
6 12 months after the date of filing, plus the length of any
7 delay caused by the utility, the utility could place all of
8 the suspended rates, charges, schedules, or regulations into
9 effect subject to refund.

10 Section 7 requires the commerce commission to make
11 recommendations to the general assembly respecting the need
12 for legislation to restrict the ability of a public utility
13 to recover advertising expenses from its customers.

14 The bill would take effect upon publication.

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HOUSE FILE 771

H-3405

- 1 Amend amendment H-3400 to House File 771 as follows:
 2 1. Page 2, by striking lines 49 and 50 and inserting
 3 in lieu thereof the following: "collected by the public
 4 utility pursuant to the unlawful rates and found to be
 5 in excess of the amounts that".

H-3405 FILED MARCH 31, 1981 BY RITSEMA of Sioux
 ADOPTED (p 945)

HOUSE FILE 771

H-3404

- 1 Amend amendment H-3400 to House File 771 as
 2 follows:
 3 1. Page 3, line 15, by striking the figure "4"
 4 and inserting in lieu thereof the figure "5".

H-3404 FILED MARCH 31, 1981 BY BRUNER of Story
 ADOPTED (p 945)

HOUSE FILE 771

H-3403

- 1 Amend House File 771 as follows:
 2 1. Page 5, by striking lines 9 through 13 and
 3 inserting in lieu thereof the following: "principles.
 4 The commission shall render a decision".

H-3403 FILED MARCH 31, 1981 BY EGENES of Story
 SUSPENSION OF RULES REQUIRED TRUCANO of Polk
 MOTION TO SUSPEND RULES LOST (p 958) RITSEMA of Sioux

HOUSE FILE 771

H-3406

- 1 Amend House File 771 as follows:
 2 1. Page 4, line 11, by striking the words "after
 3 the date of filing of the complaint".
 4 2. Page 4, lines 15 and 16, by striking the
 5 words "after the date of filing of the complaint".

H-3406 FILED MARCH 31, 1981 BY CHIODO of Polk
 SUSPENSION OF RULES REQUIRED
 MOTION TO SUSPEND RULES LOST (p 955)

HOUSE FILE 771

H-3422

- 1 Amend House File 771 as follows:
 2 1. Title page, line 11, by inserting after the
 3 word "proceedings," the following: "a commerce
 4 commission investigation of the practice of allowing
 5 a public utility to recover advertising costs from
 6 its customers;".

H-3422 FILED MARCH 31, 1981 BY BRUNER of Story
 ADOPTED BY UNANIMOUS CONSENT (p 966)

H-3402

1 Amend House File 771 as follows:

2 1. Page 2, line 25, by inserting after the period
 3 the following: "However, an exemption contained in
 4 this paragraph shall not apply to a utility referred
 5 to in this paragraph if a petition bearing the
 6 signatures of twenty (20) percent or more of the
 7 subscribers of the services of the public utility is
 8 filed with the commission requesting that the public
 9 utility be subject to rate regulation under this
 10 chapter."

11 2. Page 2, line 31, by inserting after the period
 12 the following: "However, an exemption contained in
 13 this paragraph shall not apply to a utility referred
 14 to in this paragraph if a petition bearing the
 15 signatures of twenty (20) percent or more of the
 16 subscribers of the services of the public utility is
 17 filed with the commission requesting that the public
 18 utility be subject to rate regulation under this
 19 chapter."

H-3402 FILED
 MARCH 30, 1981

W/S 3/31/81 (p. 948)

BY EGENES of Story
 MILLER of Buchanan
 JOHNSON of Linn

DAVITT of Warren
 COCHRAN of Webster
 BYERLY of Polk

HOUSE FILE 771

H-3401

1 Amend House File 771 as follows:

2 1. Page 2, by striking lines 21 through 25 and
 3 inserting in lieu thereof the following: "or
 4 ~~associations, telephone-companies-having-less-than~~
 5 ~~two-thousand-stations, municipally owned utilities,~~
 6 and unincorporated villages which own their own
 7 distribution system ~~shall-not-be~~ are not subject to
 8 the rate regulation provided for in this chapter.
 9 A telephone company having less than fifteen thousand
 10 stations also is not subject to the rate regulation
 11 provided for in this chapter; provided however, that
 12 the company shall be subject to rate regulation upon
 13 receipt by the commission of a petition that is signed
 14 by twenty percent or more of the company's subscribers
 15 and that requests that the company be subject to rate
 16 regulation."

17 2. Page 2, by striking lines 26 through 31 and
 18 inserting in lieu thereof the following:

19 "PARAGRAPH DIVIDED. provided, however, that nothing
 20 contained in this chapter shall be construed to This
 21 chapter does not apply to municipally owned water
 22 works, or rural water districts incorporated and
 23 organized pursuant to chapters 357A and 504A. This
 24 chapter also does not apply to a water works having
 25 less than two thousand customers; provided however,
 26 that the company shall be subject to this chapter
 27 upon receipt by the commission of a petition that
 28 is signed by twenty percent or more of the subscribers
 29 of the water works and that requests that the water
 30 works be subject to this chapter."

BY EGENES of Story
 DAVITT of Warren
 MILLER of Buchanan
 BYERLY of Polk
 COCHRAN of Webster

H-3401 FILED
 MARCH 30, 1981

*W/S 3/31/81
 (p. 948)*

HOUSE FILE 771

H-3400

1 Amend House File 771 as follows:

2 1. By striking page 2, line 2 through page 6,
3 line 16, and inserting in lieu thereof the following:
4 "commission for good cause shown.

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

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

15 ~~PARAGRAPH DIVIDED. provided, however, that nothing~~
16 ~~contained in this chapter shall be construed to~~ This
17 chapter does not apply to water works having less
18 than two thousand customers, municipally owned water
19 works, or rural water districts incorporated and
20 organized pursuant to chapters 357A and 504A.

21 ~~PARAGRAPH DIVIDED. Telephone companies~~ A telephone
22 company otherwise exempt from rate regulation and
23 having telephone exchange facilities which cross state
24 lines may elect, in writing, filed with the commission,
25 to have their its rates regulated by the commission.
26 When such an election, in writing, has been filed
27 with the commission, the commission shall assume rate
28 regulation jurisdiction over said companies the
29 company.

30 Sec. 5. Chapter 476, Code 1981, is amended by
31 adding the following new section:

32 NEW SECTION. If the commission determines after
33 notice and hearing that a new or changed rate, charge,
34 schedule, or regulation is essential to protect the
35 public interest or to enable a utility to provide
36 reasonably adequate service or preserve its property
37 while a proceeding is in progress under section 476.6
38 or 476.7, the commission may approve, subject to
39 terms, conditions, and limitations it deems proper,
40 a reasonable and temporary rate, charge, schedule,
41 or regulation which shall be in effect until a decision
42 is rendered by the commission in the proceeding.
43 When temporary authority is granted by the commission
44 under this section, a party acting upon any part of
45 that order shall be deemed to have accepted and waived
46 all objections to the terms, conditions, and
47 limitations contained in the temporary authority.
48 This section does not require and does not authorize
49 the commission to require that a utility refund any
50 portion of amounts collected under a temporary order

1 issued under this section.

2 Sec. 6. Section 476.3, Code 1981, is amended to
3 read as follows:

4 476.3 COMPLAINTS--INVESTIGATION. Every public
5 utility shall furnish reasonably adequate service
6 at rates and charges in accordance with tariffs filed
7 with the commission. ~~Whenever~~ When there is filed
8 with the commission by any person or body politic,
9 or filed by the commission upon its own motion, a
10 written complaint requesting the commission to
11 determine the reasonableness of the rates, charges,
12 schedules, service, regulations, or anything done
13 or omitted to be done by any public utility subject
14 to this chapter, in contravention of the provisions
15 ~~hereof,--such~~ of this chapter, the written complaint
16 ~~thus-made~~ shall be forwarded by the commission to
17 ~~such~~ the public utility, which shall be called upon
18 to satisfy the complaint or to answer the same it
19 in writing within a reasonable time to be specified
20 by the commission. If a complaint is filed by staff
21 of the commerce commission alleging that rates are
22 excessive, the disputed amount shall be specified
23 in the complaint. If such the public utility shall
24 does not satisfy the commission with respect to the
25 complaint within the time specified and there shall
26 appear appears to be any reasonable ground for
27 investigating said the complaint, it shall be the
28 duty of the commission to shall promptly initiate
29 a formal proceeding. Such-a The formal proceeding
30 may be initiated at any time by the commission on
31 its own motion. Whenever-such If a proceeding has
32 been is initiated upon application or motion, the
33 commission shall set the case for hearing and give
34 such notice thereof as it deems appropriate. Whenever
35 When the commission, after a hearing held after
36 reasonable notice, finds any public utility's rates,
37 charges, schedules, service, or regulations are unjust,
38 unreasonable, discriminatory, or otherwise in violation
39 of any provision of law, the commission shall determine
40 just, reasonable, and nondiscriminatory rates, charges,
41 schedules, service, or regulations to be thereafter
42 observed and enforced. However. if upon a complaint
43 filed by commission staff alleging excessive rates
44 the commission finds that the rates charged by the
45 utility produce an excessive return on common stock
46 equity, the commission shall order a refund, with
47 interest determined and calculated in the manner
48 specified in section 476.6, subsection 7, of amounts
49 collected by the public utility after initiation of
50 the formal proceeding in excess of the amounts that

1 would have been collected under the rates as finally
2 approved by the commission pursuant to the formal
3 proceeding. However, the commission shall not require
4 a refund of an amount, exclusive of interest, that
5 exceeds the amount specified in the complaint.

6 Sec. 7. Section 476.6, Code 1981, is amended by
7 striking the section and inserting in lieu thereof
8 the following:

9 476.6 CHANGE OF RATES--HEARING.

10 1. A public utility subject to rate regulation
11 shall not make effective a new or changed rate, charge,
12 schedule, or regulation until the rate, charge,
13 schedule, or regulation has been filed with and
14 approved by the commission, except as otherwise
15 provided in this section or section 4 of this Act.

16 At the time of filing, all statements of fact, expert
17 opinions, substantiating documents, and exhibits which
18 will be used to support the request shall be included.
19 However, a utility shall not be denied the right to
20 submit additional information after the date of filing
21 if necessary to refute points raised after the date
22 of filing which are in opposition to the approval
23 requested in the filing. The commission shall not
24 approve a charge nor shall a public utility make a
25 charge for telephone directory assistance.

26 2. All public utilities, including those exempted
27 from rate regulation by section 476.1, shall give
28 written notice of a proposed increase of a rate or
29 charge to all affected customers served by the public
30 utility. Public utilities which are exempt from rate
31 regulation shall give notice at least thirty days
32 prior to the effective date of the increase. Public
33 utilities which are subject to rate regulation shall
34 give notice not later than forty-five days after the
35 request for the increase is filed with the commission.

36 3. If a public utility is subject to rate
37 regulation the notice required by subsection 2 shall
38 state that the customer has a right to file a written
39 objection to the rate increase and may request the
40 commission to hold a public hearing to determine if
41 the rate increase should be allowed. The commission
42 shall prescribe the manner and method by which the
43 written notice to each affected customer shall be
44 served.

45 4. This chapter does not prohibit a public utility
46 from establishing a sliding scale of rates and charges
47 or from making provision for the automatic adjustment
48 of rates and charges for public utility service,
49 provided that a schedule showing the sliding scale
50 or automatic adjustment of rates and charges is first

1 filed with and approved by the commission.

2 5. When there is filed with the commission by
3 a public utility subject to rate regulation new or
4 changed rates, charges, schedules, or regulations,
5 the commission may docket the case as a formal
6 proceeding and set the case for hearing. The
7 commission shall give notice of formal proceedings
8 as it deems appropriate.

9 6. If, after hearing and decision on all issues
10 presented for determination in a formal proceeding,
11 the commission finds the proposed rates, charges,
12 schedules, or regulations to be unlawful, the
13 commission shall order the utility to file rates,
14 charges, schedules, or regulations which, when approved
15 by the commission and placed in effect, will satisfy
16 the requirements of this chapter. The rates, charges,
17 schedules, or regulations so approved shall be lawful
18 and effective fourteen days after the date of approval,
19 or at a later date when the public utility places
20 them into effect.

21 7. If a decision is not rendered by the commission
22 within twelve months after the date of filing, the
23 utility has the right to place into effect as of the
24 expiration of the twelve-month period plus extensions
25 any or all of the rates, charges, schedules, or
26 regulations requested, by filing with the commis-
27 sion a bond or other undertaking approved by the
28 commission conditioned upon the refund in a manner
29 to be prescribed by the commission of any amounts
30 collected in excess of the amounts which would have
31 been collected under the rates, charges, schedules,
32 or regulations finally approved by the commission.
33 The commission shall establish a rate of interest
34 to be paid by a public utility to persons receiving
35 refunds, which rate shall not be less than five
36 percent, compounded annually. The twelve-month period
37 specified in this subsection shall be extended for
38 a period equal to any delay or postponement of the
39 proceedings or the final decision which occurs at
40 the request or by agreement of the utility. If a
41 utility elects to place a rate, charge, schedule,
42 or regulation into effect under the authority of this
43 subsection, temporary authority which has been granted
44 to the utility by the commission under section 5 of
45 this Act, and the terms, conditions, and limitations
46 contained in the temporary authority, terminate on
47 the date the new rate, charge, schedule, or regulation
48 is placed into effect under this subsection.

49 Sec. 8. The Iowa state commerce commission shall
50 investigate the practice of allowing a public utility

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March 31, 1981

Page Five
H-3400

1 to recover advertising costs from its customers.
2 The commission shall recommend to the general assembly
3 whether or not it is appropriate to adopt legislation
4 to disallow a portion of advertising costs when
5 determining costs of operations for rate-making
6 purposes. The Code editor shall not codify this
7 section.

8 Sec. 9. Section 5 of this Act applies only with
9 respect to proceedings commenced under section 476.6
10 or 476.7 on or after the effective date of this Act.
11 Section 6 of this Act applies only to complaints filed
12 with the commission under section 476.3 on or after
13 the effective date of this Act. Section 7 of this
14 Act applies only to new or changed rates, charges,
15 schedules, or regulations filed with the commission
16 under section 476.6 on or after the effective date
17 of this Act."

18 2. By renumbering sections as necessary.

BY JOCHUM of Dubuque	CONNORS of Polk
AVENSON of Fayette	CONNOLLY of Dubuque
BRUNER of Story	GETTINGS of Wapello
CHIODO of Polk	RUNNING of Linn
O'KANE of Woodbury	PAVICH of Pottawattamie
HALVORSON of Webster	WELSH of Dubuque
COCHRAN of Webster	BINNEBOESE of Plymouth
RAPP of Black Hawk	ANDERSON of Jasper
STURGEON of Woodbury	HOWELL of Floyd
BRANDT of Black Hawk	

H-3400 FILED
MARCH 30, 1981

Letter 3/31/81 (p 946)

HOUSE FILE 771

H-3398

1 Amend House File 771 as follows:
2 1. Page 6, by inserting after line 16 the
3 following:
4 "Section 6 of this Act applies to a proceeding
5 commenced by a public utility under section 476.6
6 prior to the effective date of this Act, unless the
7 public utility commenced the collection of new or
8 changed rates under bond prior to the effective date
9 of this Act."

BY RAPP of Black Hawk	DODERER of Johnson
BRUNER of Story	PONCY of Wapello
CHIODO of Polk	CONNOLLY of Dubuque
AVENSON of Fayette	DIELEMAN of Marion
COCHRAN of Webster	LLOYD-JONES of Johnson
O'KANE of Woodbury	LONERGAN of Boone
HALVORSON of Webster	CARL of Poweshiek
SWARTZ of Marshall	NORLAND of Worth
STURGEON of Woodbury	GETTINGS of Wapello
JOCHUM of Dubuque	RUNNING of Linn
ANDERSON of Jasper	PAVICH of Pottawattamie
BRANDT of Black Hawk	HALL of Linn
CONNORS of Polk	BINNEBOESE of Plymouth

H-3398 FILED
MARCH 30, 1981

Letter 3/31/81 (p 958)

HOUSE FILE 771

H-3396

1 Amend House File 771 as follows:
2 1. Page 6, by inserting after line 13 the
3 following:
4 "Sec. 8. Chapter 476, Code 1981, is amended by
5 adding the following new section:
6 NEW SECTION. ENERGY CONSERVATION IMPROVEMENTS.
7 1. As used in this section, unless the context
8 otherwise requires:
9 a. "Energy conservation improvement" means the
10 purchase or installation of any device, method, or
11 material that increases the efficiency in the
12 residential use of electricity or natural gas,
13 including but not limited to:
14 (1) Insulation and ventilation.
15 (2) Storm or thermal doors or windows.
16 (3) Caulking and weatherstripping.
17 (4) Furnace efficiency modifications.
18 (5) Thermostat or lighting controls.
19 (6) Awnings.
20 (7) Systems to turn off or vary the delivery of
21 energy. The term "energy conservation improvement"
22 does not include any device or method which creates,
23 converts, or actively uses energy from renewable
24 sources such as solar, wind, and biomass.
25 b. "Investments" means investments and expenses
26 incurred by a public utility in connection with an
27 energy conservation improvement including, but not
28 limited to:
29 (1) The differential in interest cost between
30 the market rate and the rate charged on a no-interest
31 or below-market-interest loan made by a public utility
32 to a customer for the purchase or installation of
33 an energy conservation improvement.
34 (2) The difference between the utility's cost
35 of purchase or installation of energy conservation
36 improvements and any price charged by a public utility
37 to a customer for such improvements.
38 2. The commission shall, prior to January 1, 1982,
39 and after consultation with the Iowa energy policy
40 council, initiate a pilot program to examine and
41 demonstrate the feasibility of the use of public
42 utility investments in energy conservation improvements
43 to residential buildings.
44 3. As part of this program, the commission shall
45 require at least one public utility to make investments
46 for energy conservation improvements, subject to the
47 following conditions:
48 a. The commission specifically shall determine
49 the interest rates, prices, and terms under which
50 the energy conservation improvements are to be offered

1 to customers of the public utility.

2 b. The commission shall assure that a customer
3 of a public utility is permitted to choose the
4 contractors to complete the energy conservation
5 improvements, but that bidding contractors satisfy
6 minimum standards of competency with respect to the
7 types of improvements involved.

8 c. The commission shall not order a public utility
9 to make an investment for energy conservation
10 improvement unless the commission first finds that
11 the improvement will result in energy savings, and
12 at a total cost to the public utility that is less
13 than the cost to the public utility to produce or
14 purchase an equivalent amount of new energy.

15 d. The public utility shall not undertake an
16 energy conservation improvement with respect to
17 residential property unless the utility is the primary
18 supplier of energy used for heating and cooling the
19 property.

20 e. Investments by the public utility shall be
21 treated for rate-making purposes in the same manner
22 as investments for new plant construction.

23 4. An energy conservation improvement made to
24 or installed in a residential building pursuant to
25 the energy conservation improvement program shall
26 be the exclusive property of the customer as against
27 the public utility, except to the extent of any
28 security interest taken by the public utility to
29 assure payment of a loan made by the public utility
30 to the customer.

31 5. If investments by a public utility in energy
32 conservation improvements are prohibited or restricted
33 in any manner by federal law and there is a provision
34 in that law under which the prohibition or restriction
35 may be waived, the commission or other state officer
36 or agency shall take whatever steps may be necessary
37 to obtain the waiver for public utilities participating
38 in the energy conservation improvement program.

39 Sec. 9. Section 476.8, Code 1981, is amended to
40 read as follows:

41 476.8 UTILITY CHARGES AND SERVICE.

42 1. Every public utility is required to furnish
43 reasonably adequate service and facilities.
44 "Reasonably adequate service" as used in this section
45 includes, for public utilities furnishing gas or elec-
46 tricity, programs and assistance to customers to
47 encourage energy conservation and the use of renewable
48 energy sources as defined in section 476.21 in addition
49 to the furnishing of energy. The commission shall
50 adopt rules under chapter 17A further defining

1 "reasonably adequate service" as it applies to energy
2 conservation programs and assistance. The rules shall
3 protect the public utility's right to recover costs
4 plus a reasonable rate of return for services provided
5 by the public utility.

6 2. The charge made by any public utility for any
7 heat, light, gas, water, or power produced,
8 transmitted, delivered, or furnished, or communications
9 services, or for any service rendered or to be rendered
10 in connection therewith shall be reasonable and just,
11 and every unjust or unreasonable charge for such ser-
12 vice is ~~prohibited and declared~~ unlawful. In
13 determining reasonable and just rates, the commission
14 shall consider all factors relating to value and shall
15 not be bound by rate base decisions or rulings made
16 prior to the adoption of this chapter.

17 3. The commission, in determining the value of
18 materials or services to be included in valuations
19 or costs of operations for rate-making purposes,
20 may disallow any unreasonable profit made in the sale
21 of materials to or services supplied for any public
22 utility by any firm or corporation owned or controlled
23 directly or indirectly by such the utility or any
24 affiliate, subsidiary, parent company, associate,
25 or any corporation whose controlling stockholders
26 are also controlling stockholders of such the utility.
27 The burden of proof ~~shall be~~ is on the public utility
28 to prove that no unreasonable profit is made.

29 Sec. 10. Section 476A.6, subsection 3, Code 1981,
30 is amended to read as follows:

31 3. The construction, maintenance, and operation
32 of the facility will cause minimum adverse land use,
33 environmental, and aesthetic impact and are consonant
34 with reasonable utilization of air, land, and water
35 resources for beneficial purposes considering available
36 technology and the economics of available
37 alternatives; and,

38 Sec. 11. Section 476A.6, Code 1981, is amended
39 by adding the following new subsection:

40 NEW SUBSECTION. The applicant has in effect a
41 comprehensive energy management program designed to
42 reduce peak loads and to increase efficiency of use
43 of energy by all classes of customers of the utility,
44 and the facility in the application is necessary
45 notwithstanding the existence of the comprehensive
46 energy management program. As used in this subsection,
47 "maintenance of a comprehensive energy management
48 program" includes at a minimum the following:

49 a. Establishment of load management and
50 interruptible service programs for utility customers,

1 where cost effective.
 2 b. Development of wheeling agreements and other
 3 energy sharing agreements with utility companies
 4 located near the utility's service area which have
 5 excess capacity.
 6 c. Offering all customers energy conservation
 7 information and services, including provisions for
 8 loans for home insulation and energy conservation
 9 devices.
 10 d. Compliance with commission rules regarding
 11 energy management procedures and energy conservation
 12 strategies and services.
 13 Sec. 12. Sections 9, 10, and 11 of this Act take
 14 effect January 1 following enactment. The commission
 15 shall adopt rules as required by section 9, subsection
 16 1 of this Act not later than six months after the
 17 effective date of that section."
 18 2. By renumbering sections of the bill and
 19 correcting internal references as necessary.

BY BRUNER of Story	CONNOLLY of Dubuque
AVENSON of Fayette	LLOYD-JONES of Johnson
O'KANE of Woodbury	LONERGAN of Boone
CHIODO of Polk	CARL of Poweshiek
HALVORSON of Webster	NORLAND of Worth
COCHRAN of Webster	GETTINGS of Wapello
RAPP of Black Hawk	RUNNING of Linn
STURGEON of Woodbury	PAVICH of Pottawattamic
ANDERSON of Jasper	WELSH of Dubuque
CONNORS of Polk	HOWELL of Floyd
DODERER of Johnson	

H-3396 FILED
MARCH 30, 1981

*Filed not germane 3/31/81
(9956)*

HOUSE FILE 771

H-3395

1 Amend House File 771 as follows:
 2 1. Page 4, by inserting after line 28 the
 3 following new paragraph:
 4 "For the purpose of this section, an electricity
 5 rate schedule shall be considered to be discriminatory
 6 if the schedule, including charges for energy costs,
 7 demand or capacity costs, and customer costs, provides
 8 for decreasing rates for increased consumption of
 9 electricity for any billing period."

BY RAPP of Black Hawk	HALVORSON of Webster
BRANDT of Black Hawk	JOCHUM of Dubuque
STURGEON of Woodbury	CONNORS of Polk
PONCY of Wapello	LLOYD-JONES of Johnson
CONNOLLY of Dubuque	GETTINGS of Wapello
CHIODO of Polk	RUNNING of Linn
AVENSON of Fayette	WELSH of Dubuque
BRUNER of Story	BINNEBOESE of Plymouth
O'KANE of Woodbury	

H-3395 FILED
MARCH 30, 1981

*Filed not germane 3/31/81
(9951)*

HOUSE FILE 771

H-3391

1 Amend House File 771 as follows:

2 1. Page 1, line 32, by inserting after the word
3 "proceedings" the words ", the consumer advocate".

4 2. Page 2, line 1, by inserting after the word
5 "utility" the words ", the consumer advocate".

6 3. Page 2, line 11, by inserting after the word
7 "commission" the words "or the consumer advocate".

8 4. Page 6, by inserting after line 13 the
9 following:

10 "Sec. 8. Sections 9 through 15 of this Act are
11 enacted as a new chapter of the Code.

12 Sec. 9. NEW SECTION. DEFINITIONS. As used in
13 this Act unless the context otherwise requires:

14 1. "Commission" means the Iowa state commerce
15 commission.

16 2. "Public utility" means a public utility as
17 defined in section 476.1.

18 3. "Consumer" means a person who is or may be
19 a direct user or the recipient of private residential
20 services provided by a public utility.

21 Sec. 10. NEW SECTION. OFFICE ESTABLISHED. The
22 division of consumer advocacy is established within
23 the office of the attorney general.

24 Sec. 11. NEW SECTION. CONSUMER ADVOCATE APPOINTED.

25 1. The attorney general shall appoint the consumer
26 advocate. The consumer advocate must be an attorney
27 licensed to practice law in this state and must be
28 qualified by training or experience to perform the
29 duties of the office. Compensation for the position
30 shall be set by the general assembly.

31 2. The consumer advocate, while serving in such
32 capacity shall not engage in a business, vocation,
33 or other employment, or have other interests
34 inconsistent with the responsibilities of the office.
35 The consumer advocate shall not seek or accept
36 employment with or render beneficial services for
37 compensation to a public utility or the commission
38 during the tenure of office and for two years after
39 employment as consumer advocate is terminated.

40 3. The consumer advocate shall not seek election
41 or accept appointment to a political office during
42 employment as consumer advocate.

43 Sec. 12. NEW SECTION. STAFF. The consumer
44 advocate may appoint assistant consumer advocates
45 who shall be attorneys-at-law and may appoint clerical,
46 technical and professional staff as necessary to
47 discharge the duties of the office. The consumer
48 advocate may contract for additional services as
49 necessary. The assistant consumer advocates and
50 clerical staff are subject to chapter 19A. Technical

1 and professional staff are exempt from chapter 19A
2 and shall be paid compensation comparable to that
3 paid to persons in similar positions in private
4 industry. Employees of the consumer advocate shall
5 not engage in a business, vocation, or employment
6 or render services that may conflict with their
7 official responsibilities.

8 Sec. 13. NEW SECTION. DUTIES.

9 1. The consumer advocate shall provide legal
10 representation to consumers in the state in proceedings
11 and investigations relating to public utilities before
12 the commission, other state agencies, federal agencies
13 and state and federal courts. The consumer advocate
14 has powers as necessary to carry out the duties of
15 the office, including but not limited to the power
16 to:

17 a. Recommend to the commission by petition the
18 commencement of a proceeding or action or to appear,
19 as a party, in the name of the citizens of this state
20 in a proceeding or action before the commission and
21 to advocate a position deemed to be in the interest
22 of consumers of this state, whether consistent or
23 inconsistent with positions previously adopted by
24 the commission.

25 b. Investigate complaints made to the commission
26 by a consumer and to initiate proceedings or other
27 action on behalf of the consumer.

28 c. Have access to and use of all files, records,
29 and data of the commission or collected by the
30 commission relating to proceedings, investigations
31 or other activities before the commission or conducted
32 by the commission.

33 d. Seek review of a determination, finding, or
34 order of the commission or of a hearing officer
35 designated by the commission, in the name of the
36 citizens of this state.

37 e. Prepare and issue reports and recommendations,
38 to propose orders to the commission, the governor,
39 and the general assembly on a matter or subject within
40 the jurisdiction of the commission and to make
41 recommendations for legislation relating to commission
42 procedures, rules, jurisdiction, personnel and
43 functions.

44 f. Appear in the name of the consumer advocate
45 or the public before other state agencies, federal
46 agencies and in state and federal courts in connection
47 with matters involving public utilities.

48 g. Meet and confer with consumers and consumer
49 groups.

50 2. To assist the consumer advocate in carrying

1 out the powers under this section, the complaint
2 officer of the commission shall forward to the office
3 of the consumer advocate a copy of all complaints,
4 petitions and applications filed with the commission,
5 including but not limited to petitions, applications
6 or complaints from a public utility, immediately upon
7 their receipt.

8 3. In addition to other authority conferred upon
9 the consumer advocate by this Act the consumer advocate
10 may represent an interest of concern to consumers
11 upon written request as provided in this subsection.
12 The request shall be in the form of a petition signed
13 by twenty-five consumers and shall state the interest
14 of concern. The request shall designate at least
15 two of the signatories as principal sponsors of the
16 petition. The consumer advocate shall notify the
17 principal sponsors of the petition within a reasonable
18 time after receipt of the petition of action taken
19 or intended to be taken by the office on the petition.
20 If the consumer advocate declines or is unable to
21 represent the interest, the consumer advocate shall
22 so notify the principal sponsors and shall state the
23 reasons.

24 4. The consumer advocate may proceed in the name
25 of the office, an individual consumer or group of
26 consumers or may join with the individual consumer
27 or group of consumers in initiating a proceeding.

28 Sec. 14. NEW SECTION. PAYMENT OF EXPENSES.

29 1. When the division of consumer advocacy
30 represents the consumer interest in a proceeding
31 initiated by application of a public utility for a
32 product or service or in a proceeding initiated by
33 application of a public utility to initiate,
34 discontinue or change a service, or in a proceeding
35 resulting from complaints or petitions of consumers
36 concerning a public utility, the consumer advocate
37 may assess the public utility an amount not to exceed
38 one-tenth of one percent of the revenues of the public
39 utility from its intrastate sales in the calendar
40 year last preceding the initiation of the proceeding.
41 The assessment shall not exceed the actual costs
42 incurred by the office of consumer advocate in the
43 proceeding year including but not limited to pro rata
44 consumer advocate office and salary expenses. If
45 the assessment exceeds five hundred thousand dollars
46 the consumer advocate shall send the public utility
47 an itemized statement of the amount, as of the date
48 of the statement, of the applicable costs.

49 2. Assessments shall be paid by the public utility
50 to the treasurer of state within thirty days after

1 the date of the assessment. The treasurer of state,
2 upon receipt of a payment by a public utility pursuant
3 to this section, shall deposit the payment in the
4 general fund of the state.

5 Sec. 15. NEW SECTION. FUNDS. For purposes of
6 42 U.S.C. s. 6805 (1979) the division of consumer
7 advocacy is the office in the state responsible for
8 assisting consumers in presentations before the Iowa
9 state commerce commission and shall be the recipient
10 of any federal funds available to the state to
11 implement that section."

12 5. By renumbering sections.

BY O'KANE of Woodbury	SPEAR of Lee
COCHRAN of Webster	LONERGAN of Boone
BRUNER of Story	SULLIVAN of Van Buren
AVENSON of Fayette	NORLAND of Worth
HALVORSON of Webster	GETTINGS of Wapello
RAPP of Black Hawk	PONCY of Wapello
STURGEON of Woodbury	RUNNING of Linn
BRANDT of Black Hawk	PAVICH of Pottawattamie
CHIODO of Polk	RENAUD of Polk
JAY of Appanoose	DAVITT of Warren
CONNORS of Polk	ARNOULD of Scott
OXLEY of Linn	WELSH of Dubuque
CONNOLLY of Dubuque	BINNEBOESE of Plymouth
LLOYD-JONES of Johnson	HOWELL of Floyd
ANDERSON of Jasper	

H-3391 FILED
MARCH 30, 1981

Paul J. ... 2/21/81
(P 434)

HOUSE FILE 771

H-3390

1 Amend House File 771 as follows:

2 1. Page 1, by inserting after line 13 the
3 following:

4 "3. The continuous audit established under this
5 section shall include, but not be limited to, a review
6 and comparative rating of the efficiency of operation
7 of each rate-regulated public utility according to
8 standards determined by the commission. The annual
9 report of the commission under section 17.1 shall
10 include a list of all rate-regulated public utilities
11 and the comparative efficiency rating of each. The
12 commission shall consider these efficiency ratings
13 in proceedings under this chapter involving the reason-
14 ableness of the rates and charges of public utilities,
15 and the commission may increase or diminish the
16 respective rates of return on common stock equity
17 that otherwise would be allowed to reflect relatively
18 higher or lower degrees of efficiency of operation."

BY CHIODO of Polk
BRUNER of Story
O'KANE of Woodbury
AVENSON of Fayette
HALVORSON of Webster
SWARTZ of Marshall
RAPP of Black Hawk
JOCHUM of Dubuque
STURGEON of Woodbury
JAY of Appanoose
CONNORS of Polk
DODERER of Johnson
CONNOLLY of Dubuque
DIELEMAN of Marion
LLOYD-JONES of Johnson

LONERGAN of Boone
SULLIVAN of Van Buren
CARL of Poweshiek
NORLAND of Worth
GETTINGS of Wapello
RUNNING of Linn
PAVICH of Pottawattamie
DAVITT of Warren
RENAUD of Polk
WELSH of Dubuque
BYERLY of Polk
HALL of Linn
BINNEBOESE of Plymouth
ANDERSON of Jasper

H-3390 FILED
MARCH 30, 1981

Filed 3/31/81 (p. 735)

HOUSE FILE 771

II-3389

1 Amend House File 771 as follows:

2 1. Page 4, by inserting after line 28 the
3 following:

4 "Sec. ____ . Section 476.5, Code 1981, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 476.5 RATE REGULATION.

8 1. COMPLIANCE WITH RATE SCHEDULE. A public utility
9 subject to rate regulation shall not charge directly
10 or indirectly a greater or lesser fee for its services
11 than that prescribed in its rate schedule.

12 2. PREFERENCES PROHIBITED. A public utility
13 subject to rate regulation shall not give unreasonable
14 preferences or advantages as to rates to any person
15 and shall not subject any person to an unreasonable
16 prejudice or disadvantage. However, a public utility
17 furnishing communications services may provide a
18 service rendered by it without charge or at reduced
19 rates to its active or retired officers, directors,
20 or employees or such officers, directors, or employees
21 of other public utilities furnishing communication
22 services, provided the services are for personal use
23 and not for engaging in a business for profit.

24 3. PERMISSIBLE ELECTRIC RATE SCHEDULE. The
25 commerce commission shall not approve as just and
26 reasonable a rate schedule for a public utility
27 furnishing electricity, unless the rate schedule meets
28 the following standards:

29 a. The rate schedule shall not provide for
30 decreasing rates for increased consumption of
31 electricity for any billing period.

32 b. The rate schedule shall not provide separate
33 charges for energy costs, demand or capacity costs,
34 or customer costs.

35 c. The rate schedule shall reflect the costs of
36 providing services at different times of the year
37 to the extent that the costs vary seasonally for the
38 utility.

39 d. The utility shall provide a rate schedule for
40 interruptible services to its electricity users,
41 charged at an amount which reflects the cost of
42 providing the interruptible service.

43 e. The utility shall provide a rate schedule for
44 electricity users subject to load management control
45 techniques that are reliable, create useful energy
46 or capacity management advantages to the electric
47 utility, and are cost-effective. For purposes of
48 this paragraph, a load management control technique
49 is cost-effective if the technique is likely to reduce
50 maximum kilowatt demand on the electric utility, and

Page Two
H-3389

1 the long run cost savings to the utility of the
2 reduction are likely to exceed the long run costs
3 to the utility associated with implementation of the
4 techniques.

5 f. The rate schedule shall be on a time of day
6 basis for those classes of electricity users for which
7 the time of day basis is cost-effective. For purposes
8 of this paragraph, a time of day rate schedule is
9 cost-effective if the long run benefits of the rate
10 schedule to the utility are likely to exceed the
11 metering costs or other costs associated with the
12 implementation of the time of day rate schedule.

13 g. A separate rate schedule shall be provided
14 for residential electrical users whose monthly kilowatt
15 use does not exceed a fixed amount, which may be a
16 discount of the rate schedule for regular residential
17 users to reflect an absence of increased demand for
18 electricity in the long run.

19 4. PERMISSIBLE NATURAL GAS RATE SCHEDULE. The
20 commerce commission shall not approve as just and
21 reasonable a rate schedule for a public utility
22 furnishing natural gas if that rate schedule provides
23 for decreasing rates for increased consumption of
24 natural gas during any billing period."

25 2. By renumbering sections and correcting internal
26 references.

BY STURGEON of Woodbury
CHIODO of Polk
BRUNER of Story
O'KANE of Woodbury
AVENSON of Fayette
HALVORSON of Webster
RAPP of Black Hawk
JOCHUM of Dubuque
ANDERSON of Jasper
BRANDT of Black Hawk
CONNORS of Polk
DODERER of Johnson

DIELEMAN of Marion
LLOYD-JONES of Johnson
JAY of appanoose
SPEAR of Lee
LONERGAN of Boone
SULLIVAN of Van Buren
CARL of Poweshiek
NORLAND of Worth
GETTINGS of Wapello
RUNNING of Linn
PAVICH of Pottawattamic
CONNOLLY of Dubuque
BINNEBOESE of Plymouth

H-3389 FILED
MARCH 30, 1981

Bullock German
3/21/81 (p. 949)

HOUSE FILE 771

H-3365

1 Amend House File 771 as follows:

A 2 1. Page 1, line 33, by inserting after the word
3 "commission" the word "staff".

4 2. Page 2, line 2, by inserting after the word
5 "commission" the word "staff".

B 6 3. Page 2, line 9, by inserting after the word
7 "commission" the word "staff".

8 4. Page 2, line 11, by inserting after the word
9 "commission" the word "staff".

10 5. Page 5, by striking lines 15 and 16 and
11 inserting in lieu thereof the words "receipt of the
12 request. If the"

13 6. Page 6, line 14, by striking the words "4 and 5"
14 and inserting in lieu thereof the words "5 and 6".

H-3365 FILED

BY JOHNSON of Linn

SWEARINGEN of Keokuk

MARCH 26, 1981

BRUNER of Story

SHULL of Warren

Adopted 2/21/81 (p. 947)

CHIODO of Polk

HOUSE FILE 771

H-3388

1 Amend House File 771 as follows:

2 1. Page 1, line 8, by striking the figure "1984"
3 and inserting in lieu thereof the figure "1982".

H-3388 FILED MARCH 30, 1981

BY STURGEON of Woodbury

Done 2/31/81 (p. 934)

Commerce
Holden, Chairperson
DeKoster
Husak

- 4/2/81
Amend per 3514's
Dr. Pass 4/16 (p. 1211)

HOUSE FILE 771

BY COMMITTEE ON COMMERCE

(As Amended and Passed by the House)

Passed House, Date See Below Passed Senate, Date 4-28-81 (p. 1467)

Vote: Ayes _____ Nays _____ Vote: Ayes 28 Nays 17

Approved June 13, 1981

A BILL FOR

1 An Act relating to the regulation of public utilities by
 2 providing for the continuing audit of utility operations,
 3 the review of annual reports by the commission, the
 4 exemption of certain telephone companies from rate
 5 regulation, the exemption of certain water companies
 6 from commission regulation, the retroactive refund of
 7 excess charges collected after notice to the utility,
 8 the requirement that the commission approve temporary
 9 rates to be collected during rate-making proceedings,
 10 and time limitations for commission decisions in rate-
 11 making proceedings, a commerce commission investigation
 12 of the practice of allowing a public utility to recover
 13 advertising costs from its customers, to take effect
 14 upon publication.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

16 *Conference Committee appointed*
 17 *Senator Holden (Chair) DeKoster, Brubaker, Husak, Bremer, Jensen (p. 1700)*
 18 *Representatives Johnson & Ryan (Chair) Shell, Swearingen, Childs, Bruner*

19 *Passed per Conference Committee Report*
 20 *House 5-21-81 (p. 2121) Senate 5-21-81 (p. 1801)*
 21 *55-43 29-18*

22 House Amendments _____

23
24
25

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

3 NEW SECTION. CONTINUING AUDIT OF OPERATIONS.

4 1. The commission shall continuously review the operations
5 of public utilities that are subject to rate regulation with
6 respect to all matters that affect rates or charges for utility
7 service.

8 2. The commission shall adopt not later than July 1, 1984,
9 rules and policies to implement a continuing audit program.
10 The commission shall submit to the general assembly meeting
11 in January, 1982, the additional budgetary needs of the
12 commission for purposes of fulfilling the requirements of
13 this section.

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

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

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

23 NEW SECTION. RULES GOVERNING HEARINGS. The commission
24 shall adopt rules pursuant to chapter 17A to provide for the
25 completion of proceedings under section 476.3 within one
26 hundred eighty days after the date of the filing of a com-
27 plaint, and to provide for the completion of proceedings under
28 section 476.6 within twelve months after the date of filing
29 of the new or changed rate, charge, schedule or regulation.
30 These rules shall include deadlines for the submission or
31 completion of comments, reports and hearings. The rules shall
32 provide the utility that is party to the proceedings and the
33 commission staff with sufficient time to prepare and submit
34 comments and reports. The rules may provide for the extension
35 of a deadline or for the extension of the time for completion

1 of the proceedings upon the request of the utility or the
2 commission staff for good cause shown. An extension of a
3 deadline granted upon the request of the utility shall also
4 extend the amount of time for which the utility is required
5 to file a bond or other undertaking conditioned upon refund
6 under section 476.3 and the amount of time under which the
7 commission may restrict the utility from placing its entire
8 rate increase request into effect under bond under section
9 476.6, unless the utility demonstrates that the commission
10 staff is responsible for the need for the extension. An
11 extension of a deadline granted upon the request of the
12 commission staff shall not extend the amount of time for which
13 the utility is required to file a bond or other undertaking
14 conditioned upon refund under section 476.3 or the amount
15 of time under which the commission may restrict the utility
16 from placing into effect its entire rate increase request
17 under bond under section 476.6.

18 Sec. 4. Section 476.1, unnumbered paragraph 2, Code 1981,
19 is amended to read as follows:

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

27 PARAGRAPH DIVIDED. ~~provided, however, that nothing~~
28 ~~contained in this chapter shall be construed to~~ This chapter
29 does not apply to water works having less than two thousand
30 customers, municipally owned water works, or rural water
31 districts incorporated and organized pursuant to chapters
32 357A and 504A.

33 PARAGRAPH DIVIDED. ~~Telephone companies~~ A telephone company
34 otherwise exempt from rate regulation and having telephone
35 exchange facilities which cross state lines may elect, in

1 writing, filed with the commission, to have ~~their~~ its rates
2 regulated by the commission. When ~~such an~~ election, in
3 writing, has been filed with the commission, the commission
4 shall assume rate regulation jurisdiction over ~~said-companies~~
5 the company.

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

8 476.3 COMPLAINTS--INVESTIGATION. Every public utility
9 shall furnish reasonably adequate service at rates and charges
10 in accordance with tariffs filed with the commission. Whenever
11 When there is filed with the commission by any person or body
12 politic, or filed by the commission upon its own motion, a
13 written complaint requesting the commission to determine the
14 reasonableness of the rates, charges, schedules, service,
15 regulations, or anything done or omitted to be done by any
16 public utility subject to this chapter, in contravention of
17 the provisions thereof, ~~such of this chapter,~~ the written
18 complaint ~~thus-made~~ shall be forwarded by the commission to
19 ~~such the~~ public utility, which shall be called upon to satisfy
20 the complaint or to answer ~~the-same~~ it in writing within a
21 reasonable time to be specified by the commission. If ~~such~~
22 the public utility ~~shall~~ does not satisfy the commission with
23 respect to the complaint within the time specified and there
24 ~~shall-appear~~ appears to be any reasonable ground for
25 investigating ~~said the~~ complaint, ~~it-shall-be-the-duty-of~~
26 the commission ~~to~~ shall promptly initiate a formal proceeding.
27 ~~Such-a~~ The formal proceeding may be initiated at any time
28 by the commission on its own motion. ~~Whenever-such~~ If a
29 proceeding ~~has-been~~ is initiated upon application or motion,
30 the commission shall set the case for hearing and give ~~such~~
31 notice thereof as it deems appropriate. ~~Whenever~~ When the
32 commission, after a hearing held after reasonable notice,
33 finds any public utility's rates, charges, schedules, service,
34 or regulations are unjust, unreasonable, discriminatory, or
35 otherwise in violation of any provision of law, the commission

1 shall determine just, reasonable, and nondiscriminatory rates,
2 charges, schedules, service, or regulations to be thereafter
3 observed and enforced.

4 If, as a result of either an audit conducted under sec-
5 tion 1 of this Act or a review conducted under section 2 of
6 this Act, a complaint is filed alleging that a utility's rates
7 are excessive, the disputed amount shall be specified in the
8 complaint. The public utility shall, within the time
9 prescribed by the commission, file a bond or undertaking
10 approved by the commission conditioned upon the refund in
11 a manner prescribed by the commission of amounts collected
12 after the date of filing of the complaint in excess of rates
13 or charges finally determined by the commission to be lawful.
14 If upon hearing the commission finds that the utility's rates
15 are unlawful, the commission shall order a refund, with
16 interest, of amounts collected after the date of filing of
17 the complaint in excess of amounts which would have been
18 collected under the rates finally approved, provided that
19 the commission shall not order a refund that is greater than
20 the amount specified in the complaint, plus interest, and
21 provided that if the commission fails to render a decision
22 within one hundred eighty days following the date of filing
23 of the complaint, plus any additional time due to extensions
24 ordered under section 3 of this Act, the commission shall
25 not order a refund of any excess amounts that are collected
26 after the expiration of that one hundred eighty-day period,
27 plus any additional time due to extensions ordered under
28 section 3 of this Act, and prior to the date the decision
29 is rendered.

30 Sec. 6. Section 476.6, unnumbered paragraph 6, Code 1981,
31 is amended to read as follows:

32 However, ~~a public utility may~~ at any time after rates,
33 charges, schedules or regulations have been suspended ~~for~~
34 ninety-days, a public utility may request the authority to
35 place in effect any or all of the suspended rates, charges,

1 schedules or regulations by filing with the commission a bond
2 or other undertaking approved by the commission conditioned
3 upon the refund in a manner to be prescribed by the commission
4 of any amounts collected in excess of the amounts which would
5 have been collected under rates, charges, schedules or regu-
6 lations finally approved by the commission. In determining
7 that portion of the utility's proposed increase in rates and
8 charges to be placed in effect prior to a final decision,
9 the commission shall apply previously established regulatory
10 principles and shall, at a minimum, permit rates and charges
11 which will allow the utility to earn a return on common stock
12 equity equal to that which the commission held reasonable
13 and just in the most recent rate case involving the same type
14 of utility service. The commission shall render a decision
15 on the request for temporary rates within ninety days after
16 receipt of the request. If the commission fails to render
17 a final decision with respect to the new or proposed rates,
18 charges, schedules or regulations within twelve months after
19 the date of filing, plus any additional time due to extensions
20 ordered under section 3 of this Act, the utility may place
21 in effect subject to refund any portion of the suspended
22 rates, charges, schedules or regulations not previously
23 authorized for collection on an interim basis by filing with
24 the commission a bond or other undertaking approved by the
25 commission. The commission shall establish a rate of interest
26 to be paid by a public utility to persons receiving refunds.
27 The rate of interest shall be a reasonable rate as determined
28 by the commission, but not less than five percent per annum,
29 and the interest shall be compounded annually. The public
30 utility shall not place into effect any portion of any
31 suspended rates, charges, schedules or regulations of any
32 subsequent rate filing relating to services with respect to
33 which a rate filing is pending within twelve months following
34 the date a prior application was filed or until after the
35 date the commission has issued a final order in any previously

filed rate proceedings, whichever date is earlier, unless
the public utility applies to the commission for authority
and receives authority to place a portion of the subsequent
filed rate filing into effect on an interim basis.

Sec. 7. The Iowa state commerce commission shall
investigate the practice of allowing a public utility to
recover advertising costs from its customers. The commission
shall recommend to the general assembly whether or not it
is appropriate to adopt legislation to disallow a portion
of advertising costs when determining costs of operations
for rate-making purposes. The Code editor shall not codify
this section.

Sec. 8. Sections 5 and 6 of this Act apply to proceedings
commenced under sections 476.3 or 476.6, respectively, on
or after the effective date of this Act.

Sec. 9. This Act, being deemed of immediate importance,
shall be in effect from and after its publication in the
Washington Evening Journal, a newspaper published in Washing-
ton, Iowa, and in The Nevada Evening Journal, a newspaper
published in Nevada, Iowa.

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HOUSE FILE 771

H-4157

1 Amend the Senate Amendment, H-3925, to House File
2 771, as amended, passed and reprinted by the House,
3 by striking everything after page 1, line 2, and
4 inserting in lieu thereof the following:

5 "1. By striking everything after the enacting
6 clause and inserting in lieu thereof the following:
7 "Section 1. Chapter 476, Code 1981, is amended
8 by adding the following new section:

9 NEW SECTION. CONTINUING AUDIT OF OPERATIONS.

10 1. The commission shall continuously review the
11 operations of public utilities that are subject to
12 rate regulation with respect to all matters that
13 affect rates or charges for utility service.

14 2. The commission shall adopt not later than July
15 1, 1984, rules and policies to implement a continuing
16 audit program. The commission shall submit to the
17 general assembly meeting in January, 1982, the
18 additional budgetary needs of the commission for
19 purposes of fulfilling the requirements of this
20 section.

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

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

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

31 NEW SECTION. RULES GOVERNING HEARINGS. The
32 commission shall adopt rules pursuant to chapter 17A
33 to provide for the completion of proceedings under
34 section 476.3 within one hundred eighty days after
35 the date of the filing of a complaint, and to provide
36 for the completion of proceedings under section 476.6
37 within twelve months after the date of filing of the
38 new or changed rate, charge, schedule or regulation.
39 These rules shall include deadlines for the submission
40 or completion of comments, reports and hearings.

41 The rules shall provide the utility that is party
42 to the proceedings and the commission staff with
43 sufficient time to prepare and submit comments and
44 reports. The rules may provide for the extension
45 of a deadline or for the extension of the time for
46 completion of the proceedings upon the request of
47 the utility or the commission staff for good cause
48 shown. An extension of a deadline granted upon the
49 request of the utility shall also extend the amount
50 of time for which the utility is required to file

1 a bond or other undertaking conditioned upon refund
2 under section 476.3 and the amount of time under which
3 the commission may restrict the utility from placing
4 its entire rate increase request into effect under
5 bond under section 476.6, unless the utility
6 demonstrates that the commission staff is responsible
7 for the need for the extension. An extension of a
8 deadline granted upon the request of the commission
9 staff shall not extend the amount of time for which
10 the utility is required to file a bond or other
11 undertaking conditioned upon refund under section
12 476.3 or the amount of time under which the commission
13 may restrict the utility from placing into effect
14 its entire rate increase request under bond under
15 section 476.6.

16 Sec. 4. Section 476.1, unnumbered paragraph 2,
17 Code 1981, is amended to read as follows:

18 Mutual telephone companies in which at least fifty
19 percent of the users are owners, co-operative telephone
20 corporations or associations, ~~telephone-companies~~
21 ~~having-less-than-two-thousand-stations,~~ municipally
22 owned utilities, and unincorporated villages which
23 own their own distribution system ~~shall-not-be~~ are
24 not subject to the rate regulation provided for in
25 this chapter. A telephone company having less than
26 fifteen thousand stations also is not subject to the
27 rate regulation provided for in this chapter; provided
28 however, that the company shall be subject to rate
29 regulation upon receipt by the commission of a petition
30 that is signed by twenty percent or more of the
31 company's subscribers and that requests that the
32 company be subject to rate regulation.

33 PARAGRAPH DIVIDED. provided, however, that nothing
34 contained in this chapter shall be construed to This
35 chapter does not apply to municipally owned water
36 works, or rural water districts incorporated and
37 organized pursuant to chapters 357A and 504A. This
38 chapter also does not apply to a water works having
39 less than two thousand customers; provided however,
40 that the company shall be subject to this chapter
41 upon receipt by the commission of a petition that
42 is signed by twenty percent or more of the subscribers
43 of the water works and that requests that the water
44 works be subject to this chapter.

45 PARAGRAPH DIVIDED. Telephone-companies A telephone
46 company otherwise exempt from rate regulation and
47 having telephone exchange facilities which cross state
48 lines may elect, in writing, filed with the commission,
49 to have their its rates regulated by the commission.
50 When such an election, in writing, has been filed

1 with the commission, the commission shall assume rate
2 regulation jurisdiction over ~~said-companies~~ the
3 company.

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

6 476.3 COMPLAINTS--INVESTIGATION. Every public
7 utility shall furnish reasonably adequate service
8 at rates and charges in accordance with tariffs filed
9 with the commission. ~~Whenever~~ When there is filed
10 with the commission by any person or body politic,
11 or filed by the commission upon its own motion, a
12 written complaint requesting the commission to
13 determine the reasonableness of the rates, charges,
14 schedules, service, regulations, or anything done
15 or omitted to be done by any public utility subject
16 to this chapter, in contravention of the provisions
17 ~~thereof,~~ such of this chapter, the written complaint
18 ~~thus-made~~ shall be forwarded by the commission to
19 ~~such~~ the public utility, which shall be called upon
20 to satisfy the complaint or to answer ~~the-same~~ it
21 in writing within a reasonable time to be specified
22 by the commission. If ~~such~~ the public utility ~~shall~~
23 ~~does not~~ satisfy the commission with respect to the
24 complaint within the time specified and there shall
25 ~~appear~~ appears to be any reasonable ground for
26 investigating ~~said~~ the complaint, ~~it-shall-be-the~~
27 ~~duty-of~~ the commission ~~to~~ shall promptly initiate
28 a formal proceeding. ~~Such-a~~ The formal proceeding
29 may be initiated at any time by the commission on
30 its own motion. ~~Whenever-such~~ If a proceeding has
31 ~~been~~ is initiated upon application or motion, the
32 commission shall set the case for hearing and give
33 ~~such~~ notice ~~thereof~~ as it deems appropriate. ~~Whenever~~
34 When the commission, after a hearing held after
35 reasonable notice, finds any public utility's rates,
36 charges, schedules, service, or regulations are unjust,
37 unreasonable, discriminatory, or otherwise in violation
38 of any provision of law, the commission shall determine
39 just, reasonable, and nondiscriminatory rates, charges,
40 schedules, service, or regulations to be ~~thereafter~~
41 observed and enforced.

42 If, as a result of either an audit conducted under
43 section 1 of this Act or a review conducted under
44 section 2 of this Act, a complaint is filed alleging
45 that a utility's rates are excessive, the disputed
46 amount shall be specified in the complaint. The
47 public utility shall, within the time prescribed by
48 the commission, file a bond or undertaking approved
49 by the commission conditioned upon the refund in a
50 manner prescribed by the commission of amounts

1 collected after the date of filing of the complaint
2 in excess of rates or charges finally determined by
3 the commission to be lawful. If upon hearing the
4 commission finds that the utility's rates are unlawful,
5 the commission shall order a refund, with interest,
6 of amounts collected after the date of filing of the
7 complaint in excess of amounts which would have been
8 collected under the rates finally approved, provided
9 that the commission shall not order a refund that
10 is greater than the amount specified in the complaint,
11 plus interest, and provided that if the commission
12 fails to render a decision within one hundred eighty
13 days following the date of filing of the complaint,
14 plus any additional time due to extensions ordered
15 under section 3 of this Act, the commission shall
16 not order a refund of any excess amounts that are
17 collected after the expiration of that one hundred
18 eighty-day period, plus any additional time due to
19 extensions ordered under section 3 of this Act, and
20 prior to the date the decision is rendered.

21 Sec. 6. Section 476.6, unnumbered paragraph 6,
22 Code 1981, is amended to read as follows:

23 However, ~~a public utility may~~ at any time after
24 rates, charges, schedules or regulations have been
25 suspended ~~for ninety days~~, a public utility may request
26 the authority to place in effect any or all of the
27 suspended rates, charges, schedules or regulations
28 by filing with the commission a bond or other
29 undertaking approved by the commission conditioned
30 upon the refund in a manner to be prescribed by the
31 commission of any amounts collected in excess of the
32 amounts which would have been collected under rates,
33 charges, schedules or regulations finally approved
34 by the commission. In determining that portion of
35 the utility's proposed increase in rates and charges
36 to be placed in effect prior to a final decision,
37 the commission shall apply previously established
38 regulatory principles and shall, at a minimum, permit
39 rates and charges which will allow the utility to
40 earn a return on common stock equity equal to that
41 which the commission held reasonable and just in the
42 most recent rate case involving the same type of
43 utility service. The commission shall render a
44 decision on the request for temporary rates within
45 ninety days after receipt of the request. If the
46 commission fails to render a final decision with
47 respect to the new or proposed rates, charges,
48 schedules or regulations within twelve months after
49 the date of filing, plus any additional time due to
50 extensions ordered under section 3 of this Act, the

1 utility may place in effect subject to refund any
2 portion of the suspended rates, charges, schedules
3 or regulations not previously authorized for collection
4 on an interim basis by filing with the commission
5 a bond or other undertaking approved by the commission.

6 The commission shall establish a rate of interest
7 to be paid by a public utility to persons receiving
8 refunds. The rate of interest shall be a reasonable
9 rate as determined by the commission, but not less
10 than five percent per annum, and the interest shall
11 be compounded annually. The public utility shall
12 not place into effect any portion of any suspended
13 rates, charges, schedules or regulations of any
14 subsequent rate filing relating to services with
15 respect to which a rate filing is pending within
16 twelve months following the date a prior application
17 was filed or until after the date the commission has
18 issued a final order in any previously filed rate
19 proceedings, whichever date is earlier, unless the
20 public utility applies to the commission for authority
21 and receives authority to place a portion of the
22 subsequent ~~filed~~ rate filing into effect on an interim
23 basis.

24 Sec. 7. The Iowa state commerce commission shall
25 investigate the practice of allowing a public utility
26 to recover advertising costs from its customers.
27 The commission shall recommend to the general assembly
28 whether or not it is appropriate to adopt legislation
29 to disallow a portion of advertising costs when
30 determining costs of operations for rate-making
31 purposes. The Code editor shall not codify this
32 section.

33 Sec. 8. Section 5 of this Act applies to all
34 proceedings commenced under section 476.3 on or after
35 the effective date of this Act. Section 6 of this
36 Act applies to all proceedings under section 476.6
37 in which the public utility has not commenced the
38 collection of new or suspended rates under bond prior
39 to the effective date of this Act.

40 Sec. 9. This Act, being deemed of immediate
41 importance, shall be in effect from and after its
42 publication in the Washington Evening Journal, a
43 newspaper published in Washington, Iowa, and in The
44 Nevada Evening Journal, a newspaper published in
45 Nevada, Iowa." "

BY RAPP of Black Hawk
DAVITT of Warren
STURGEON of Woodbury
BINNEBOESE of Plymouth
CHIODO of Polk
BRUNER of Story

HOUSE FILE 771

H-4117

1 Amend the Senate amendment H-3925 to House File 771
2 as amended, passed and reprinted by the House, as follows:
3 1. Page 6, by inserting after line 3 the following:
4 "____. Page 6, by striking lines 13 through 15 and
5 inserting in lieu thereof the following:
6 "Sec. ____ Section 5 of this Act applies to all
7 proceedings commenced under section 476.3 on or after
8 the effective date of this Act. Section 6 of this Act
9 applies to all proceedings under section 476.6 in
10 which the public utility has not commenced the collection
11 of new or changed rates under bond prior to the effective
12 date of this Act."

H-4117 FILED

MAY 12, 1981

W/L 5/13/81 (p. 1380)

BY RAPP of Black Hawk

STURGEON of Woodbury

BINNEBOESE of Plymouth

HOUSE FILE 771

H-4088

- 1 Amend the Senate amendment, H-3925, to House File
2 771 as amended, passed and reprinted by the House
3 as follows:
- 4 1. Page 1, by striking lines 3 through 9.
5 2. Page 1, by striking lines 24 through 26 and
6 inserting in lieu thereof the words "The rules may
7 provide for the extension of a deadline or for the
8 extension of the time for completion of the proceedings
9 upon the request of a party to the proceeding or
10 commission staff for good cause shown."
- 11 3. By striking page 1, line 29 through page 2,
12 line 7 and inserting in lieu thereof the following:
13 "2. An extension of a deadline or an extension
14 of time granted under subsection 1 upon the request
15 of the utility shall also extend the amount of time
16 for which the utility is required to file a bond or
17 other undertaking conditioned upon refund under section
18 476.3 and the amount of time under which the commission
19 may restrict the utility from placing its entire
20 rate increase request into effect under bond under
21 section 476.6, unless the utility demonstrates that
22 the commission staff or a party to the proceeding
23 other than the utility is responsible for the need
24 for the extension. An extension of a deadline or
25 an extension or time granted under subsection 1 upon
26 the request of the commission staff or a party to
27 the proceeding other than the utility shall not extend
28 the amount of time for which the utility is required
29 to file a bond or other undertaking conditioned upon
30 refund under section 476.3 or the amount of time under
31 which the commission may restrict the utility from
32 placing into effect its entire rate increase request
33 under bond under section 476.6."
- 34 4. Page 2, by striking lines 12 through 16 and
35 inserting in lieu thereof the following:
36 "Page 4, by striking line 6 and inserting
37 in lieu thereof the following: "this Act, there is
38 filed with the commission by any person or body
39 politic, or filed by the commission upon its own
40 motion, a written complaint alleging that a utility's
41 rates"."
- 42 5. Page 2, by striking lines 17 through 22 and
43 inserting in lieu thereof the following:
44 "Page 4, line 24, by inserting after the
45 figure "3" the word and figure ", subsection 2".
46 "Page 4, line 28, by inserting after the
47 figure "3" the word and figure ", subsection 2"."
- 48 6. Page 2, line 31, by striking the figure "25"
49 and inserting in lieu thereof the figure "20".
50 7. By striking page 2, line 47 through page 3,

1 line 3 and inserting in lieu thereof the words

2 "electric cooperative."

3 8. Page 3, by striking lines 23 and 24 and

4 inserting in lieu thereof the words "the commission."

5 9. Page 3, by striking lines 25 through 29 and

6 inserting in lieu thereof the following:

7 "However, a public utility may at any time after

8 rates, charges, schedules or regulations have been

9 suspended for ninety days, a public utility may request

10 the authority."

11 10. Page 3, line 42, by striking the words ",

12 at a minimum,"

13 11. By striking page 4, line 13 through page 5,

14 line 13 and inserting in lieu thereof the words "the

15 original filing date plus any additional time due

16 to extensions ordered under section 3, subsection

17 2 of this Act, the utility may place"

18 12. Page 5, by inserting before line 14 the

19 following:

20 "____. Page 5, line 25, by inserting after the

21 word and symbol "commission." the words "If a utility

22 is proposing to include in its rate base for the first

23 time a newly constructed electric generating facility

24 that has a capacity of one hundred megawatts or more

25 of electricity, the original filing date for the

26 purpose of this section shall be the date, as

27 determined by the commission, that the new plant went

28 into service.""

29 13. By renumbering as necessary.

H-4030

1 Amend the Senate amendment, H-3925, to House File
2 771, as amended, passed and reprinted by the House,
3 as follows:

4 1. Page 2, by striking lines 8 through 11 and
5 inserting in lieu thereof the following:

6 "____. Page 2, by striking lines 27 through 32
7 and inserting in lieu thereof the following:

8 ~~"PARAGRAPH DIVIDED. provided, however, that nothing~~
9 ~~contained in this chapter shall be construed to~~ This
10 chapter does not apply to municipally owned water
11 works, or rural water districts incorporated and
12 organized pursuant to chapters 357A and 504A, or to
13 a person furnishing electricity to five or fewer
14 customers from electricity that is produced primarily
15 for the person's own use. This chapter also does
16 not apply to a water works having less than two
17 thousand customers; provided however, that the company
18 shall be subject to this chapter upon receipt by the
19 commission of a petition that is signed by twenty
20 percent or more of the subscribers of the water works
21 and that requests that the water works be subject
22 to this chapter."

H-4030 FILED MAY 6, 1981

BY DAVITT of Warren

W/D 5/13/81 (p. 1886)

H-4031

1 Amend the Senate amendment, H-3925, to House File
2 771 as amended, passed and reprinted by the House,
3 as follows:

4 1. Page 2, by inserting after line 7 the following:

5 "____. Page 2, by striking lines 22 through 26
6 and inserting in lieu thereof the following: "or

7 associations, ~~telephone-companies-having-less-than~~
8 ~~two-thousand-stations~~, municipally owned utilities,
9 and unincorporated villages which own their own
10 distribution system ~~shall not be~~ are not subject to
11 the rate regulation provided for in this chapter.
12 A telephone company having less than fifteen thousand
13 stations also is not subject to the rate regulation
14 provided for in this chapter; provided however, that
15 the company shall be subject to rate regulation upon
16 receipt by the commission of a petition that is signed
17 by twenty percent or more of the company's subscribers
18 and that requests that the company be subject to rate
19 regulation."

H-4031 FILED MAY 6, 1981

BY DAVITT of Warren

W/D 5/13/81 (p. 1886)

SENATE AMENDMENT TO HOUSE FILE 771

H-3925

1 Amend House File 771 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, by striking lines 4 through 13 and
4 inserting in lieu thereof the following:

5 "The commission shall adopt not later than July
6 1, 1982, rules and policies to implement a program
7 providing for the continuous review of operations
8 of public utilities with respect to all matters that
9 affect rates or charges for utility service."

10 2. Page 1, by striking line 23 and inserting in
11 lieu thereof the following:

12 "NEW SECTION. RULES GOVERNING HEARINGS.

13 1. The commission".

14 3. Page 1, line 27, by inserting after the word
15 "plaint" the words and figures "under section 476.3,
16 unnumbered paragraph 2".

17 4. Striking page 1, line 30 through page 2, line
18 17, and inserting in lieu thereof the following:

19 "These rules shall include deadlines for the submission
20 or completion of comments, testimony and exhibits,
21 briefs and hearings, and shall provide parties to
22 the proceedings and commission staff with reasonable
23 periods of time within which to meet these deadlines.
24 The rules may provide for the extension of a deadline
25 upon the request of a party to the proceeding or
26 commission staff for good cause shown."

27 5. Page 2, by inserting before line 18 the
28 following:

29 "2. The commission shall adopt rules that require
30 the commission, in rate regulatory proceedings under
31 section 476.6, to consider the use of the most current
32 test period possible, subject only to the availability
33 of existing and verifiable data respecting costs and
34 revenues, and in addition to consider verifiable data
35 that exists as of the date of commencement of the
36 proceedings respecting known and measurable changes
37 in costs not associated with a different level of
38 revenue, and known and measurable revenues not
39 associated with a different level of costs, that are
40 to occur at any time within twelve months after the
41 date of commencement of the proceeding. For purposes
42 of this subsection, a proceeding commences under
43 section 476.6 upon the filing by a public utility
44 of new or changed rates, charges, schedules or
45 regulations. This subsection does not limit the
46 authority of the commission to consider other evidence
47 in proceedings under sections 476.3 to 476.6.

48 3. An extension of time granted under subsection
49 1 shall not extend the amount of time for which the
50 utility is required to file a bond or other undertaking

1 conditioned upon refund under section 476.3.

2 Subsection 1 does not authorize the commission to
3 extend any period of time within which it is required
4 to act under section 476.6, but extensions may be
5 granted under subsection 1 in conjunction with
6 extensions ordered by the commission under the
7 authority of section 476.6."

8 6. Page 2, line 32, by inserting after the numerals
9 "504A" the words ", or to a person furnishing
10 electricity to five or fewer customers from electricity
11 that is produced primarily for the person's own use".

12 7. Page 4, line 4, by striking the words "an
13 audit" and inserting in lieu thereof the words "a
14 review procedure".

15 8. Page 4, line 6, by inserting after the word
16 "filed" the words "by commission staff".

17 9. Page 4, by striking lines 23 and 24 and
18 inserting in lieu thereof the words "of the complaint,
19 the commission shall".

20 10. Page 4, by striking lines 27 and 28, and
21 inserting in lieu thereof the words "and prior to
22 the date the decision".

23 11. Page 4, by inserting after line 29 the
24 following:

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

30 12. By striking page 4, line 30 through page 5,
31 line 25 and inserting in lieu thereof the following:

32 "Sec. 6. Section 476.6, unnumbered paragraphs
33 4, 5 and 6, Code 1981, are amended to read as follows:
34 ~~Whenever there is filed with the commission by~~
35 any At the time a public utility subject to rate
36 regulation files with the commission any new or changed
37 rates, charges, schedules or regulations, the
38 ~~commission may, prior to the effective date thereof,~~
39 ~~docket the case as a formal proceeding and set the~~
40 ~~case for hearing. The commission shall give such~~
41 ~~notice of such formal proceedings as it deems~~
42 appropriate the public utility also shall submit
43 factual evidence, written argument, and affidavits
44 containing testimonial evidence to be offered in
45 support of the filing, provided that this requirement
46 shall not apply if the public utility is a rural
47 electric cooperative. The public utility may, as
48 a part of its filing or separately at any subsequent
49 time, submit a request for authority to place part
50 or all of the proposed rates, charges, schedules or

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H-3925

1 regulations into effect on a temporary basis and until
2 permanent rates, charges, schedules or regulations
3 take effect under this section.

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

25 ~~However, a public utility may at any time after~~
26 ~~rates, charges, schedules or regulations have been~~
27 ~~suspended for ninety days. Upon the request of a public~~
28 ~~utility, the commission shall, when required by this~~
29 ~~paragraph, grant the public utility temporary authority~~
30 ~~to place in effect any or all of the suspended rates,~~
31 ~~charges, schedules or regulations by filing with the~~
32 ~~commission a bond or other undertaking approved by~~
33 ~~the commission conditioned upon the refund in a manner~~
34 ~~to be prescribed by the commission of any amounts~~
35 ~~collected in excess of the amounts which would have~~
36 ~~been collected under rates, charges, schedules or~~
37 ~~regulations finally approved by the commission. In~~
38 ~~determining that portion of the new or changed rates,~~
39 ~~charges, schedules or regulations to be placed in~~
40 ~~effect prior to a final decision, the commission shall~~
41 ~~apply previously established regulatory principles~~
42 ~~and shall, at a minimum, permit rates and charges~~
43 ~~which will allow the utility the opportunity to earn~~
44 ~~a return on common stock equity equal to that which~~
45 ~~the commission held reasonable and just in the most~~
46 ~~recent rate case involving the same utility or the~~
47 ~~same type of utility service, provided that if the~~
48 ~~most recent final decision of the commission in an~~
49 ~~applicable rate case was rendered more than twelve~~
50 ~~months prior to the date of filing of the request~~

1 for temporary rates, the commission shall in addition
2 consider financial market data that is filed or is
3 otherwise available to the commission and shall adjust
4 the rate of return on common stock equity that was
5 approved in that decision as necessary to reflect
6 current conditions. The commission shall render a
7 decision on a request for temporary authority within
8 ninety days after the date of filing of the request.
9 The decision shall be effective immediately. If the
10 commission has not rendered a final decision with
11 respect to suspended rates, charges, schedules or
12 regulations upon the expiration of twelve months after
13 the original filing date, plus the length of any delay
14 that necessarily results from the failure of the
15 public utility to exercise due diligence in connection
16 with the proceedings or from intervening judicial
17 proceedings, those portions that were approved by
18 the commission on a temporary basis shall be deemed
19 finally approved by the commission and the utility
20 may place them into effect on a permanent basis, and
21 the utility may place into effect subject to refund
22 any portion of the suspended rates, charges, schedules
23 or regulations not previously approved on a temporary
24 basis by filing with the commission a bond or other
25 undertaking approved by the commission; and if the
26 commission has not rendered a final decision with
27 respect to the remaining portion of the suspended
28 rates, charges, schedules or regulations within
29 eighteen months after the original filing date, plus
30 the length of any delay that necessarily results from
31 the failure of the public utility to exercise due
32 diligence in connection with the proceedings or from
33 intervening judicial proceedings, the commission shall
34 be deemed to have finally approved them as proposed
35 and the utility may place them into effect on a
36 permanent basis. If the commission finds that an
37 extension of the preceding time limitations is
38 necessary to permit the accumulation of necessary
39 data with respect to the operation of a newly
40 constructed electric generating facility that has
41 a capacity of one hundred megawatts or more of
42 electricity and that is proposed to be included in
43 the rate base for the first time, the commission may
44 extend the twelve-month limitation, or the eighteen-
45 month limitation, or both, up to a maximum extension
46 of either limitation of six months, but only with
47 respect to that portion of the suspended rates,
48 charges, schedules or regulations that are necessarily
49 connected with the inclusion of the generating facility
50 in the rate base.

1 If a utility is proposing to include in its rate
2 base for the first time a newly constructed electric
3 generating facility that has a capacity of one hundred
4 megawatts or more of electricity, the original filing
5 date for the purpose of computing the above-referenced
6 twelve-month and eighteen-month limitations, shall
7 be computed from the date the commission determines
8 the new plant went into service, but only with respect
9 to that portion of the suspended rates, charges,
10 schedules or regulations that are necessarily connected
11 with the inclusion of the generating facility in the
12 rate base. The commission shall establish a rate
13 of interest".

14 13. Page 6, by inserting after line 4 the
15 following:

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

18 NEW UNNUMBERED PARAGRAPH. Whenever the commission
19 shall deem it necessary in order to carry out the
20 duties imposed upon it in connection with the rate
21 regulation under section 476.6, investigations under
22 section 476.3, or review proceedings under section
23 1 of this Act, the commission may contract with persons
24 who are not state employees for engineering,
25 accounting, or other professional services to be
26 rendered during the pendency of proceedings under
27 that section. The costs of these services shall be
28 paid by the public utility whose rates are being
29 reviewed in the same manner as other expenses are
30 paid under this section. There is hereby appropriated
31 out of any funds in the state treasury not otherwise
32 appropriated, such sums as may be necessary to enable
33 the commission to contract for services under this
34 section."

35 14. Page 6, by striking lines 5 through 12 and
36 inserting in lieu thereof the following:

37 "Sec. 8. NEW SECTION. ADVERTISING COSTS REGULATED.
38 In determining the costs of operations of a natural
39 gas or electric utility for purposes of rate regulation
40 under this chapter the commission shall disallow all
41 costs incurred with respect to advertising, except
42 such advertising as is devoted exclusively to energy
43 conservation or customer safety as they relate to
44 the use of natural gas or electricity.

45 The commission shall investigate the practice of
46 allowing public utilities to recover advertising costs
47 from environmental advertising, informational consumer
48 advertising, load factor advertising, and franchise
49 advertising from customers. The commission shall
50 recommend to the general assembly whether or not it

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May 1, 1981

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1 is appropriate to adopt additional legislation to
2 disallow the recovery of advertising costs from
3 customers of public utilities."

4 15. By renumbering sections.

5 16. Amend the title, line 13, by inserting after
6 the comma the words "and making an appropriation,".

H-3925 FILED APRIL 30, 1981

RECEIVED FROM THE SENATE

*House refused to concur 5/13/81 (p. 1880)
Senate insisted 5/15/81 (p. 1697)*

H-3954

HOUSE FILE 771

1 Amend the Senate amendment, H-3925, to House File
2 771 as amended, passed and reprinted by the House,
3 as follows:

4 1. By striking page 4, line 50 through page 5,
5 line 1, and inserting in lieu thereof the words "in
6 the rate base. If a utility is proposing to include
7 in its rate".

H-3954 FILED MAY 1, 1981
4/25 5/13/81 (p. 1830)

BY JOHNSON of Linn

S-3598

1 Amend the Committee amendment, S-3514, to House
2 File 771 as amended, passed and reprinted by the House
3 as follows:

4 1. Page 4, line 23, by striking the word "The"
5 and inserting in lieu thereof the following:

6 "If a utility is proposing to include in its rate
7 base for the first time a newly constructed electric
8 generating facility that has a capacity of one hundred
9 megawatts or more of electricity, the original filing date
10 for the purpose of computing the above-referenced twelve-
11 month and eighteen-month limitations, shall be computed
12 from the date the commission determines the new plant
13 went into service, but only with respect to that portion
14 of the suspended rates, charges, schedules or regulations
15 that are necessarily connected with the inclusion of
16 the generating facility in the rate base. The".

S-3598 FILED & ADOPTED
APRIL 28, 1981 (p 146k)

BY ROLF V. CRAFT

SENATE 18
APRIL 29, 1981

HOUSE FILE 771

S-3597

1 Amend the Comito et al. amendment, S-3591, to
2 House File 771 as amended, passed and reprinted by
3 the House as follows:
4 1. Page 1, line 14, by inserting after the word
5 "costs" the words "from environmental advertising,
6 informational consumer advertising, load factor adver-
7 tising, and franchise advertising".

S-3597 FILED & ADOPTED BY RICHARD COMITO
APRIL 28, 1981 (p. 1464)

HOUSE FILE 771

S-3591

1 Amend House File 771, as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 6, by striking lines 5 through 12 and
4 inserting in lieu thereof the following:
5 "Sec. 7. NEW SECTION. ADVERTISING COSTS REGULATED.
6 In determining the costs of operations of a natural
7 gas or electric utility for purposes of rate regulation
8 under this chapter the commission shall disallow all
9 costs incurred with respect to advertising, except
10 such advertising as is devoted exclusively to energy
11 conservation or customer safety as they relate to
12 the use of natural gas or electricity.
13 The commission shall investigate the practice of
14 allowing public utilities to recover advertising costs
15 from customers. The commission shall recommend to
16 the general assembly whether or not it is appropriate
17 to adopt additional legislation to disallow the
18 recovery of advertising costs from customers of public
19 utilities."

S-3591 FILED
APRIL 28, 1981
ADOPTED AS AMENDED by 3577
(p. 1464)

BY RICHARD COMITO
GARY L. BAUGHER
JOHN W. JENSEN
BERL E. PRIEBE
BOB RUSH
EMIL J. HUSAK

HOUSE FILE 771

S-3590

- 1 Amend House File 771 as follows:
2 1. Page 5, by striking lines 33 and 34 and
3 inserting in lieu thereof the following: "which a
4 rate filing is pending within-twelve-months-following
5 the-date-a-prior-application-was-filed-or until-after
6 the".
7 2. Page 6, by striking lines 1 through 4 and
8 inserting in lieu thereof the following: "filed rate
9 proceedings,-whichever-is-earlier,-unless-the-public
10 utility-applies-to-the-commission-for-authority-and
11 receives-authority-to-place-a-portion-of-the-subsequent
12 filed-rate-filing-into-effect-on-an-interim-basis."

S-3590 FILED & LOST
APRIL 28, 1981 (p. 1464)

BY TED ANDERSON
BOB CARR
SUE YENGER

HOUSE FILE 771

S-3592

- 1 Amend House File 771 as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 2, line 32, by inserting after the numerals
4 "504A" the words "or to a person furnishing
5 electricity to five or fewer customers from electricity
6 that is produced primarily for the person's own use".

S-3592 FILED & ADOPTED
APRIL 28, 1981 (p. 1463)

BY ROLF V. CRAFT

HOUSE FILE 771

S-3595

- 1 Amend the Committee amendment, S-3514, to House
2 File 771 as amended, passed and reprinted by the
3 House, as follows:
4 1. Page 1, by striking line 37 and inserting in
5 lieu thereof the words and figure "section 476.6,
6 to consider the use of the most current".

S-3595 FILED & ADOPTED
APRIL 28, 1981 (p. 1460)

BY ROLF V. CRAFT

HOUSE FILE 771

S-3596

- 1 Amend the Committee amendment, S-3514, to House
2 File 771 as amended, passed and reprinted by the House
3 as follows:
4 1. Page 4, line 23, by striking the word "The"
5 and inserting in lieu thereof the following:
6 "However, if a utility is proposing to include
7 in its rate base for the first time a newly constructed
8 electric generating facility that has a capacity of
9 one hundred megawatts or more of electricity, the
10 original filing date for the purpose of computing
11 the above-referenced twelve-month and eighteen-month
12 limitations, shall be computed from the date the
13 commission determines the new plant went into service.
14 The".

S-3596 FILED & WITHDRAWN
APRIL 28, 1981 (p. 1466)

BY ROLF V. CRAFT

HOUSE FILE 771

S-3588

1 Amend the Committee amendment, S-3514 to House
2 File 771 as follows:

3 1. Page 1, by striking lines 5 through 15 and
4 inserting in lieu thereof the following:

A 5 "The commission shall adopt not later than July
6 1, 1982, rules and policies to implement a program
7 providing for the continuous review of operations of
8 public utilities with respect to all matters that
9 affect rates or charges for utility service."

10 2. Page 1, by striking lines 35 through 46 and
11 inserting in lieu thereof the following:

B 12 "2. The commission shall adopt rules that allow
13 the commission, in rate regulatory proceedings under
14 sections 476.3 and 476.6, to consider the use of the
15 most current test period possible in determining
16 reasonable and just rates. For purposes of this
17 subsection, a proceeding"

18 3. Page 2, by striking lines 3 through 9 and
19 inserting in lieu thereof the following:

C 20 "3. An extension of time granted under
21 subsection 1 shall also extend the amount of time
22 for which the utility is required to file a bond or
23 other undertaking conditioned upon refund under
24 section 476.3. The rules adopted under subsection 1
25 shall provide for the extension of the time for
26 completion of the proceedings under section 476.6
27 for good cause shown."

E 28 4. Page 2, by striking lines 13 through 20.

29 5. By striking page 3, line 33 through page 4,
30 line 23 and inserting in lieu thereof the following:

D 31 "regulations finally approved by the commission.
32 Emergency rates, charges, schedules or regulations
33 shall be sufficient to allow the public utility to
34 maintain financial integrity, to recover necessary
35 costs, and to fairly compensate investors for risks
36 they have assumed. The commission shall render a
37 decision on a request for emergency authority within
38 ninety days after the filing of the request. The
39 commission shall"

40 6. Page 4, line 32, by inserting after the comma

E 41 the words "investigations under section 476.3, or
42 review proceedings under section 1 of this Act,".

S-3588 FILED

APRIL 28, 1981

DIVISION A - ADOPTED (p. 1456)

DIVISION B - LOST (p. 1457)

DIVISION C - LOST (p. 1458)

DIVISION D - LOST (p. 1459)

DIVISION E - ADOPTED (p. 1457)

DIVISION F - LOST (p. 1460)

BY BOB RUSH

PATRICK J. DELUHERY

LOWELL L. JUNKINS

JOE BROWN

DONALD V. DOYLE

TED ANDERSON

C. JOSEPH COLEMAN

TOM SLATER

JAMES D. WELLS

S-3587

1 Amend House File 771 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 12 the
4 following:

5 "Sec. 8. Chapter 476, Code 1981, is amended by
6 adding the following new section:

7 NEW SECTION. ENERGY CONSERVATION IMPROVEMENTS.

8 1. As used in this section, unless the context
9 otherwise requires:

10 a. "Energy conservation improvement" means the
11 purchase or installation of any device, method, or
12 material that increases the efficiency in the
13 residential use of electricity or natural gas,
14 including but not limited to:

- 15 (1) Insulation and ventilation.
- 16 (2) Storm or thermal doors or windows.
- 17 (3) Caulking and weatherstripping.
- 18 (4) Furnace efficiency modifications.
- 19 (5) Thermostat or lighting controls.
- 20 (6) Awnings.
- 21 (7) Systems to turn off or vary the delivery of
22 energy. The term "energy conservation improvement"
23 does not include any device or method which creates,
24 converts, or actively uses energy from renewable
25 sources such as solar, wind, and biomass.

26 b. "Investments" means investments and expenses
27 incurred by a public utility in connection with an
28 energy conservation improvement including, but not
29 limited to:

- 30 (1) The differential in interest cost between
31 the market rate and the rate charged on a no-interest
32 or below-market-interest loan made by a public utility
33 to a customer for the purchase or installation of
34 an energy conservation improvement.
- 35 (2) The difference between the utility's cost
36 of purchase or installation of energy conservation
37 improvements and any price charged by a public utility
38 to a customer for such improvements.

39 2. The commission shall, prior to January 1, 1982,
40 and after consultation with the Iowa energy policy
41 council, initiate a pilot program to examine and
42 demonstrate the feasibility of the use of public
43 utility investments in energy conservation improvements
44 to residential buildings.

45 3. As part of this program, the commission shall
46 require at least one public utility to make investments
47 for energy conservation improvements, subject to the
48 following conditions:

49 a. The commission specifically shall determine
50 the interest rates, prices, and terms under which

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1 the energy conservation improvements are to be offered
2 to customers of the public utility.

3 b. The commission shall assure that a customer
4 of a public utility is permitted to choose the
5 contractors to complete the energy conservation
6 improvements, but that bidding contractors satisfy
7 minimum standards of competency with respect to the
8 types of improvements involved.

9 c. The commission shall not order a public utility
10 to make an investment for energy conservation
11 improvement unless the commission first finds that
12 the improvement will result in energy savings, and
13 at a total cost to the public utility that is less
14 than the cost to the public utility to produce or
15 purchase an equivalent amount of new energy.

16 d. The public utility shall not undertake an
17 energy conservation improvement with respect to
18 residential property unless the utility is the primary
19 supplier of energy used for heating and cooling the
20 property.

21 e. Investments by the public utility shall be
22 treated for rate-making purposes in the same manner
23 as investments for new plant construction.

24 4. An energy conservation improvement made to
25 or installed in a residential building pursuant to
26 the energy conservation improvement program shall
27 be the exclusive property of the customer as against
28 the public utility, except to the extent of any
29 security interest taken by the public utility to
30 assure payment of a loan made by the public utility
31 to the customer.

32 5. If investments by a public utility in energy
33 conservation improvements are prohibited or restricted
34 in any manner by federal law and there is a provision
35 in that law under which the prohibition or restriction
36 may be waived, the commission or other state officer
37 or agency shall take whatever steps may be necessary
38 to obtain the waiver for public utilities participating
39 in the energy conservation improvement program.

40 Sec. 9. Section 476.8, Code 1981, is amended to
41 read as follows:

42 476.8 UTILITY CHARGES AND SERVICE.

43 1. Every public utility is required to furnish
44 reasonably adequate service and facilities.
45 "Reasonably adequate service" as used in this section
46 includes, for public utilities furnishing gas or elec-
47 tricity, programs and assistance to customers to
48 encourage energy conservation and the use of renewable
49 energy sources as defined in section 476.21 in addition
50 to the furnishing of energy. The commission shall

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1 adopt rules under chapter 17A further defining
2 "reasonably adequate service" as it applies to energy
3 conservation programs and assistance. The rules shall
4 protect the public utility's right to recover costs
5 plus a reasonable rate of return for services provided
6 by the public utility.

7 2. The charge made by any public utility for any
8 heat, light, gas, water, or power produced,
9 transmitted, delivered, or furnished, or communications
10 services, or for any service rendered or to be rendered
11 in connection therewith shall be reasonable and just,
12 and every unjust or unreasonable charge for such ser-
13 vice is ~~prohibited and declared~~ unlawful. In
14 determining reasonable and just rates, the commission
15 shall consider all factors relating to value and shall
16 not be bound by rate base decisions or rulings made
17 prior to the adoption of this chapter.

18 3. The commission, in determining the value of
19 materials or services to be included in valuations
20 or costs of operations for rate-making purposes,
21 may disallow any unreasonable profit made in the sale
22 of materials to or services supplied for any public
23 utility by any firm or corporation owned or controlled
24 directly or indirectly by ~~such~~ the utility or any
25 affiliate, subsidiary, parent company, associate,
26 or any corporation whose controlling stockholders
27 are also controlling stockholders of ~~such~~ the utility.
28 The burden of proof ~~shall be~~ is on the public utility
29 to prove that no unreasonable profit is made.

30 Sec. 10. Section 476A.6, subsection 3, Code 1981,
31 is amended to read as follows:

32 3. The construction, maintenance, and operation
33 of the facility will cause minimum adverse land use,
34 environmental, and aesthetic impact and are consonant
35 with reasonable utilization of air, land, and water
36 resources for beneficial purposes considering available
37 technology and the economics of available
38 alternatives; and,

39 Sec. 11. Section 476A.6, Code 1981, is amended
40 by adding the following new subsection:

41 NEW SUBSECTION. The applicant has in effect a
42 comprehensive energy management program designed to
43 reduce peak loads and to increase efficiency of use
44 of energy by all classes of customers of the utility,
45 and the facility in the application is necessary
46 notwithstanding the existence of the comprehensive
47 energy management program. As used in this subsection,
48 "maintenance of a comprehensive energy management
49 program" includes at a minimum the following:

50 a. Establishment of load management and

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PAGE 4

1 interruptible service programs for utility customers,
2 where cost effective.

3 b. Development of wheeling agreements and other
4 energy sharing agreements with utility companies
5 located near the utility's service area which have
6 excess capacity.

7 c. Offering all customers energy conservation
8 information and services, including provisions for
9 loans for home insulation and energy conservation
10 devices.

11 d. Compliance with commission rules regarding
12 energy management procedures and energy conservation
13 strategies and services.

14 Sec. 12. Sections 9, 10, and 11 of this Act take
15 effect January 1 following enactment. The commission
16 shall adopt rules as required by section 9, subsection
17 1 of this Act not later than six months after the
18 effective date of that section."

19 2. By renumbering sections of the bill and
20 correcting internal references as necessary.

S-3587 FILED & WITHDRAWN
APRIL 28, 1981 (p. 1465)

BY TOM SLATER

HOUSE FILE 771

S-3589

1 Amend the Committee amendment, S-3514, to House
2 File 771 as amended, passed and reprinted by the
3 House, as follows:

4 1. Page 1, line 40, by inserting after the comma
5 the words "to allow inclusion in the rate base of
6 new investment in real property and other physical
7 facilities when these investments are made rather
8 than when the property or facilities are placed into
9 service,".

S-3589 FILED & LOST.
APRIL 28, 1981 (p. 1461)

BY RAY TAYLOR

S-3576

Amend House File 771 as follows:

1. Page 6, by inserting after line 12 the following:

"Sec. 8. NEW SECTION. DEFINITIONS. As used in sections 8 through 11 of this Act unless the context otherwise requires:

1. "Commission" means the Iowa state commerce commission.

2. "Rate or service change" means the filing by a public utility of an application to change a rate or rate schedule for a public utility service, an application for a certificate of public convenience, use, and necessity to construct an electrical power generating plant, or an application for a franchise to construct a transmission line or a pipeline.

3. "Public utility" means an electric, gas, or telephone utility subject to regulation by the commission.

Sec. 9. NEW SECTION. ADMINISTRATION. The commission shall administer and implement this Act and may adopt the rules necessary to carry out its responsibilities. The rules shall be adopted in accordance with chapter 17A.

Sec. 10. NEW SECTION. COUNTY AS INTERVENOR.

1. A county located within the service area to be affected by a rate or service change has the right of intervention.

2. Upon the filing of a petition of intervention and serving notice of the petition on the public utility, the public utility shall immediately provide the intervenor with the documents and information relating to the rate or service change filed by the public utility with the commission. The information shall include working papers filed with the commission as supporting documents.

Sec. 11. NEW SECTION. ESTIMATED COST OF PROCEEDINGS.

1. At the time of filing for a rate or service change, the public utility shall report to the commission an estimate of the amount that the public utility has spent and proposes to spend in the rate or service change proceedings for attorney fees, witness fees, and other expenses in presenting its case. The cost of the estimate may be included in the expenses of the public utility which are considered for rate-making purposes.

2. A county which desires to intervene may petition the commission for funding for its estimated attorney fees, witness fees, expert fees, and other related expenses in intervening in the case. Two or more

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PAGE 2

1 counties may petition as joint intervenors.

2 3. The commission shall authorize funding for
3 at least one county intervenor, upon petition. The
4 commission shall establish, by rule, the procedures
5 to be used in determining which county shall be funded
6 if more than one petition for funding. The following
7 factors shall be considered in determining the
8 recipients of the funds:

9 a. Evidence of the applicant's competence,
10 experience, and commitment to advancing the interests
11 of utility consumers.

12 b. The applicant's record of previous intervention.

13 c. The percentage and diversity of customers
14 represented by each applicant.

15 d. Other factors which the commission finds
16 relevant to assure adequate consumer representation.

17 4. The determination of which county is to be
18 funded shall be made at the earliest practicable time.
19 The commission shall direct the public utility to
20 advance the county the funds which the commission
21 finds reasonable and necessary to insure effective
22 representation and may order, after notice and a
23 public hearing, additional funds as needed. The
24 amount paid by the public utility shall not exceed
25 the total amount that the public utility has estimated
26 that it will spend as provided in subsection 1 of
27 this section. If the limit is reached, an inquiry
28 shall be made by the commission as to whether the
29 public utility has exceeded its estimate and, if so,
30 a revised estimate shall be required.

31 5. The amount ordered to be paid to a county under
32 this section may be included by the commission in
33 establishing the cost of service for rate-making
34 purposes in the same or subsequent rate proceedings."

35 2. By renumbering sections of the bill.

S-3576 FILED

APRIL 27, 1981

Filed not germane 4/28/81 (p. 1465)

BY SUE YENGER

TOM SLATER

JAMES E. BRILES

NORMAN J. GOODWIN

HOUSE FILE 771

S-3577

1 Amend House File 771 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 6, line 15, by inserting after the period
4 the following:

5 "Section 6 of this Act also applies to a proceeding
6 commenced by a public utility under section 476.6
7 prior to the effective date of this Act, unless the
8 public utility commenced the collection of new or
9 changed rates under bond prior to the effective date
10 of this Act."

S-3577 FILED

BY TED ANDERSON

APRIL 27, 1981

Lost 4/28/81 (p. 1465)

HOUSE FILE 771

S-3575

1 Amend the Committee amendment, S-3514, to House File
2 771 as amended, passed and reprinted by the House as follows:

3 1. Page 1, by striking lines 42 through 46 and
4 inserting in lieu thereof the following: "proceedings
5 respecting known and measurable changes in costs not
6 associated with a different level of revenue, and
7 known and measurable revenues not associated with
8 a different level of costs, that are to occur at any
9 time within twelve months after the date of
10 commencement of the proceeding. For purposes of this
11 subsection, a proceeding".

12 2. Page 2, by striking lines 3 through 9 and
13 inserting in lieu thereof the following:

14 "3. An extension of time granted under subsection
15 1 shall not extend the amount of time for which the
16 utility is required to file a bond or other undertaking
17 conditioned upon refund under section 476.3.
18 Subsection 1 does not authorize the commission to
19 extend any period of time within which it is required
20 to act under section 476.6, but extensions may be
21 granted under subsection 1 in conjunction with
22 extensions ordered by the commission under the
23 authority of section 476.6."

24 3. Page 2, line 43, by inserting after the word
25 "filing" the words ", provided that this requirement
26 shall not apply if the public utility is a rural
27 electric cooperative".

28 4. Page 3, lines 47 and 48, by striking the words
29 "shall consider current cost of capital data" and
30 inserting in lieu thereof the words "shall in addition
31 consider financial market data that is filed or is
32 otherwise available to the commission".

33 5. Page 4, line 2, by striking the word "sixty"
34 and inserting in lieu thereof the word "ninety".

35 6. Page 4, line 8, by inserting after the comma
36 the words "plus the length of any delay that
37 necessarily results from the failure of the public
38 utility to exercise due diligence in connection with
39 the proceedings or from intervening judicial
40 proceedings,".

41 7. Page 4, lines 16 and 17, by striking the words
42 "commission. If" and inserting in lieu thereof the
43 words "commission; and if"

44 8. Page 4, line 20, by inserting after the comma
45 the words "plus the length of any delay that
46 necessarily results from the failure of the public
47 utility to exercise due diligence in connection with
48 the proceedings or from intervening judicial
49 proceedings,".

50 9. Page 4, line 23, by inserting after the period

B

S-3575

- 1 the following: "If the commission finds that an
2 extension of the preceding time limitations is
3 necessary to permit the accumulation of necessary
4 data with respect to the operation of a newly
5 constructed electric generating facility that has
6 a capacity of one hundred megawatts or more of
7 electricity and that is proposed to be included in
8 the rate base for the first time, the commission may
9 extend the twelve-month limitation, or the eighteen-
10 month limitation, or both, up to a maximum extension
11 of either limitation of six months, but only with
12 respect to that portion of the suspended rates,
13 charges, schedules or regulations that are necessarily
14 connected with the inclusion of the generating facility
15 in the rate base."

S-3575 FILED

BY EDGAR H. HOLDEN

APRIL 27, 1981

LUCAS J. DeKOSTER

A. Adopted 4/28/81 (p. 1461)
B. Adopted 4/28 (p. 1466)

EMIL HUSAK

HOUSE FILE 771

S-3574

- 1 Amend the Committee amendment, S-3514, to House
2 File 771 as amended; passed and reprinted by the House as follows:
3 1. Page 2, by striking lines 43 through 49 and
4 inserting in lieu thereof the words "support of the
5 filing."
6 2. Page 3, by striking lines 14 through 20 and
7 inserting in lieu thereof the words "The docketing
8 of a case as a formal proceeding suspends the effective
9 date of the new or changed rates, charges, schedules
10 or regulations until emergency or permanent rates,
11 charges, schedules or regulations are approved by
12 the commission."
13 3. Page 3, by striking lines 24 through 26 and
14 inserting in lieu thereof the words "utility, the
15 commission may grant the public utility authority
16 to place in effect any-~~or~~-~~all~~-~~or~~-~~the~~-~~suspended~~
17 emergency rates,"
18 4. By striking page 3, line 33 through page 4,
19 line 23 and inserting in lieu thereof the following:
20 "regulations finally approved by the commission.
21 Emergency rates, charges, schedules or regulations
22 shall be sufficient to allow the public utility to
23 maintain financial integrity, to recover necessary
24 costs, and to fairly compensate investors for risks
25 they have assumed. The commission shall render a
26 decision on a request for emergency authority within
27 ninety days after the filing of the request. The
28 commission shall".

S-3574 FILED

BY PATRICK J. DELUHERY

APRIL 27, 1981

A. Ruled out of order 4/28/81 (p. 1462)
C. Lost (p. 1463)
B. W/O (p. 1463)

1 Amend amendment S-3514 to House File 771 as follows:

2 1. Page 1, by striking lines 43 through 46 and
3 inserting in lieu thereof the words "revenues that
4 are to occur within twelve months after the date of
5 commencement of the proceeding. For purposes of this
6 subsection, a proceeding".

7 2. Page 2, line 29, by striking the numerals "25"
8 and inserting in lieu thereof the numerals "29".

9 3. Page 2, line 31, by striking the word and
10 numerals "4, 5, and 6" and inserting in lieu thereof
11 the word and numerals "4, 5, 6 and 7".

12 4. Page 3, by striking lines 27 through 33 and
13 inserting in lieu thereof the words "charges, schedules
14 or regulations by-filing-with-the-commission-a-bond
15 or-other-undertaking-approved-by-the-commission
16 conditioned-upon-the-refund-in-a-manner-to-be
17 prescribed-by-the-commission-of-any-amounts-collected
18 in-excess-of-the-amounts-which-would-have-been
19 collected-under-rates,-charges,-schedules-or
20 regulations-finally-approved-by-the-commission. In".

21 5. Page 4, by striking lines 12 through 16 and
22 inserting in lieu thereof the word "basis."

23 6. Page 4, by striking lines 23 and 24 and
24 inserting in lieu thereof the words "effect on a
25 permanent basis. The-commission-shall-establish-a
26 rate-of-interest-to-be-paid-by-a-public-utility-to
27 persons-receiving-refunds---The-rate-of-interest-shall
28 be-a-reasonable-rate-as-determined-by-the-commission,
29 but-not-less-than-five-percent-per-annum,-and-the
30 interest-shall-be-compounded-annually. The public".

31 7. Page 4, by inserting after line 24 the
32 following:

33 " . Page 6, by inserting after line 4 the
34 following:

35 "If, after hearing and decision on all issues
36 presented for determination in such rate proceeding,
37 the commission shall find the rates, charges, schedules
38 or rules of the utility to be unlawful, the same shall
39 be set aside and the commission shall by order
40 authorize and direct the utility to file rates,
41 charges, schedules or rules which, when approved by
42 the commission and placed in effect, will satisfy
43 the requirements of this chapter. The rates, charges,
44 schedules or rules so approved shall be lawful and
45 effective unless changed as herein provided. In-the
46 event-a-petition-for-rehearing-is-filed-or-a-petition
47 for-judicial-review-is-sought-from-an-order-concerning
48 rates,-charges,-schedules-or-rules-which-are-in-effect
49 under-bond,-these-rates,-charges,-schedules-or-rules
50 may,-notwithstanding-the-terms-of-the-iowa

PAGE 2

1 administrative-procedure-Act,-be-continued-in-effect
2 by-the-utility-under-the-terms-of-a-bond-or-other
3 undertaking-pending-final-determination-of-the
4 application-for-rehearing-or-proceeding-for-judicial
5 review-of-an-order-of-the-commission-".

6 8. By renumbering the remaining items of the
7 amendment.

S-3525 FILED

BY GARY L. BAUGHER

APRIL 21, 1981

Placed out of order 4/25/81 (p 1462)

S-3514

HOUSE FILE 771

1 Amend House File 771 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, by striking lines 4 through 13 and
4 inserting in lieu thereof the following:

5 "1. The commission may establish one or more
6 programs providing for the continuous review of
7 operations of public utilities with respect to matters
8 that affect rates or charges for utility service.

9 2. The commission shall submit to the general
10 assembly meeting in January, 1982, such proposed
11 programs, including alternative proposals, as the
12 commission may deem appropriate under subsection 1.
13 Each proposal shall be accompanied by information
14 respecting the increased budgetary and staffing needs
15 that may be necessary to implement the proposal."

16 2. Page 1, by striking line 23 and inserting in
17 lieu thereof the following:

18 "NEW SECTION. RULES GOVERNING HEARINGS.

19 1. The commission"

20 3. Page 1, line 27, by inserting after the word
21 "complaint" the words and figures "under section
22 476.3, unnumbered paragraph 2".

23 4. By striking page 1, line 30 through page 2,
24 line 17, and inserting in lieu thereof the following:
25 "These rules shall include deadlines for the submission
26 or completion of comments, testimony and exhibits,
27 briefs and hearings, and shall provide parties to
28 the proceedings and commission staff with reasonable
29 periods of time within which to meet these deadlines.
30 The rules may provide for the extension of a deadline
31 upon the request of a party to the proceeding or
32 commission staff for good cause shown."

33 5. Page 2, by inserting before line 18 the
34 following:

35 "2. The commission shall adopt rules that require
36 the commission, in rate regulatory proceedings under
37 sections 476.3 and 476.6, to use the most current
38 test period possible, subject only to the availability
39 of existing and verifiable data respecting costs and
40 revenues, and in addition to consider verifiable data
41 that exists as of the date of commencement of the
42 proceedings respecting known changes in costs and
43 revenues that are to occur after the date of
44 commencement of the proceeding and during the period
45 rates and charges are being collected subject to
46 refund. For purposes of this subsection, a proceeding
47 commences under section 476.6 upon the filing by a
48 public utility of new or changed rates, charges,
49 schedules or regulations. This subsection does not
50 limit the authority of the commission to consider

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Page 2

1 other evidence in proceedings under sections 476.3
2 to 476.6.

3 3. An extension of time granted under subsection
4 1 shall not extend the amount of time for which the
5 utility is required to file a bond or other undertaking
6 conditioned upon refund under section 476.3, and shall
7 not extend any period of time within which the
8 commission is required to act or to reach a decision
9 under section 476.6."

10 6. Page 4, line 4, by striking the words "an
11 audit" and inserting in lieu thereof the words "a
12 review procedure".

13 7. Page 4, line 6, by inserting after the word
14 "filed" the words "by commission staff".

15 8. Page 4, by striking lines 23 and 24 and
16 inserting in lieu thereof the words "of the complaint,
17 the commission shall".

18 9. Page 4, by striking lines 27 and 28, and
19 inserting in lieu thereof the words "and prior to
20 the date the decision".

21 10. Page 4, by inserting after line 29 the
22 following:

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

28 11. By striking page 4, line 30 through page 5,
29 line 25 and inserting in lieu thereof the following:

30 "Sec. 6. Section 476.6, unnumbered paragraphs
31 4, 5 and 6, Code 1981, are amended to read as follows:

32 ~~Whenever there is filed with the commission by~~
33 any At the time a public utility subject to rate
34 regulation files with the commission any new or changed
35 rates, charges, schedules or regulations, the
36 commission may, prior to the effective date thereof,
37 docket the case as a formal proceeding and set the
38 case for hearing. The commission shall give such
39 notice of such formal proceedings as it deems
40 appropriate the public utility also shall submit
41 factual evidence, written argument, and affidavits
42 containing testimonial evidence to be offered in
43 support of the filing. The public utility may, as
44 a part of its filing or separately at any subsequent
45 time, submit a request for authority to place part
46 or all of the proposed rates, charges, schedules or
47 regulations into effect on a temporary basis and until
48 permanent rates, charges, schedules or regulations
49 take effect under this section.

50 ~~After the initiation of such formal proceedings~~

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

21 However,-a-public-utility-may-at-any-time-after
22 rates,-charges,-schedules-or-regulations-have-been
23 suspended-for-ninety-days Upon the request of a public
24 utility, the commission shall, when required by this
25 paragraph, grant the public utility temporary authority
26 to place in effect any or all of the suspended rates,
27 charges, schedules or regulations by filing with the
28 commission a bond or other undertaking approved by
29 the commission conditioned upon the refund in a manner
30 to be prescribed by the commission of any amounts
31 collected in excess of the amounts which would have
32 been collected under rates, charges, schedules or
33 regulations finally approved by the commission. In
34 determining that portion of the new or changed rates,
35 charges, schedules or regulations to be placed in
36 effect prior to a final decision, the commission shall
37 apply previously established regulatory principles
38 and shall, at a minimum, permit rates and charges
39 which will allow the utility the opportunity to earn
40 a return on common stock equity equal to that which
41 the commission held reasonable and just in the most
42 recent rate case involving the same utility or the
43 same type of utility service, provided that if the
44 most recent final decision of the commission in an
45 applicable rate case was rendered more than twelve
46 months prior to the date of filing of the request
47 for temporary rates, the commission shall consider
48 current cost of capital data and shall adjust the
49 rate of return on common stock equity that was approved
50 in that decision as necessary to reflect current

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1 conditions. The commission shall render a decision
2 on a request for temporary authority within sixty
3 days after the date of filing of the request. The
4 decision shall be effective immediately. If the
5 commission has not rendered a final decision with
6 respect to suspended rates, charges, schedules or
7 regulations upon the expiration of twelve months after
8 the original filing date, those portions that were
9 approved by the commission on a temporary basis shall
10 be deemed finally approved by the commission and the
11 utility may place them into effect on a permanent
12 basis, and the utility may place into effect subject
13 to refund any portion of the suspended rates, charges,
14 schedules or regulations not previously approved on
15 a temporary basis by filing with the commission a
16 bond or other undertaking approved by the commission.
17 If the commission has not rendered a final decision
18 with respect to the remaining portion of the suspended
19 rates, charges, schedules or regulations within
20 eighteen months after the original filing date, the
21 commission shall be deemed to have finally approved
22 them as proposed and the utility may place them into
23 effect on a permanent basis. The commission shall
24 establish a rate of interest".

25 12. Page 6, by inserting after line 4 the
26 following:

27 "Sec. 7. Section 476.10, Code 1981, is amended
28 by adding the following new unnumbered paragraph:
29 NEW UNNUMBERED PARAGRAPH. Whenever the commission
30 shall deem it necessary in order to carry out the
31 duties imposed upon it in connection with the rate
32 regulation under section 476.6, the commission may
33 contract with persons who are not state employees
34 for engineering, accounting, or other professional
35 services to be rendered during the pendency of
36 proceedings under that section. The costs of these
37 services shall be paid by the public utility whose
38 rates are being reviewed in the same manner as other
39 expenses are paid under this section. There is hereby
40 appropriated out of any funds in the state treasury
41 not otherwise appropriated, such sums as may be
42 necessary to enable the commission to contract for
43 services under this section."

44 13. By renumbering sections.

45 14. Amend the title, line 13, by inserting after
46 the comma the words "and making an appropriation,".

S-3514 FILED
APRIL 16, 1981

BY COMMITTEE ON COMMERCE
EDGAR HOLDEN, CHAIRPERSON

*Adopted as amended by
3575, 3588, 3595 4/22/81 (p. 1466)*

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 771

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 771, a bill for an Act relating to the regulation of public utilities, respectfully submit the following recommendations:

1. That the Senate recede from its amendment, H-3925 to House File 771 as amended, passed and reprinted by the House.

2. That House File 771, as amended, passed and reprinted by the House be amended as follows:

a. By striking everything after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

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

NEW SECTION. RULES GOVERNING HEARINGS.

1. The commission shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section

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

2. Additional time granted to a party or to commission staff under subsection 1 shall not extend the amount of time for which a utility is required to file a bond or other undertaking conditioned upon refund under section 476.3, unnumbered paragraph 2.

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

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

or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the commission to consider other evidence in proceedings under sections 476.3 and 476.6.

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

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

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

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

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

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

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

If, as a result of either a review procedure conducted under section 1 of this Act or a review conducted under section 2 of this Act, a complaint is filed by commission staff alleging that a utility's rates are excessive, the disputed amount shall be specified in the complaint. The public utility shall, within the time prescribed by the commission, file a bond or undertaking approved by the commission conditioned upon the refund in a manner prescribed by the commission of amounts collected after the date of filing of the complaint in excess of rates or charges finally determined by the commission to be lawful. If upon hearing the commission finds that the utility's rates are unlawful, the commission shall

order a refund, with interest, of amounts collected after the date of filing of the complaint in excess of amounts which would have been collected under the rates finally approved, provided that the commission shall not order a refund that is greater than the amount specified in the complaint, plus interest, and provided that if the commission fails to render a decision within one hundred eighty days following the date of filing of the complaint, the commission shall not order a refund of any excess amounts that are collected after the expiration of that one hundred eighty-day period and prior to the date the decision is rendered.

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

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

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

~~After the initiation of such formal proceedings and pending the final decision thereon, the commission may, at any time before they become effective, suspend the operation of such~~

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

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

.. prior to the date of filing of the request for temporary rates, the commission shall in addition consider financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority within ninety days after the date of filing of the request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 3, subsection 3 of this Act, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission. If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a

newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. The commission shall establish a rate of interest to be paid by a public utility to persons receiving refunds. The rate of interest shall be a reasonable rate as determined by the commission, but not less than five percent per annum, and the interest shall be compounded annually. The public utility shall not place into effect any portion of any suspended rates, charges, schedules or regulations of any subsequent rate filing relating to services with respect to which a rate filing is pending within twelve months following the date a prior application was filed or until after the date the commission has issued a final order in any previously filed rate proceedings, whichever date is earlier, unless the public utility applies to the commission for authority and receives authority to place a portion of the subsequent ~~filed~~ rate filing into effect on an interim basis.

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

NEW UNNUMBERED PARAGRAPH. Whenever the commission shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 1 of this Act, the commission may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being

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

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

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

b. Amend the title by striking lines 1 through 14 and inserting in lieu thereof the words "An Act relating to the

regulation of public utilities and making an appropriation
to the Iowa state commerce commission."

ON THE PART OF THE HOUSE:

ROBERT M. L. JOHNSON, Chair
DOUGLAS SHULL
GEORGE R. SWEARINGEN

House adopted 5/21/51 (p 2120)

ON THE PART OF THE SENATE:

EDGAR H. HOLDEN, Chair
LUCAS J. DeKOSTER
EMIL J. HUSAK
JOHN W. JENSEN

Senate adopted 5/21/51 (p 1800)

HOUSE FILE 771

AN ACT

RELATING TO THE REGULATION OF PUBLIC UTILITIES AND MAKING
AN APPROPRIATION TO THE ICWA STATE COMMERCE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

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

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

NEW SECTION. RULES GOVERNING HEARINGS.

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

2. Additional time granted to a party or to commission staff under subsection 1 shall not extend the amount of time for which a utility is required to file a bond or other undertaking conditioned upon refund under section 476.3, unnumbered paragraph 2.

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

4. The commission shall adopt rules that require the commission, in rate regulatory proceedings under sections 476.3 and 476.6, to consider the use of the most current test period possible in determining reasonable and just rates, subject only to the availability of existing and verifiable data respecting costs and revenues, and in addition to consider verifiable data that exists as of the date of commencement of the proceedings respecting known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a

different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. For purposes of this subsection, a proceeding commences under section 476.5 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the commission to consider other evidence in proceedings under sections 476.3 and 476.6.

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

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

~~PARAGRAPH DIVIDED provided, however, that nothing contained in this chapter shall be construed to~~ This chapter does not apply to water works having less than two thousand customers, municipally owned water works or rural water districts incorporated and organized pursuant to chapters 307A and 307A, or to a person furnishing electricity to five or fewer customers from electricity that is produced primarily for the person's own use

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

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

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

If, as a result of either a review procedure conducted under section 1 of this Act or a review conducted under section 2 of this Act, a complaint is filed by commission staff alleging that a utility's rates are excessive, the disputed

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

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

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

~~Whenever there is filed with the commission by any~~ At the time a public utility subject to rate regulation files with the commission any new or changed rates, charges, schedules or regulations, ~~the commission may, prior to the effective date thereof, docket the case as a formal proceeding and set the case for hearing. The commission shall give such notice of such formal proceedings as it deems appropriate~~ the public utility also shall submit factual evidence, written argument, and affidavits containing testimonial evidence to be offered in support of the filing, provided that this requirement shall

not apply if the public utility is a rural electric cooperative. The public utility may, as a part of its filing or separately at any subsequent time, submit a request for authority to place part or all of the proposed rates, charges, schedules or regulations into effect on a temporary basis and until permanent rates, charges, schedules or regulations take effect under this section.

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

~~However, a public utility may at any time after rates, charges, schedules or regulations have been suspended for ninety days~~ Upon the request of a public utility, the commission shall, when required by this paragraph, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commission conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected in excess of the amounts which would have

been collected under rates, charges, schedules or regulations finally approved by the commission. In determining that portion of the new or changed rates, charges, schedules or regulations to be placed in effect prior to a final decision, the commission shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the commission held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the commission in an applicable rate case was rendered more than twelve months prior to the date of filing of the request for temporary rates, the commission shall in addition consider financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority within ninety days after the date of filing of the request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 3, subsection 3 of this Act, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not

previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission. If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. The commission shall establish a rate of interest to be paid by a public utility to persons receiving refunds. The rate of interest shall be a reasonable rate as determined by the commission, but not less than five percent per annum, and the interest shall be compounded annually. The public utility shall not place into effect any portion of any suspended rates, charges, schedules or regulations of any subsequent rate filing relating to services with respect to which a rate filing is pending within twelve months following the date a prior application was filed or until after the date the commission has issued a final order in any previously filed rate proceedings, whichever date is

earlier, unless the public utility applies to the commission for authority and receives authority to place a portion of the subsequent ~~fixed~~ rate filing into effect on an interim basis.

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

NEW UNNUMBERED PARAGRAPH. Whenever the commission shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 1 of this Act, the commission may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the commission to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the commission by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section.

Sec. 8. The Iowa state commerce commission shall investigate the practice of allowing a public utility to recover advertising costs from its customers. The commission shall recommend to the general assembly not later than January 15, 1982, whether or not it is appropriate to adopt legislation

to disallow a portion of advertising costs when determining costs of operations for rate-making purposes. The Code editor shall not codify this section.

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

DEIWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 771, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved _____, 1981

ROBERT D. RAY
Governor