

FEB 13 1995

COMMERCE - REGULATION

WITHDRAWN

4-18-95  
(p. 1679)

HOUSE FILE 162  
BY WEIGEL

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to establishing incentive regulation and pricing  
2 flexibility for telephone companies.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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WITHDRAWN

HF 162

1 Section 1. NEW SECTION. 476.1E INCENTIVE REGULATION FOR  
2 TELEPHONE COMPANIES.

3 1. The board may approve a stipulated plan for incentive  
4 regulation that is submitted jointly by a telephone utility  
5 and the consumer advocate to provide incentives for telephone  
6 utilities to achieve any of the goals listed in subsection 2,  
7 notwithstanding contrary provisions of this chapter.

8 2. The goals to be achieved may include promoting  
9 competition, accelerating infrastructure deployment, improving  
10 the quality of life, furthering societal goals, or achieving,  
11 maintaining, or improving universal telephone service.

12 3. The board, after notice and opportunity for hearing,  
13 may approve or disapprove the plan for an incentive form of  
14 regulation specific to that utility.

15 Sec. 2. NEW SECTION. 476.1F APPLICABILITY OF AUTHORITY  
16 -- CERTAIN TELEPHONE COMPANIES.

17 1. Notwithstanding contrary provisions of this chapter  
18 relating to rate-of-return regulation, a telephone company  
19 having more than fifteen thousand customers and more than  
20 fifteen thousand access lines may elect to be regulated  
21 pursuant to section 476.6A.

22 2. A telephone company shall exercise the option provided  
23 for in subsection 1 by giving written notice to the board not  
24 less than thirty days prior to the date such regulation is to  
25 commence.

26 Sec. 3. NEW SECTION. 476.6A PRICING FLEXIBILITY FOR  
27 TELEPHONE COMPANIES.

28 1. DEFINITIONS. For purposes of this section, unless the  
29 context otherwise requires:

30 a. "Basic exchange services" means the provision of dial  
31 tone access, for the transmission of two-way switched voice  
32 communications within a local exchange area, or services  
33 allowing access to two-way switched voice communications  
34 between exchange areas, or services essential to the public  
35 safety. Services which are basic exchange services include,

1 but are not limited to, the following:

2 (1) Single party residence service, which is furnished to  
3 a dwelling and which is used for personal or domestic purposes  
4 and not for business, occupational, professional, or  
5 institutional purposes.

6 (2) Business service, which is used for occupational,  
7 professional, or institutional purposes. This includes  
8 single-line service, service for nonswitched multi-line  
9 business communication systems, and service for switched  
10 business communications systems.

11 (3) Extended area service or the grouping of two or more  
12 local exchange areas which allows customers of one exchange in  
13 the group to place and receive two-way switched voice  
14 communications to or from customers in one or more other  
15 exchanges in the group without an interexchange toll charge.

16 (4) Dual party relay service established under chapter  
17 477C.

18 (5) 911 and E911 services established in chapters 34 and  
19 34A.

20 b. "Local exchange area" means a territorial unit  
21 established by a telephone company for the administration of  
22 basic exchange services within a specific area generally as  
23 described in maps filed with and approved by the board.

24 c. "Nonbasic exchange services" means all services other  
25 than basic exchange services.

26 d. "Service rate" means the monthly charge imposed by a  
27 telephone company for a specific service, but does not include  
28 any charges or taxes imposed by a governmental body which are  
29 included on customer billings by the telephone company.

30 2. RATES FOR BASIC EXCHANGE SERVICES. The rates for basic  
31 exchange services provided by a telephone company operating  
32 under this section shall be set as follows:

33 a. The initial basic exchange service rates to be charged  
34 by a telephone company that has elected to be regulated under  
35 this section shall be ten percent less than the service rates

1 approved and in effect at the time of the company's election  
2 to be regulated under this section.

3 b. A telephone company may change its rates for basic  
4 exchange services after written notice to all affected  
5 customers, the board, and the consumer advocate, as follows:

6 (1) A proposed rate increase which does not increase any  
7 basic exchange service rate by more than the most recent  
8 annual increase in the implicit gross domestic product price  
9 deflator, as published by the federal government, less three  
10 percentage points, shall be reviewed by the board pursuant to  
11 subsection 3, except as provided in subparagraph (2). The  
12 board shall by rule create a penalty mechanism for up to a two  
13 percentage point increase in the percentage offset for  
14 inadequate service provided by, or insufficient investment  
15 made by, the telephone company proposing rate increases  
16 pursuant to this section. The board shall by rule create an  
17 incentive mechanism for up to a one percentage point decrease  
18 in the percentage offset to encourage infrastructure  
19 investment by the telephone company proposing rate increases  
20 pursuant to this section.

21 (2) An increase in any basic service rate shall not be  
22 undertaken within twelve months of the date the telephone  
23 company elects to operate under the provisions of this  
24 section, or within twelve months of the last increase in any  
25 basic service rate.

26 (3) A proposed rate increase which exceeds the percentages  
27 established in subparagraph (1) shall require that the  
28 telephone company comply with all requirements of section  
29 476.6.

30 (4) There is no limit or review of a decrease in rates  
31 proposed by a telephone company, unless the proposal to  
32 decrease rates includes a proposal that other rates be  
33 increased.

34 c. A telephone company shall decrease its rates for basic  
35 exchange services, upon application of the consumer advocate,

1 as follows:

2 (1) If the implicit gross domestic product price deflator,  
3 as published by the federal government, decreases, rates for  
4 basic exchange services shall be decreased by a percentage  
5 equal to the most recent annual decrease in the implicit gross  
6 domestic product price deflator plus three percentage points.

7 (2) If an increase in the most recent implicit gross  
8 domestic product price deflator, as published by the federal  
9 government, less three percentage points results in a negative  
10 percentage, rates for basic exchange services shall be  
11 decreased by a percentage equal to the negative percentage.

12 d. A telephone company shall file a tariff with the board  
13 which contains the rates and charges for basic exchange  
14 services which are set pursuant to this section. A telephone  
15 company shall file an initial tariff with the board regarding  
16 initial service rates established pursuant to this section,  
17 and shall amend that filing within thirty days of the  
18 effective date of a decrease in rates or of an increase in  
19 rates as approved under this section.

20 e. New services or products offered by a telephone company  
21 on or after July 1, 1995, shall be nonbasic exchange services,  
22 unless the board determines after notice and hearing that a  
23 new service is a basic exchange service. A new service is a  
24 basic exchange service if the board finds that the general  
25 public interest would be promoted by the widespread  
26 availability of the new service, including the new service as  
27 a basic exchange service would not adversely affect  
28 universally available telephone service, and including the new  
29 service as a basic exchange service would not result in cross-  
30 subsidies between customers. The telephone company offering  
31 the new service shall set the initial service rate at no less  
32 than long-run incremental cost for a new service.

33 f. Promotional pricing for a service for a period of up to  
34 one hundred twenty days in any one-year period is not a rate  
35 change for purposes of this section. However, a telephone

1 company shall provide written notice to the board concerning  
2 the promotional pricing and the period during which the  
3 pricing will be in effect, no less than ten days prior to the  
4 date the pricing is to commence. For purposes of this  
5 subsection, promotional pricing must entail prices which are  
6 less than the prices which would otherwise be charged for the  
7 same service pursuant to the company's filed tariff.

8 3. REVIEW OF PROPOSED RATES FOR BASIC EXCHANGE SERVICES.

9 The board shall review proposed rates under the procedures  
10 established in this subsection upon formal complaint signed by  
11 three percent of all affected customers, or upon the request  
12 of the consumer advocate. The complaint shall specifically  
13 set forth the particular rate or charge for which review is  
14 requested and the reasons for the requested review.

15 a. Upon the filing of a complaint or upon the request of  
16 the consumer advocate, the board shall conduct an  
17 investigation, hold hearings, and issue its findings with  
18 respect to the complaint. In determining whether a proposed  
19 increase in a basic exchange service rate is just and  
20 reasonable, the board shall consider all evidence provided  
21 related to the following factors:

22 (1) The time elapsed since the rate was last changed.

23 (2) The percentage increase in the proposed service rate  
24 compared with changes in consumer prices generally for a  
25 comparable time period.

26 (3) The communications technology currently in service and  
27 the investment plan proposed by the telephone company.

28 (4) Changes in the quality of basic exchange services  
29 provided by the telephone company.

30 (5) The maintenance of the network of the telephone  
31 company.

32 (6) The quality of the service provided by the telephone  
33 company.

34 (7) The availability of alternative communications  
35 services, and the prices or rates for those alternative

1 services.

2 (8) Whether services would be cross-subsidized as a result  
3 of the proposed increase.

4 b. Within one hundred twenty days from the date of the  
5 complaint or request, the board shall issue its final decision  
6 on the proposed increase. An application is deemed to be  
7 approved as a matter of law if the board does not issue a  
8 decision within the required time. Approval of the proposed  
9 rate pursuant to this subsection is subject to judicial review  
10 as provided in section 476.13.

11 4. COMPETITION FOR BASIC EXCHANGE SERVICES. Upon a  
12 determination by the board pursuant to section 476.1D that a  
13 basic exchange service is subject to effective competition,  
14 the board may adopt policies and enter orders necessary to  
15 provide for flexibility in the regulation of such service,  
16 recategorize the service as a nonbasic exchange service, or  
17 provide for deregulation of the service.

18 5. DISCONTINUANCE OF BASIC EXCHANGE SERVICES. A telephone  
19 company providing basic exchange services shall not  
20 discontinue providing such services unless written notice is  
21 provided to the board and the board finds that the same or  
22 comparable services are available to the affected customers  
23 from a supplier other than the telephone company.

24 6. PROHIBITIONS REGARDING BASIC EXCHANGE SERVICES. A  
25 telephone company providing basic exchange service shall not  
26 do any of the following:

27 a. Discriminate against another telephone company or long  
28 distance carrier by refusing or delaying access to the local  
29 exchange.

30 b. Unreasonably refuse or delay interconnections or  
31 provide inferior interconnections to another telephone company  
32 or long distance carrier.

33 c. Use basic exchange service rates, directly or  
34 indirectly, to subsidize or offset the costs of other products  
35 or services offered by the telephone company.

1 d. Degrade the quality of access provided to another  
2 company.

3 e. Fail to fully disclose in a timely manner, upon  
4 reasonable request, all available information necessary for  
5 the design of equipment that will meet the specifications of  
6 the local exchange network.

7 f. Sell services or products, extend credit, or offer  
8 other terms and conditions on more favorable terms to an  
9 affiliate of the telephone company than those offered to  
10 others.

11 7. RATES FOR NONBASIC EXCHANGE SERVICES. Initial rates  
12 for nonbasic exchange services shall be filed as a price list  
13 with the board not more than ten days after the telephone  
14 company's election to operate under this section, or not more  
15 than ten days after the nonbasic exchange service is initially  
16 offered to customers. Changes to nonbasic exchange service  
17 rates shall be made as follows:

18 a. The telephone company shall notify the board and the  
19 consumer advocate in writing of any change in nonbasic  
20 exchange service rate not less than ten days prior to the  
21 effective date of the change.

22 b. A nonbasic exchange service price shall not be  
23 increased until at least twelve months have elapsed since the  
24 rate was last increased.

25 c. A rate may be decreased, without review, at any time.

26 d. The telephone company shall file a price list for all  
27 nonbasic exchange services with the board which notes current  
28 prices.

29 e. There shall be no restrictions on the resale, reuse, or  
30 interconnection of nonbasic exchange services.

31 f. Promotional pricing for a service for a period of up to  
32 one hundred twenty days in any one-year period is not a rate  
33 change for purposes of this section. However, a telephone  
34 company shall provide written notice to the board concerning  
35 the promotional pricing and the period during which the

1 pricing will be in effect, no less than ten days prior to the  
2 date the pricing is to commence. For purposes of this  
3 subsection, promotional pricing must entail prices which are  
4 less than the prices which would otherwise be charged for the  
5 same service pursuant to the company's filed price list.

6 8. Rates for intrastate access services shall not be  
7 higher than the rates in effect as of December 31, 1994. Any  
8 decreases in rates for intrastate access services shall be  
9 passed on to consumers in the form of lower long distance  
10 rates.

11 9. DEPRECIATION. The setting of depreciation rates by a  
12 telephone company that has opted to be regulated under this  
13 section shall not require board approval. The board shall  
14 retain jurisdiction to determine what portion of the  
15 depreciation expense resulting from the depreciation rates set  
16 by a telephone company should be included in rates charged to  
17 customers.

18 10. REGULATORY AUTHORITY. The board shall retain  
19 regulatory authority over the quality of basic and nonbasic  
20 exchange services provided by telephone companies subject to  
21 this section, and shall investigate and resolve customer  
22 complaints concerning quality of service, customer deposits,  
23 and disconnection of service.

24 11. AUTHORITY OF CONSUMER ADVOCATE. This section does not  
25 prohibit the consumer advocate from representing customers as  
26 a whole before any state or federal regulatory agency, or any  
27 court, regarding any rule, order, or other proceeding  
28 pertaining to utilities furnishing communications services.

29 The consumer advocate may file an application to decrease  
30 rates pursuant to subsection 2, paragraph "c".

31 Notwithstanding the provisions of section 476.3, subsection 2,  
32 the consumer advocate shall not file a petition under section  
33 476.3, subsection 2, that alleges that a utility's rates are  
34 excessive while the utility has elected to be regulated under  
35 this section.

1 12. Not later than April 1 of each year following a year  
2 in which a telephone company has operated under this section,  
3 the telephone company shall file with the board, the consumer  
4 advocate, and the general assembly a report which discloses  
5 the financial results of the telephone company for the  
6 preceding year. The report shall show all regulated Iowa  
7 intrastate expenses and revenue for the year; gross and net  
8 investment for regulated Iowa intrastate operations; and the  
9 rate of return on investment, and on equity, earned on Iowa  
10 intrastate operations. The report shall show both the  
11 unadjusted results for the year, and the results incorporating  
12 any adjustments that the telephone company believes are  
13 appropriate. All documentation and explanation relating to  
14 these results, or adjustments, shall be provided to the board,  
15 the consumer advocate, and the general assembly upon request.

16 Sec. 4. FUTURE REPEAL. Sections 1, 2, and 3 of this Act  
17 are repealed four years after the date those sections take  
18 effect.

19 EXPLANATION

20 This bill provides for incentive and price regulation for  
21 telecommunications companies.

22 New section 476.1E provides that the utilities board may  
23 approve a stipulated plan for incentive regulation submitted  
24 jointly by a telephone company and the consumer advocate for  
25 the purpose of providing incentives to telephone utilities to  
26 promote competition, accelerate infrastructure deployment,  
27 improve the quality of life, further societal goals, or  
28 achieve, maintain, or improve universal telephone service.

29 New section 476.1F provides that a telephone company having  
30 more than 15,000 customers and access lines may elect to be  
31 regulated under a plan of pricing flexibility.

32 New section 476.6A establishes pricing flexibility for  
33 telephone companies. The section identifies certain services  
34 as basic exchange services, the rates of which are to be 10  
35 percent less than the service rates approved and in effect for

1 such services at the time of the company's election to be  
2 price regulated. Limits are established for the increase of  
3 rates for basic exchange services based upon the implicit  
4 gross domestic product price deflator, as published by the  
5 federal government. The section also provides that the  
6 initial rates for nonbasic exchange services are to be filed  
7 as a price list with the board not more than 10 days after the  
8 telephone company's election to operate under price regulation  
9 or not more than 10 days after the service is initially  
10 offered to customers. The telephone company is to notify the  
11 board of any changes in such prices. Review is provided for  
12 increases in prices.

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