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COMMERCE - REGULATION

HOUSE FILE
BY LARSON

264

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

A BILL FOR

1 An Act relating to establishing authority for alternative plans
2 for regulation of telecommunications providers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 476.95 LEGISLATIVE INTENT.

2 It is the intent of the general assembly to do all of the
3 following:

4 1. Authorize and encourage the Iowa utilities board to
5 permit all forms of entry into the market for
6 telecommunications providers.

7 2. Direct the board to regulate telecommunications
8 providers based upon the respective market power of a
9 provider. A provider which the board finds has little or no
10 market power should be regulated to a lesser degree to
11 encourage the provider's entry into the market. Providers
12 with greater market power should be regulated appropriately to
13 prevent any abuse by such provider in hindering the growth of
14 competition, and to permit pricing flexibility where
15 appropriate to foster the growth of competition in the
16 relevant market.

17 3. Establish a universal service policy for the state.

18 Sec. 2. NEW SECTION. 476.96 DEFINITIONS.

19 For purposes of section 476.95, this section, and sections
20 476.97 through 476.100, unless the context otherwise requires:

21 1. "Basic exchange service" means telecommunications
22 service which provides voice grade, single line, single party
23 access to the first point of switching in a local exchange
24 network with usage within a local calling area, touch-tone
25 capability, and access to 911 and E911 service, operator
26 services, directory assistance service, and telecommunications
27 relay service.

28 2. "Dominant telecommunications provider" means a provider
29 of basic exchange service that is able to affect changes in
30 the relevant market with respect to such service through the
31 use of the provider's market power.

32 3. "Market power" means the ability to increase and
33 maintain prices at levels that are above those which would be
34 charged in a competitive market.

35 4. "Network element" means the smallest telecommunications

1 network function that is capable of being tariffed and offered
2 as a separate service.

3 5. "Nondominant telecommunications provider" means a
4 provider of basic exchange service that is not a dominant
5 telecommunications provider.

6 6. "Total service long-run incremental cost" means the
7 forward-looking cost of a telecommunications service, relevant
8 group of services, or network element, using the least-cost
9 technology that can reasonably be implemented based upon
10 currently available technology, or alternatively, the total
11 cost that the telecommunications provider would incur if it
12 were to initially offer the service, group of services, or
13 network element for the entire current demand, given that the
14 telecommunications provider already provides all of its other
15 services and network elements.

16 Sec. 3. NEW SECTION. 476.97 STATEMENT OF BUSINESS
17 OPERATIONS BY TELECOMMUNICATIONS PROVIDER.

18 1. A telecommunications provider seeking to provide
19 services to the public may do so upon filing a statement of
20 business operations with the board, as defined in subsection
21 2. This section does not apply to a telecommunications
22 provider already providing service within the state as of July
23 1, 1995.

24 2. A statement of business operations shall include all of
25 the following:

26 a. The business address of the telecommunications
27 provider.

28 b. A customer service telephone number for the
29 telecommunications provider.

30 c. A contact person for purposes of regulatory matters.

31 d. A brief description of the service, group of services,
32 or network functions to be offered.

33 Sec. 4. NEW SECTION. 476.98 REGULATION OF
34 TELECOMMUNICATIONS PROVIDERS.

35 1. CLASSIFICATION OF PROVIDERS. A telecommunications

1 provider that offers basic exchange service within this state
2 pursuant to a certificate of public convenience and necessity
3 issued pursuant to section 476.29 before July 1, 1995, is
4 deemed to be a dominant telecommunications provider. A
5 telecommunications provider authorized to provide services
6 pursuant to section 476.97, subsection 1, is deemed to be a
7 nondominant telecommunications provider. The board, after
8 notice and hearing, may reclassify a telecommunications
9 provider as dominant or nondominant as the board deems
10 appropriate, based upon the provider's market power.

11 2. ALL SERVICES TO BE TARIFFED. A telecommunications
12 provider authorized to provide service shall file and maintain
13 tariffs with the board for each service offered. The tariffs
14 shall describe each service offered, list all terms and
15 conditions related to each service, and specify the price,
16 rate, or rates to be charged for each service.

17 3. REGULATION OF NONDOMINANT TELECOMMUNICATIONS PROVIDERS.
18 Existing and proposed tariffs of nondominant
19 telecommunications providers shall not be regulated or
20 otherwise reviewed by the board.

21 4. REGULATION OF DOMINANT TELECOMMUNICATIONS PROVIDERS.

22 a. Existing and proposed tariffs of dominant
23 telecommunications providers must satisfy all of the
24 following:

- 25 (1) Contain rates that are just and reasonable.
- 26 (2) Not unjustly discriminate in favor of any users of a
27 service, including the dominant telecommunications provider.
- 28 (3) Further the public interest.

29 b. The board may suspend and, after notice and hearing,
30 reject an existing or proposed tariff of a dominant
31 telecommunications provider if the provider's existing or
32 proposed tariff fails to satisfy the requirements of paragraph
33 "a".

34 c. The board may waive the application of
35 antidiscrimination and unbundling requirements imposed

1 pursuant to this chapter, or delay the applicability of such
2 requirements for good cause, as determined by the board, after
3 notice and hearing, for a dominant telecommunications provider
4 having less than fifteen thousand customers and less than
5 fifteen thousand access lines.

6 Sec. 5. NEW SECTION. 476.99 ALTERNATIVE PLANS FOR
7 REGULATION.

8 1. A dominant telecommunications provider may petition the
9 board for an alternative form of regulation. The board may
10 approve a plan for an alternative form of regulation, after
11 notice and hearing, providing that it finds all of the
12 following:

13 a. The plan is in the public interest.

14 b. The dominant telecommunications provider has filed and
15 received approval for a tariff for each network element
16 offered by the provider.

17 c. The plan will produce fair, just, and reasonable rates
18 for telecommunications services, based upon the board's
19 determination that existing rates at the time the plan is
20 approved are fair, just, and reasonable.

21 d. The plan accounts for changes in technology and the
22 structure of the telecommunications industry.

23 e. The plan must specify how customers will benefit from
24 any efficiency gains, cost savings out of the regulatory
25 change, and improvements in productivity as a result of
26 changes in technology.

27 f. The plan will maintain the quality and availability of
28 telecommunications services.

29 g. The plan contains adequate safeguards against
30 discrimination to ensure that the dominant telecommunications
31 provider does not discriminate in favor of itself or any other
32 telecommunications provider in the provision and pricing of
33 any telecommunications service.

34 h. The plan ensures that the dominant telecommunications
35 provider does not degrade the quality of access or service, or

1 offer inferior dialing arrangements or connections.

2 i. The plan contains adequate safeguards to ensure that no
3 service is receiving a subsidy, unless such a subsidy is
4 necessary to promote universal service.

5 2. Unless the board approves a plan for alternative
6 regulation pursuant to subsection 1, all prices or rates for
7 services offered by a dominant telecommunications provider
8 shall be set so that the dominant telecommunications provider
9 recovers its costs plus a reasonable return.

10 Sec. 6. NEW SECTION. 476.100 UNIVERSAL SERVICE POLICY.

11 1. BOARD AUTHORIZED TO PURSUE A UNIVERSAL SERVICE POLICY.

12 The board may pursue the establishment of a universal service
13 policy with the federal communications commission or any
14 federal and state joint board according to the principles
15 specified in subsection 2.

16 2. UNIVERSAL SERVICE POLICY PRINCIPLES. The board, in
17 implementing a universal service policy, shall consider all of
18 the following:

19 a. Universal service should ensure that residential basic
20 exchange service is available and affordable to residents of
21 the state.

22 b. The amount of a subsidy to maintain universal service,
23 if a subsidy is deemed necessary, should be based on the
24 difference between the national average rate for residential
25 basic exchange service and the long-run incremental cost of
26 providing residential basic exchange service rather than on
27 the historic costs of the dominant telecommunications
28 provider.

29 c. A subsidy necessary to support universal service should
30 be separately funded from a universal service fund,
31 administered by a neutral universal service fund
32 administrator.

33 d. Funding for the universal service fund should be
34 derived from all telecommunications providers, based on a
35 percentage of net operating revenue derived from intrastate

1 telecommunications operations of such providers.

2 e. The universal service subsidy from the universal
3 service fund shall be available to all eligible customers,
4 irrespective of which basic exchange service provider the
5 customer chooses to use.

6 f. As a new subsidy mechanism is implemented, a dollar-
7 for-dollar reduction should be made in the revenues generated
8 from the current direct charges and above cost rates of the
9 dominant telecommunications provider.

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EXPLANATION

11 This bill authorizes the utilities board to establish
12 alternative forms of regulation for telecommunications
13 providers.

14 New section 476.95 establishes the legislative intent,
15 including encouraging the board to permit all forms of entry
16 for telecommunications providers and to regulate
17 telecommunications providers based upon the respective market
18 power.

19 New section 476.96 creates the definitions of terms used in
20 the bill.

21 New section 476.97 provides that a telecommunications
22 provider may provide services to the public upon filing with
23 the board a statement of business operations.

24 New section 476.98 provides for the regulation of
25 telecommunications providers. The section provides for the
26 classification of such providers as dominant or nondominant
27 telecommunications providers.

28 New section 476.99 provides that a dominant
29 telecommunications provider may petition the board for an
30 alternative form of regulation. If a plan for alternative
31 regulation is not approved, the rates for services offered by
32 a dominant telecommunications provider shall be set so that
33 the dominant telecommunications provider recovers its costs
34 plus a reasonable return.

35 New section 476.100 authorizes the utilities board to

1 pursue the establishment of a universal service policy.

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