

Reprinted

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Place On Calendar

HOUSE FILE 518

BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 59)

Passed House, Date 4-6-95 (P. 1331) Passed Senate, Date 4/28/95 (P. 1520)
Vote: Ayes 88 Nays 10 Vote: Ayes 50 Nays 11
Approved May 31, 1995

A BILL FOR

1 An Act relating to authorization of price regulation for
2 utilities providing communications services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 518

H-3420

1 Amend House File 518 as follows:

2 1. Page 1, by inserting after line 8 the
3 following:

4 "Sec. ____ . Section 476.18, subsection 3, Code
5 1995, is amended by striking the subsection.

6 Sec. ____ . NEW SECTION. 476.21A CERTAIN

7 ADVERTISEMENTS PROHIBITED.

8 Except for an advertisement for a utility's product
9 or service that is or becomes subject to competition,
10 advertising which is required by the board or by other
11 state or federal regulation, or advertising which is
12 deemed by the board to be necessary for the utility's
13 customers and which is approved by the board, a
14 utility shall not engage in advertising for the
15 utility's product or service."

16 2. Renumbering as necessary.

By FALLON of Polk

H-3420 FILED MARCH 22, 1995

Out of order
4-6-95

(P. 1331)

HF 518

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1 Section 1. Section 476.3, subsection 2, Code 1995, is
2 amended by adding the following new unnumbered paragraph:
3 NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions
4 of this subsection, the consumer advocate shall not file a
5 petition under this subsection that alleges a local exchange
6 carrier's rates are excessive while the local exchange carrier
7 is participating in a price regulation plan approved by the
8 board pursuant to section 476.30B.

9 Sec. 2. Section 476.29, subsection 2, Code 1995, is
10 amended to read as follows:

11 2. Except as provided in subsection 12, a certificate
12 shall be issued by the board, after notice and opportunity for
13 hearing, if the board determines that the service proposed to
14 be rendered will promote the public convenience and necessity,
15 provided that an applicant other than a local exchange
16 carrier, as defined in section 476.30A, shall not be denied a
17 certificate if the board finds that the applicant possesses
18 the technical, financial, and managerial ability to provide
19 the service it proposes to render and the board finds the
20 service is consistent with the public interest. The board
21 shall make a determination within ninety days of the
22 submission by the applicant of evidence of its technical,
23 financial, and managerial ability. The board may establish
24 reasonable conditions or restrictions on the certificate at
25 the time of issuance.

26 Sec. 3. NEW SECTION. 476.30 FINDINGS -- STATEMENT OF
27 POLICY.

28 The general assembly finds all of the following:
29 1. Communications services should be available throughout
30 the state at just, reasonable, and affordable rates from a
31 variety of providers.
32 2. In rendering decisions with respect to regulation of
33 telecommunications companies, the board shall consider the
34 effects of its decisions on competition in telecommunications
35 markets and, to the extent reasonable and lawful, shall act to

1 further the development of competition in those markets.

2 3. Regulatory flexibility is appropriate when competition
3 provides customers with competitive choices in the variety,
4 quality, and pricing of communications services, and when
5 consistent with consumer protection and other relevant public
6 interests.

7 4. The board should respond with speed and flexibility to
8 changes in the communications industry.

9 5. Economic development can be fostered by the existence
10 of advanced communications networks.

11 Sec. 4. NEW SECTION. 476.30A DEFINITIONS.

12 As used in section 476.30, this section, and sections
13 476.30B through 476.30E, unless the context otherwise
14 requires:

15 1. "Basic communications service" includes at a minimum,
16 basic local telephone service, switched access, 911 and E-911
17 services, and dual party relay service. The board is
18 authorized to classify by rule other two-way switched voice
19 communications services as basic communications services
20 consistent with community expectations and the public
21 interest.

22 2. "Basic local telephone service" means the provision of
23 dial tone access and usage, for the transmission of two-way
24 switched voice communications within a local exchange area,
25 including, but not limited to, the following:

26 a. Single party residence service and business service,
27 including local measured service, private branch exchange
28 trunks, trunk type hunting services, direct inward dialing,
29 and the network access portion of central office switched
30 exchange service.

31 b. Extended area service.

32 c. Touch tone service when provided separately.

33 d. Call tracing.

34 e. Calling number blocking on either a per call or a per
35 line basis.

- 1 f. Local exchange white pages directories.
- 2 g. Installation and repair of local network access.
- 3 h. Local operator services, excluding directory
4 assistance.
- 5 i. Toll service blocking and 1-900 and 1-976 access
6 blocking.
- 7 3. "Competitive local exchange service provider" means any
8 person that provides local exchange services, other than a
9 local exchange carrier.
- 10 4. "Interim number portability" means one or more
11 mechanisms by which a local exchange customer at a particular
12 location may change the customer's local exchange services
13 provider without any change in the local exchange customer's
14 telephone number, with as little loss of functionality as is
15 feasible using available technology.
- 16 5. "Local exchange carrier" means any person that was the
17 incumbent and historical wireline provider of local exchange
18 services or any successor to such person that provides local
19 exchange services under an authorized certificate of public
20 convenience and necessity within a specific geographic area
21 described in maps filed with and approved by the board as of
22 September 30, 1992.
- 23 6. "Nonbasic communications services" means all
24 communications services subject to the board's jurisdiction
25 which are not deemed either by statute or by rule to be basic
26 communications services. Consistent with community
27 expectations and the public interest, the board may reclassify
28 by rule as nonbasic those two-way switched voice
29 communications services previously classified by rule as
30 basic.
- 31 7. "Provider number portability" means the capability of a
32 local exchange customer to change the customer's local
33 exchange services provider at the customer's same location
34 without any change in the local exchange customer's telephone
35 number, while preserving the full range of functionality that

1 the customer currently experiences. "Provider number
2 portability" includes the equal availability of information
3 concerning the local exchange provider serving the number to
4 all carriers, and the ability to deliver traffic directly to
5 that provider without having first to route traffic to the
6 local exchange carrier or otherwise use the services,
7 facilities, or capabilities of the local exchange carrier to
8 complete the call and without the dialing of additional digits
9 or access codes.

10 Sec. 5. NEW SECTION. 476.30B PRICE REGULATION.

11 1. Notwithstanding contrary provisions of this chapter
12 relating to rate regulation, the board may approve a plan for
13 price regulation submitted by a rate-regulated local exchange
14 carrier. The plan for price regulation is not effective until
15 the approval of tariffs implementing the unbundling of
16 essential facilities by the board pursuant to section 476.30D,
17 subsection 4. The board may approve a plan for price
18 regulation prior to the adoption of rules related to the
19 unbundling of essential facilities or concurrent with a rate
20 proceeding under section 476.3, 476.6, or 476.7. During the
21 term of the plan, the board shall regulate the rate-regulated
22 local exchange carrier's regulated prices pursuant to the
23 requirements of the price regulation plan approved by the
24 board. The local exchange carrier shall not be subject to
25 rate of return regulation during the term of the plan.

26 2. The board, after notice and opportunity for hearing,
27 may approve, modify, or reject the plan. The local exchange
28 carrier shall have ten days to accept or reject any board
29 modifications to its plan. If the local exchange carrier
30 rejects a modification to its plan, the board shall reject the
31 plan without prejudice to the local exchange carrier to submit
32 another plan.

33 3. A price regulation plan, at a minimum, shall include
34 provisions, consistent with the provisions of this section and
35 any rules adopted by the board, for the following:

1 a. Establishing and changing prices, terms, and conditions
2 for basic communications services. In the rate case filed
3 concurrently with the submission of a plan for price
4 regulation, the board shall approve the local exchange
5 carrier's reduction of its average intrastate access service
6 rates to the local exchange carrier's average interstate
7 access service rates in effect as of July 1, 1995, except that
8 local exchange carriers with seventy-five thousand access
9 lines or less may make equal reductions over any three-year
10 time period during the first five years of a plan.

11 The plan shall also provide that the initial prices for
12 basic communications services shall be six percent less than
13 the rates approved and in effect at the time the local
14 exchange carrier files its plan. In lieu of the six percent
15 reduction, a local exchange carrier may elect to establish its
16 rates for basic communications services in a rate proceeding
17 under section 476.3 or 476.6 commenced after the effective
18 date of this Act. The plan shall provide that no price
19 increases shall be undertaken within twelve months of the date
20 of approval of the local exchange carrier's plan, or within
21 twelve months of the last increase in prices for basic
22 communications services.

23 The plan shall provide for both increases and decreases in
24 the prices for basic communications services depending on
25 whether the most recent annual change in the gross domestic
26 product price index, as published by the federal government,
27 less two and six-tenths percentage points, or the most recent
28 annual change in any other recognized and published inflation
29 measurement as approved by the board, less two and six-tenths
30 percentage points, results in a positive or negative number.

31 The plan may provide that price increases or decreases for
32 basic communications services which are permitted under this
33 section may be deferred and accumulated for a maximum of three
34 years into a single price increase or decrease. However, a
35 deferred and accumulated price increase or decrease pursuant

1 to this paragraph shall not at any time exceed a six percent
2 change in the most recent price for a basic communications
3 service. A price decrease required under this section may be
4 offset by a price increase for a basic communications service
5 that would have been permitted under this section.

6 b. Establishing and changing prices, terms, and conditions
7 for nonbasic communications services.

8 c. Reporting new service offerings to the board.

9 d. Reflecting in rates any changes in revenues, expenses,
10 and investment due to exogenous factors beyond the control of
11 the utility.

12 e. Encouraging modernization of the utility's
13 telecommunications infrastructure.

14 f. Providing notice to customers, the board, and the
15 consumer advocate of changes in prices, terms, or conditions
16 for basic and nonbasic communications services.

17 4. The board shall consider the extent to which a proposed
18 plan complies with the requirements of subsection 3 and
19 achieves the following:

20 a. Just, nondiscriminatory, and reasonable rates.

21 b. High quality, universally available communications
22 services.

23 c. Encouragement of investment in communications
24 infrastructure, efficiency improvements, and technological
25 innovation.

26 d. The introduction of new communications products and
27 services from a variety of sources.

28 e. Regulatory efficiency including reduction of regulatory
29 costs and delays. A plan shall not provide for waiver of,
30 release from, or delay in implementing the provisions of this
31 section, section 476.30D or 476.30E or any rules adopted by
32 the board pursuant to those sections.

33 5. Notwithstanding an approved plan for price regulation,
34 the board shall continue to have regulatory authority over the
35 following:

1 a. The level, extent, and timing of the unbundling of
2 essential facilities offered by a local exchange carrier.

3 b. Ensuring against cross-subsidization between nonbasic
4 communications services and basic communications services.

5 6. Any person, including the consumer advocate, a body
6 politic, or the board on its own motion, may file a written
7 complaint pursuant to section 476.3, subsection 1, regarding a
8 local exchange carrier's implementation, operation under, or
9 satisfaction of the purposes of its price regulation plan.

10 The board shall initiate a formal complaint proceeding
11 pursuant to section 476.30D, subsection 8.

12 7. The consumer advocate may represent consumers before
13 the board regarding any rule, order, or proceeding pertaining
14 to price regulation. The consumer advocate may act as
15 attorney for and represent consumers generally before any
16 state or federal court concerning a board rule, order, or
17 proceeding pertaining to price regulation.

18 8. In implementing price regulation, the board shall
19 consider competitively neutral methods to assist lower-income
20 Iowans to secure and retain telephone services.

21 9. The board shall determine the duration of any plan.
22 The board shall review a local exchange carrier's operation
23 under its plan, with notice and an opportunity for hearing,
24 within four years of the initiation of the plan and prior to
25 the termination of the plan. The local exchange carrier,
26 consumer advocate, or any person may propose, and the board
27 may approve, any reasonable modifications to a local exchange
28 carrier's plan as a result of the review, except that such
29 modifications shall not require a reduction in the rates for
30 any basic communications service.

31 Sec. 6. NEW SECTION. 476.30C PROHIBITED ACTS.

32 A local exchange carrier shall not do any of the following:

33 1. Discriminate against another provider of communications
34 services by refusing or delaying access to services or
35 essential facilities on terms and conditions identical to

1 those the local exchange carrier provides to itself and its
2 affiliates. An essential facility is a local
3 telecommunications facility, feature, function, or capability
4 of the local exchange carrier's network that competitors
5 cannot practically or economically duplicate or obtain from
6 other sources, and to which reasonable access is necessary to
7 enable competition.

8 2. Degrade the quality of access or service provided to
9 another provider of communications services.

10 3. Fail to disclose in a timely manner, upon reasonable
11 request and pursuant to a protective agreement concerning
12 proprietary information, all information reasonably necessary
13 for the design of network interface equipment, network
14 interface services, or software that will meet the
15 specifications of the local exchange carrier's local exchange
16 network.

17 4. Unreasonably refuse or delay interconnections or
18 provide inferior interconnections to another provider.

19 5. Use basic exchange service rates, directly or
20 indirectly, to subsidize or offset the costs of other products
21 or services offered by the local exchange carrier.

22 6. Discriminate in favor of itself or an affiliate in the
23 provision and pricing of, or extension of credit for, any
24 telephone service.

25 Sec. 7. NEW SECTION. 476.30D LOCAL EXCHANGE COMPETITION.

26 1. A certificate of public convenience and necessity to
27 provide local telephone service shall not be interpreted as
28 conveying a monopoly, exclusive privilege, or franchise. A
29 competitive local exchange service provider shall not be
30 subject to the requirements of chapter 476, except that a
31 competitive local exchange service provider shall obtain a
32 certificate of public convenience and necessity pursuant to
33 section 476.29, file tariffs, notify affected customers prior
34 to any rate increase, file reports, information, and pay
35 assessments pursuant to section 476.2, subsection 4, and

1 sections 476.9, 476.10, 476.16, and 477C.7, and shall be
2 subject to the board's authority with respect to adequacy of
3 service, interconnection, discontinuation of service, civil
4 penalties, and complaints. If, after notice and opportunity
5 for hearing, the board determines that a competitive local
6 exchange service provider possesses market power in its local
7 exchange market or markets, the board may apply such other
8 provisions of chapter 476 to a competitive local exchange
9 service provider as it deems appropriate.

10 2. The duty of a local exchange carrier includes the duty,
11 in accordance with requirements prescribed by the board
12 pursuant to subsection 3 and other laws, to provide equal
13 access to, and interconnection with, its facilities so that
14 its network is fully interoperable with the telecommunications
15 services and information services of other providers, and to
16 offer unbundled essential facilities.

17 3. A local exchange carrier shall provide reasonable
18 access to ducts, conduits, rights-of-way, and other pathways
19 owned or controlled by the local exchange carrier to which
20 reasonable access is necessary to a competitive local exchange
21 service provider in order for a competitive local exchange
22 service provider to provide service and is feasible for the
23 local exchange carrier.

24 4. a. Prior to July 1, 1996, the board shall conduct an
25 evidentiary hearing and adopt rules that do all of the
26 following:

27 (1) Require a local exchange carrier to provide on an
28 unbundled basis essential facilities of its network, and allow
29 reasonable and nondiscriminatory equal access to, use of, and
30 interconnection with, those unbundled essential facilities on
31 reasonable, cost-based, and tariffed terms and conditions.
32 The board's rules must require a local exchange carrier,
33 including those operating under a plan of price regulation, to
34 file tariffs implementing the unbundled essential facilities
35 within ninety days of the board's final order adopting such

1 rules. The board shall approve those tariffs even if the
2 implementation of the unbundled essential facilities and the
3 cost methodology rules adopted by the board result in rate
4 changes for certain customer classes or certain basic
5 communications services. Such access, use, and
6 interconnection shall be on terms and conditions identical to
7 those the local exchange carrier provides to itself and its
8 affiliates for the provision of local exchange, access, and
9 toll services.

10 (2) Require just, reasonable, and nondiscriminatory
11 compensation or arrangements on a reciprocal, equal, and
12 tariffed basis for termination of telecommunications services
13 between local exchange carriers and competitive local exchange
14 service providers.

15 (3) Require local exchange carriers to make interim number
16 portability available on request of a competitive local
17 exchange service provider, and to implement provider number
18 portability as soon as the availability of necessary
19 technology makes provider number portability economically and
20 technically feasible, as determined by the board. The rules
21 shall also devise a reasonable and nondiscriminatory mechanism
22 for the recovery of all recurring and nonrecurring costs of
23 interim and provider number portability.

24 (4) Develop the cost methodology appropriate for a
25 competitive telecommunications environment.

26 b. The rules adopted in paragraph "a", subparagraphs (1),
27 (2), and (3), do not apply to local exchange carriers with
28 less than seventy-five thousand access lines until a
29 competitive local exchange service provider has filed for a
30 certificate to provide basic communications services in an
31 exchange or exchanges of the local exchange carrier, or the
32 board determines that competitive necessity requires the
33 implementation of the rules in paragraph "a", subparagraphs
34 (1), (2), and (3), by the local exchange carrier.

35 5. Local exchange carriers shall file tariffs or price

1 lists in accordance with board rules with respect to the
2 services, features, functions, and capabilities offered to
3 comply with board rules on unbundling of essential facilities
4 and interconnection. Local exchange carriers shall submit
5 with the tariffs or price lists for basic communications
6 services and toll services supporting information that is
7 sufficient for the board to determine the relationship between
8 the proposed charges and the costs of providing such services,
9 features, functions, or capabilities. The board shall review
10 the tariffs or price lists to ensure that the charges are
11 cost-based and that the terms and conditions contained in the
12 tariffs or price lists unbundle any essential facilities in
13 accordance with the board's rules and any other applicable
14 laws.

15 6. This section shall not be construed to prohibit the
16 board from enforcing rules or orders entered in contested
17 cases pending on the effective date of this Act to the extent
18 that such rules and orders are consistent with the provisions
19 of this section.

20 7. The resale or sharing of local exchange services and
21 unbundled essential facilities shall not be prohibited or
22 subjected to use restrictions by the local exchange carrier or
23 the board, except that the board may provide by rule, for
24 reasonable restrictions upon the resale of local exchange
25 services between different classes of customers, such as the
26 resale of residential local exchange service to business
27 customers.

28 8. Any person may file a written complaint with the board
29 requesting the board to determine compliance by a local
30 exchange carrier with the provisions of sections 476.30A
31 through 476.30C and this section, or any board rules
32 implementing those sections. Upon the filing of such
33 complaint, the board shall promptly initiate a formal
34 complaint proceeding and give notice of the proceeding and the
35 opportunity for hearing. The formal complaint proceeding may

1 be initiated at any time by the board on its own motion. The
2 board shall render a decision in the proceeding within ninety
3 days after the date the written complaint was filed.

4 Sec. 8. NEW SECTION. 476.30E UNIVERSAL SERVICE.

5 1. The board shall initiate a proceeding to reform
6 universal service such that it shall be maintained in a
7 competitively neutral fashion. As a part of this proceeding,
8 the board shall determine the difference between the cost of
9 providing universal service and the prices determined to be
10 appropriate for such service.

11 2. The board shall base policies for the preservation of
12 universal service on the following principles:

13 a. A plan adopted by the board should ensure the continued
14 viability of universal service by maintaining quality services
15 at just and reasonable rates.

16 b. The plan should define the nature and extent of the
17 service encompassed within carriers' universal service
18 obligations.

19 c. The plan should establish specific and predictable
20 mechanisms to provide competitively neutral support for
21 universal service. Those mechanisms shall include a
22 nondiscriminatory mechanism by which funds to support
23 universal service shall be collected, and a mechanism for
24 disbursement of support funds to eligible subscribers, either
25 directly to those subscribers, or to the subscriber's provider
26 of local exchange services chosen by the subscriber.

27 d. The plan should be based on other principles as the
28 board determines are necessary and appropriate for the
29 protection of the public interest, convenience, and necessity
30 and consistent with the purposes of sections 476.30 through
31 476.30D and this section.

32 Sec. 9. REPORT. The utilities board shall submit a report
33 to the general assembly no later than January 15, 1999,
34 concerning the implementation of price regulation for local
35 exchange carriers furnishing communications services.

EXPLANATION

1

2 This bill provides the utilities board with the authority
3 to adopt rules implementing price regulation for telephone
4 utilities.

5 Section 476.3 is amended to provide that the consumer
6 advocate is prohibited from filing a petition alleging a local
7 exchange carrier's rates are excessive while the carrier is
8 participating in a price regulation plan approved by the
9 board.

10 Section 476.29 is amended to provide that the board is to
11 issue a certificate of public convenience and necessity to an
12 applicant which is not a local exchange carrier so long as the
13 applicant possesses the technical, financial, and managerial
14 ability to provide the service which the applicant proposes to
15 offer and the board finds the service offering is consistent
16 with the public interest.

17 New section 476.30 sets forth the legislative findings and
18 statement of policy regarding communications services and the
19 regulation of telecommunications companies.

20 New section 476.30A establishes the definitions of terms
21 used in sections 476.30A through 476.30E.

22 New section 476.30B grants the utilities board authority to
23 approve a plan of price regulation submitted by a rate-
24 regulated local exchange carrier. A plan submitted by such
25 carrier is not effective until the board approves the tariffs
26 implementing the unbundling of essential facilities pursuant
27 to section 476.30D. The plan submitted by the carrier is to
28 provide for establishing and changing prices, terms, and
29 conditions for basic communications services and nonbasic
30 communications services; reporting new service offerings to
31 the board; reflecting changes in revenues, expenses, and
32 investment due to exogenous factors beyond the control of the
33 carrier in rates charged by the carrier; encouraging the
34 modernization of the carrier's telecommunications
35 infrastructure; and providing notice regarding changes in

1 prices, terms, or conditions for basic and nonbasic
2 communications services. The board, under a plan of price
3 regulation, is to continue to maintain regulatory authority
4 over the level, extent, and timing of the unbundling of
5 essential facilities by the carrier, and ensuring against
6 cross-subsidization between basic and nonbasic communications
7 services. The consumer advocate is authorized to represent
8 consumers before the board regarding any rule, order, or
9 proceeding concerning price regulation. The board is to
10 determine the duration of any plan of price regulation.

11 New section 476.30C sets forth certain acts in which a
12 local exchange carrier is prohibited from engaging. Those
13 acts include discriminating against another communications
14 provider by refusing or delaying access to services or
15 essential facilities on the same terms and conditions the
16 carrier provides to itself or its affiliates, degrading the
17 quality of access or service provided to another provider,
18 unreasonably refusing or delaying interconnections or
19 providing inferior interconnections, and using basic exchange
20 service rates to subsidize or offset the costs of other
21 products or services offered by the local exchange carrier.

22 New section 476.30D provides that the issuance of a
23 certificate of public convenience and necessity does not
24 convey a monopoly, exclusive privilege, or franchise. The
25 section provides that prior to July 1, 1996, the board is to
26 conduct an evidentiary hearing and adopt rules requiring a
27 local exchange carrier to provide essential facilities of its
28 network on an unbundled basis and allow equal access to and
29 use of such facilities. The rules are to require a local
30 exchange carrier to provide for interim number portability on
31 request of a competitive local exchange service provider. The
32 section provides that these rules do not apply to local
33 exchange carriers with less than 75,000 access lines until a
34 local exchange service provider has filed for a certificate to
35 provide basic exchange services in an exchange or exchanges of

1 the local exchange carrier. The section provides that a
2 person may file a written complaint requesting the board to
3 determine compliance by a local exchange carrier with the
4 provisions of sections 476.30A through 476.30D.

5 New section 476.30E directs the board to reform universal
6 service so that it is maintained in a competitively neutral
7 manner. The board is to determine the difference between the
8 cost of providing universal service and prices determined to
9 be appropriate for such service.

10 Section 9 directs the board to submit a report to the
11 general assembly no later than January 15, 1999, concerning
12 the implementation of price regulation for local exchange
13 carriers furnishing communications services.

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**HOUSE FILE 518
FISCAL NOTE**

A fiscal note for **House File 518** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 518 provides the Utilities Board with authority to adopt rules implementing price regulation for telephone utilities.

Assumption: When assessing charges to Utility Companies, the Office of the Consumer Advocate and the Utilities Board will include the costs incurred in implementing this Bill.

Fiscal Effect: The estimated net effect on the State General Fund would be zero in both FY 1996 and FY 1997.

Office of the Consumer Advocate

	<u>FY 1996</u>	<u>FY 1997</u>
REVENUES		
General Fund	\$ 631,100	\$ 392,600
EXPENSES		
In-State Travel	\$ 2,000	\$ 2,000
Out-of-State Travel	14,500	4,000
Office Supplies	3,200	3,200
Communications	1,400	900
Professional & Scientific Services	600,000	375,000
Outside Services	10,000	7,500
TOTAL EXPENSES	<u>\$ 631,100</u>	<u>\$ 392,600</u>
Net Effect	\$ 0	\$ 0

Utilities Board

	<u>FY 1996</u>	<u>FY 1997</u>
REVENUES		
General Fund	\$ 206,630	\$ 206,630
EXPENSES		
Salaries	\$ 187,930	\$ 187,930
Support	18,700	18,700
TOTAL EXPENSES	<u>\$ 206,630</u>	<u>\$ 206,630</u>
Net Effect	\$ 0	\$ 0

(LSB 1200hv, VMT)

FILED APRIL 4, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 518

H-3612

- 1 Amend House File 518 as follows:
- 2 1. Page 7, by inserting after line 30 the
- 3 following:
- 4 "10. The board, in determining whether to file a
- 5 written complaint pursuant to subsection 6 or prior to
- 6 reviewing a local exchange carrier's operation
- 7 pursuant to subsection 9, may request that such
- 8 carrier provide any information which the board deems
- 9 necessary to make such determination or conduct such
- 10 review. The carrier shall provide the requested
- 11 information upon receipt of the request from the
- 12 board."
- 13 2. By renumbering as necessary.

By BRAND of Benton

H-3612 FILED MARCH 29, 1995

out of order 4-6-95 (P. 1331)

HOUSE FILE 518

H-3613

- 1 Amend House File 518 as follows:
- 2 1. Page 7, line 21, by inserting after the word
- 3 "plan" the following: "which shall be for a period of
- 4 at least three years but for no more than five years".
- 5 2. Page 7, by striking lines 28 through 30 and
- 6 inserting the following: "carrier's plan as a result
- 7 of the review.
- 8 10. The board, at the expiration of the time
- 9 period for a plan, shall conduct a hearing for review
- 10 of the rates of the local exchange carrier pursuant to
- 11 sections 476.3 and 476.6."

By WEIGEL of Chickasaw

H-3613 FILED MARCH 29, 1995

out of order 4-6-95 (P. 1331)

HOUSE FILE 518

H-3614

- 1 Amend House File 518 as follows:
- 2 1. Page 7, line 21, by inserting after the word
- 3 "plan" the following: "which shall be for a period of
- 4 three to five years".
- 5 2. Page 7, by striking line 24 and inserting the
- 6 following: "no later than one year prior to".

By WEIGEL of Chickasaw

H-3614 FILED MARCH 29, 1995

out of order 4-6-95 (P. 1331)

HOUSE FILE 518

H-3615

- 1 Amend House File 518 as follows:
- 2 1. Page 12, by striking lines 24 through 26 and
- 3 inserting the following: "disbursement of support
- 4 funds directly to eligible subscribers."

By FALLON of Polk

H-3615 FILED MARCH 29, 1995

out of order 4-6-95

HOUSE FILE 518

H-3610

1 Amend House File 518 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 476.3, subsection 2, Code
5 1995, is amended by adding the following new
6 unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. Notwithstanding the
8 provisions of this subsection, the consumer advocate
9 shall not file a petition under this subsection that
10 alleges a local exchange carrier's rates are excessive
11 while the local exchange carrier is participating in a
12 price regulation plan approved by the board pursuant
13 to section 476.30B.

14 Sec. 2. Section 476.10, unnumbered paragraph 4,
15 Code 1995, is amended to read as follows:

16 Whenever the board shall deem it necessary in order
17 to carry out the duties imposed upon it in connection
18 with rate regulation under section 476.6,
19 investigations under section 476.3, or review
20 proceedings under section 476.31, the board may employ
21 additional temporary or permanent staff, or may
22 contract with persons who are not state employees for
23 engineering, accounting, or other professional
24 services, or both. The costs of these additional
25 employees and contract services shall be paid by the
26 public utility whose rates are being reviewed in the
27 same manner as other expenses are paid under this
28 section. Beginning on July 1, 1991, there is
29 appropriated out of any funds in the state treasury
30 not otherwise appropriated, such sums as may be
31 necessary to enable the board to hire additional staff
32 and contract for services under this section. The
33 board shall increase quarterly assessments specified
34 in unnumbered paragraph 2, by amounts necessary to
35 enable the board to hire additional staff and contract
36 for services under this section. The authority to
37 hire additional temporary or permanent staff that is
38 granted to the board by this section shall not be
39 subject to limitation by any administrative or
40 executive order or decision that restricts the number
41 of state employees or the filling of employee
42 vacancies, and shall not be subject to limitation by
43 any law of this state that restricts the number of
44 state employees or the filling of employee vacancies
45 unless that law is made applicable to this section by
46 express reference to this section. Before the board
47 expends or encumbers an amount in excess of the funds
48 budgeted for rate regulation and before the board
49 increases quarterly assessments pursuant to this
50 paragraph, the director of the department of

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1 management shall approve the expenditure or
2 encumbrance. Before approval is given, the director
3 of the department of management shall determine that
4 the expenses exceed the funds budgeted by the general
5 assembly to the board for rate regulation and that the
6 board does not have other funds from which the
7 expenses can be paid. Upon approval of the director
8 of the department of management the board may expend
9 and encumber funds for the excess expenses, and
10 increase quarterly assessments to raise the additional
11 funds. The board and the office of consumer advocate
12 may add additional personnel or contract for
13 additional assistance to review and evaluate energy
14 efficiency plans and the implementation of energy
15 efficiency programs including, but not limited to,
16 professionally trained engineers, accountants,
17 attorneys, skilled examiners and inspectors, and
18 secretaries and clerks. The board and the office of
19 consumer advocate may also contract for additional
20 assistance in the evaluation and implementation of
21 issues relating to telecommunication competition. The
22 board and the office of the consumer advocate may
23 expend additional sums beyond those sums appropriated.
24 However, the authority to add additional personnel or
25 contract for additional assistance must first be
26 approved by the department of management. The
27 additional sums for energy efficiency shall be
28 provided to the board and the office of the consumer
29 advocate by the utilities subject to the energy
30 efficiency requirements in this chapter. Telephone
31 companies shall pay any additional sums needed for
32 assistance with telecommunication competition issues.
33 The assessments shall be in addition to and separate
34 from the quarterly assessment.

35 Sec. 3. Section 476.11, Code 1995, is amended by
36 adding the following new unnumbered paragraph:

37 NEW UNNUMBERED PARAGRAPH. The board may resolve
38 complaints, upon notice and hearing, that a utility,
39 operating under section 476.29, has failed to provide
40 just, reasonable, and nondiscriminatory arrangements
41 for interconnection of its telecommunications services
42 with another telecommunications provider.

43 Sec. 4. Section 476.29, subsection 2, Code 1995,
44 is amended to read as follows:

45 2. Except as provided in subsection 12, a
46 certificate shall be issued by the board, after notice
47 and opportunity for hearing, if the board determines
48 that the service proposed to be rendered will promote
49 the public convenience and necessity, provided that an
50 applicant other than a local exchange carrier, as

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1 defined in section 476.30A, shall not be denied a
2 certificate if the board finds that the applicant
3 possesses the technical, financial, and managerial
4 ability to provide the service it proposes to render
5 and the board finds the service is consistent with the
6 public interest. The board shall make a determination
7 within ninety days of the submission by the applicant
8 of evidence of its technical, financial, and
9 managerial ability, unless the board determines that
10 additional time is necessary to consider the
11 application, in which case the board may extend the
12 time for making a determination for an additional
13 sixty days. The board may establish reasonable
14 conditions or restrictions on the certificate at the
15 time of issuance.

16 Sec. 5. NEW SECTION. 476.30 FINDINGS --
17 STATEMENT OF POLICY.

18 The general assembly finds all of the following:

19 1. Communications services should be available
20 throughout the state at just, reasonable, and
21 affordable rates from a variety of providers.

22 2. In rendering decisions with respect to
23 regulation of telecommunications companies, the board
24 shall consider the effects of its decisions on
25 competition in telecommunications markets and, to the
26 extent reasonable and lawful, shall act to further the
27 development of competition in those markets.

28 2A. In order to encourage competition for all
29 telecommunications services, the board should address
30 issues relating to the movement of prices toward cost
31 and the removal of subsidies in the existing price
32 structure of the incumbent local exchange carrier.

33 3. Regulatory flexibility is appropriate when
34 competition provides customers with competitive
35 choices in the variety, quality, and pricing of
36 communications services, and when consistent with
37 consumer protection and other relevant public
38 interests.

39 4. The board should respond with speed and
40 flexibility to changes in the communications industry.

41 5. Economic development can be fostered by the
42 existence of advanced communications networks.

43 Sec. 6. NEW SECTION. 476.30A DEFINITIONS.

44 As used in section 476.30, this section, and
45 sections 476.30B through 476.30E, unless the context
46 otherwise requires:

47 1. "Basic communications service" includes at a
48 minimum, basic local telephone service, switched
49 access, 911 and E-911 services, and dual party relay
50 service. The board is authorized to classify by rule

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1 other two-way switched voice communications services
2 as basic communications services consistent with
3 community expectations and the public interest.

4 2. "Basic local telephone service" means the
5 provision of dial tone access and usage, for the
6 transmission of two-way switched communications within
7 a local exchange area, including, but not limited to,
8 the following:

- 9 a. Primary residence service and business
10 services, including flat rate or local measured
11 service, private branch exchange trunks, trunk type
12 hunting services, direct inward dialing, and the
13 network access portion of central office switched
14 exchange service.
15 b. Extended area service.
16 c. Touch tone service when provided separately.
17 d. Call tracing.
18 e. Calling number blocking on either a per call or
19 a per line basis.
20 f. Local exchange white pages directories.
21 g. Installation and repair of local network
22 access.

23 h. Local operator services, excluding directory
24 assistance.

25 i. Toll service blocking and 1-900 and 1-976
26 access blocking.

27 3. "Competitive local exchange service provider"
28 means any person that provides local exchange
29 services, other than a local exchange carrier or a
30 nonrate-regulated wireline provider of local exchange
31 services under an authorized certificate of public
32 convenience and necessity within a specific geographic
33 area described in maps filed with and approved by the
34 board as of September 30, 1992.

35 4. "Interim number portability" means one or more
36 mechanisms by which a local exchange customer at a
37 particular location may change the customer's local
38 exchange services provider without any change in the
39 local exchange customer's telephone number, while
40 experiencing as little loss of functionality as is
41 feasible using available technology.

42 5. "Local exchange carrier" means any person that
43 was the incumbent and historical rate-regulated
44 wireline provider of local exchange services or any
45 successor to such person that provides local exchange
46 services under an authorized certificate of public
47 convenience and necessity within a specific geographic
48 area described in maps filed with and approved by the
49 board as of September 30, 1992.

50 6. "Nonbasic communications services" means all

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1 communications services subject to the board's
2 jurisdiction which are not deemed either by statute or
3 by rule to be basic communications services, including
4 any service offered by the local exchange carrier for
5 the first time after the effective date of this Act.
6 A service is not considered new if it constitutes the
7 bundling, unbundling, or repricing of an already
8 existing service. Consistent with community
9 expectations and the public interest, the board may
10 reclassify by rule as nonbasic those two-way switched
11 communications services previously classified by rule
12 as basic.

13 7. "Provider number portability" means the
14 capability of a local exchange customer to change the
15 customer's local exchange services provider at the
16 customer's same location without any change in the
17 local exchange customer's telephone number, while
18 preserving the full range of functionality that the
19 customer currently experiences. "Provider number
20 portability" includes the equal availability of
21 information concerning the local exchange provider
22 serving the number to all carriers, and the ability to
23 deliver traffic directly to that provider without
24 having first to route traffic to the local exchange
25 carrier or otherwise use the services, facilities, or
26 capabilities of the local exchange carrier to complete
27 the call, and without the dialing of additional digits
28 or access codes.

29 Sec. 7. NEW SECTION. 476.30B PRICE REGULATION.

30 1. Notwithstanding contrary provisions of this
31 chapter relating to rate regulation, the board may
32 approve a plan for price regulation submitted by a
33 rate-regulated local exchange carrier. The plan for
34 price regulation is not effective until the approval
35 by the board of tariffs implementing the unbundling of
36 essential facilities pursuant to section 476.30D,
37 subsection 4, except for a local exchange carrier with
38 less than seventy-five thousand access lines whose
39 plan for price regulation will be effective concurrent
40 with the approval of its plan. The board may approve
41 a plan for price regulation prior to the adoption of
42 rules related to the unbundling of essential
43 facilities or concurrent with a rate proceeding under
44 section 476.3, 476.6, or 476.7. During the term of
45 the plan, the board shall regulate the prices of the
46 local exchange carrier's basic and nonbasic
47 communications services pursuant to the requirements
48 of the price regulation plan approved by the board.
49 The local exchange carrier shall not be subject to
50 rate of return regulation during the term of the plan.

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1 2. The board, after notice and opportunity for
2 hearing, may approve, modify, or reject the plan. The
3 local exchange carrier shall have ten days to accept
4 or reject any board modifications to its plan. If the
5 local exchange carrier rejects a modification to its
6 plan, the board shall reject the plan without
7 prejudice to the local exchange carrier to submit
8 another plan.

9 3. A price regulation plan, at a minimum, shall
10 include provisions, consistent with the provisions of
11 this section and any rules adopted by the board, for
12 the following:

13 a. (1) Establishing and changing prices, terms,
14 and conditions for basic communications services. The
15 initial plan for price regulation must include a
16 proposal, which the board shall approve, for reducing
17 the local exchange carrier's average intrastate access
18 service rates to the local exchange carrier's average
19 interstate access service rates in effect as of the
20 last day of the calendar year immediately preceding
21 the date of filing of the plan, as follows:

22 (a) A local exchange carrier with five hundred
23 thousand or more access lines in this state shall
24 reduce its average intrastate access service rates to
25 its average interstate access service rates as of the
26 date that the plan is filed.

27 (b) A local exchange carrier with fewer than five
28 hundred thousand but seventy-five thousand or more
29 access lines in this state shall reduce its average
30 intrastate access service rates to its average
31 interstate access service rates in increments of at
32 least twenty-five percent, with the initial reduction
33 to take effect on approval of the plan and equal
34 annual reductions on each anniversary of the approval
35 during the first three years that its plan is in
36 effect.

37 (c) A local exchange carrier with fewer than
38 seventy-five thousand access lines in this state shall
39 reduce its average intrastate access service rates to
40 its average interstate access service rates with equal
41 annual reductions during a period beginning no more
42 than two years and ending no more than five years from
43 the plan's inception.

44 (2) This section shall not be construed to do
45 either of the following:

46 (a) Prohibit an additional decrease in a carrier's
47 average intrastate access service rate during the term
48 of the plan.

49 (b) Permit any increase in a carrier's average
50 intrastate access service rates during the term of the

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1 plan.

2 (3) The plan shall also provide that the initial
3 prices for basic communications services shall be six
4 percent less than the rates approved and in effect at
5 the time the local exchange carrier files its plan.
6 In lieu of the six percent reduction, a local exchange
7 carrier may elect to establish its rates for basic
8 communications services in a rate proceeding under
9 section 476.3 or 476.6 commenced after the effective
10 date of this Act. The plan shall provide that no
11 price increases shall be undertaken within twelve
12 months of the date of approval of the local exchange
13 carrier's plan, or within twelve months of the last
14 price change for basic communications services.

15 (4) The plan shall provide for both increases and
16 decreases in the prices for basic communications
17 services reflecting annual changes in inflation and
18 productivity. Prior to January 1, 1998, the board
19 shall use the gross domestic product price index, as
20 published by the federal government, for an inflation
21 measure, and two and six-tenths percentage points for
22 a productivity measure. After January 1, 1998, the
23 board by rule may adopt current measures of inflation
24 and productivity.

25 (5) The plan may provide that price increases for
26 basic communications services which are permitted
27 under this section may be deferred and accumulated for
28 a maximum of three years into a single price increase,
29 provided that a deferred and accumulated price
30 increase under this section shall not at any time
31 exceed six percent. A price decrease for basic
32 communications services shall not be deferred or
33 accumulated, except that price decreases of less than
34 two percent may be deferred by the local exchange
35 carrier for one year. A price decrease required under
36 this section may be offset by a price increase for a
37 basic communications service that would have been
38 permitted under this section in the previous twelve-
39 month period, but which was deferred by the local
40 exchange carrier.

41 b. Establishing and changing prices, terms, and
42 conditions for nonbasic communications services.

43 c. Reporting new service offerings to the board.

44 d. Reflecting in rates any changes in revenues,
45 expenses, and investment due to exogenous factors
46 beyond the control of the utility.

47 e. Encouraging modernization of the utility's
48 telecommunications infrastructure.

49 f. Providing notice to customers, the board, and
50 the consumer advocate of changes in prices, terms, or

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1 conditions for basic and nonbasic communications
2 services.

3 4. The board shall consider the extent to which a
4 proposed plan complies with the requirements of
5 subsection 3 and achieves the following:

6 a. Just, nondiscriminatory, and reasonable rates.

7 b. High quality, universally available

8 communications services.

9 c. Encouragement of investment in communications
10 infrastructure, efficiency improvements, and
11 technological innovation.

12 d. The introduction of new communications products
13 and services from a variety of sources.

14 e. Regulatory efficiency including reduction of
15 regulatory costs and delays. A plan shall not provide
16 for waiver of, release from, or delay in implementing
17 the provisions of this section, section 476.30D or
18 476.30E or any rules adopted by the board pursuant to
19 those sections.

20 5. Notwithstanding an approved plan for price
21 regulation, the board shall continue to have
22 regulatory authority over the following:

23 a. The level, extent, and timing of the unbundling
24 of essential facilities offered by a local exchange
25 carrier.

26 b. Ensuring against cross-subsidization between
27 nonbasic communications services and basic
28 communications services.

29 6. Any person, including the consumer advocate, a
30 body politic, or the board on its own motion, may file
31 a written complaint pursuant to section 476.3,
32 subsection 1, regarding a local exchange carrier's
33 implementation, operation under, or satisfaction of
34 the purposes of its price regulation plan.

35 7. The consumer advocate may represent consumers
36 before the board regarding any rule, order, or
37 proceeding pertaining to price regulation. The
38 consumer advocate may act as attorney for and
39 represent consumers generally before any state or
40 federal court concerning a board rule, order, or
41 proceeding pertaining to price regulation.

42 8. In implementing price regulation, the board
43 shall consider competitively neutral methods to assist
44 lower-income Iowans to secure and retain telephone
45 services.

46 9. The board shall determine the duration of any
47 plan. The board shall review a local exchange
48 carrier's operation under its plan, with notice and an
49 opportunity for hearing, within four years of the
50 initiation of the plan and prior to the termination of

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1 the plan. The local exchange carrier, consumer
2 advocate, or any person may propose, and the board may
3 approve, any reasonable modifications to a local
4 exchange carrier's plan as a result of the review,
5 except that such modifications shall not require a
6 reduction in the rates for any basic communications
7 service.

8 Sec. 8. NEW SECTION. 476.30C PROHIBITED ACTS.

9 A local exchange carrier shall not do any of the
10 following:

11 1. Discriminate against another provider of
12 communications services by refusing or delaying access
13 to the local exchange carrier's services.

14 2. Discriminate against another provider of
15 communications services by refusing or delaying access
16 to essential facilities on terms and conditions no
17 less favorable than those the local exchange carrier
18 provides to itself and its affiliates. An essential
19 facility is a local telecommunications facility,
20 feature, function, or capability of the local exchange
21 carrier's network that competitors cannot practically
22 or economically duplicate or obtain from other
23 sources, and to which reasonable access is necessary
24 to enable competition.

25 3. Degrade the quality of access or service
26 provided to another provider of communications
27 services.

28 4. Fail to disclose in a timely manner, upon
29 reasonable request and pursuant to a protective
30 agreement concerning proprietary information, all
31 information reasonably necessary for the design of
32 network interface equipment, network interface
33 services, or software that will meet the
34 specifications of the local exchange carrier's local
35 exchange network.

36 5. Unreasonably refuse or delay interconnections
37 or provide inferior interconnections to another
38 provider.

39 6. Use basic exchange service rates, directly or
40 indirectly, to subsidize or offset the costs of other
41 products or services offered by the local exchange
42 carrier.

43 7. Discriminate in favor of itself or an affiliate
44 in the provision and pricing of, or extension of
45 credit for, any telephone service.

46 Sec. 9. NEW SECTION. 476.30D LOCAL EXCHANGE
47 COMPETITION.

48 1. A certificate of public convenience and
49 necessity to provide local telephone service shall not
50 be interpreted as conveying a monopoly, exclusive

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1 privilege, or franchise. A competitive local exchange
2 service provider shall not be subject to the
3 requirements of this chapter, except that a
4 competitive local exchange service provider shall
5 obtain a certificate of public convenience and
6 necessity pursuant to section 476.29, file tariffs,
7 notify affected customers prior to any rate increase,
8 file reports, information, and pay assessments
9 pursuant to section 476.2, subsection 4, and sections
10 476.9, 476.10, 476.16, 476.30E, and 477C.7, and shall
11 be subject to the board's authority with respect to
12 adequacy of service, interconnection, discontinuation
13 of service, civil penalties, and complaints. If,
14 after notice and opportunity for hearing, the board
15 determines that a competitive local exchange service
16 provider possesses market power in its local exchange
17 market or markets, the board may apply such other
18 provisions of chapter 476 to a competitive local
19 exchange service provider as it deems appropriate.

20 2. The duty of a local exchange carrier includes
21 the duty, in accordance with requirements prescribed
22 by the board pursuant to subsection 3 and other laws,
23 to provide equal access to, and interconnection with,
24 its facilities so that its network is fully
25 interoperable with the telecommunications services and
26 information services of other providers, and to offer
27 unbundled essential facilities.

28 3. A local exchange carrier shall provide
29 reasonable access to ducts, conduits, rights-of-way,
30 and other pathways owned or controlled by the local
31 exchange carrier to which reasonable access is
32 necessary to a competitive local exchange service
33 provider in order for a competitive local exchange
34 service provider to provide service and is feasible
35 for the local exchange carrier.

36 Upon application of a local exchange carrier or a
37 competitive local exchange service provider, the board
38 shall determine any matters concerning reasonable
39 access to ducts, conduits, rights-of-way, and other
40 pathways owned or controlled by the local exchange
41 carrier upon which agreement cannot be reached,
42 including but not limited to, matters regarding
43 valuation, space, and capacity restraints, and
44 compensation for access.

45 4. a. Prior to September 1, 1995, the board shall
46 initiate a rule-making proceeding to adopt rules that
47 satisfy the requirements enumerated in subparagraphs
48 (1) through (4). The rule-making proceeding shall be
49 completed as promptly as possible. The board, upon
50 petition or on its own motion, may conduct a separate

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1 evidentiary hearing on the same or related subjects.
2 The evidence from a hearing may be considered by the
3 board during the rule-making proceeding, provided that
4 the board announces its intention to do so prior to
5 the oral presentation in the rule-making proceeding.
6 The rules shall do the following:

7 (1) Require a local exchange carrier to provide
8 unbundled essential facilities of its network, and
9 allow reasonable and nondiscriminatory equal access
10 to, use of, and interconnection with, those unbundled
11 essential facilities on reasonable, cost-based, and
12 tariffed terms and conditions. The board's rules must
13 require a local exchange carrier, including those
14 operating under a plan of price regulation, to file
15 tariffs implementing the unbundled essential
16 facilities within ninety days of the board's final
17 order adopting such rules. Such access, use, and
18 interconnection shall be on terms and conditions no
19 less favorable than those the local exchange carrier
20 provides to itself and its affiliates for the
21 provision of local exchange, access, and toll
22 services. This subsection shall not be construed to
23 establish a presumption as to the level of
24 interconnection charges, if any, to be determined by
25 the board pursuant to subparagraph (2).

26 (2) Require just, reasonable, and
27 nondiscriminatory compensation or arrangements on a
28 reciprocal, equitable, and tariffed basis for
29 termination of telecommunications services between
30 local exchange carriers and competitive local exchange
31 service providers.

32 (3) Require local exchange carriers to make
33 interim number portability available on request of a
34 competitive local exchange service provider, and to
35 implement provider number portability as soon as the
36 availability of necessary technology makes provider
37 number portability economically and technically
38 feasible, as determined by the board. The rules shall
39 also devise a reasonable and nondiscriminatory
40 mechanism for the recovery of all recurring and
41 nonrecurring costs of interim and provider number
42 portability.

43 (4) Develop the cost methodology appropriate for a
44 competitive telecommunications environment.

45 b. The rules adopted in paragraph "a",
46 subparagraphs (1), (2), and (3), do not apply to local
47 exchange carriers with less than seventy-five thousand
48 access lines until a competitive local exchange
49 service provider has filed for a certificate to
50 provide basic communications services in an exchange

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1 or exchanges of the local exchange carrier, or the
2 board determines that competitive necessity requires
3 the implementation of the rules in paragraph "a",
4 subparagraphs (1), (2), and (3), by the local exchange
5 carrier.

6 5. Local exchange carriers shall file tariffs or
7 price lists in accordance with board rules with
8 respect to the services, features, functions, and
9 capabilities offered to comply with board rules on
10 unbundling of essential facilities and
11 interconnection. Local exchange carriers shall submit
12 with the tariffs or price lists for basic
13 communications services and toll services supporting
14 information that is sufficient for the board to
15 determine the relationship between the proposed
16 charges and the costs of providing such services,
17 features, functions, or capabilities, including the
18 imputed cost of intrastate access service rates in
19 toll service rates pursuant to existing board orders.
20 The board shall review the tariffs or price lists to
21 ensure that the charges are cost-based and that the
22 terms and conditions contained in the tariffs or price
23 lists unbundle any essential facilities in accordance
24 with the board's rules and any other applicable laws.

25 6. This section shall not be construed to prohibit
26 the board from enforcing rules or orders entered in
27 contested cases pending on the effective date of this
28 Act to the extent that such rules and orders are
29 consistent with the provisions of this section.

30 7. Except as provided under section 476.29,
31 subsection 2, and this section, the board shall not
32 impose or allow a local exchange carrier to impose
33 restrictions on the resale of local exchange services,
34 functions, or capabilities. The board may prohibit
35 residential service from being resold as a different
36 class of service.

37 8. Any person may file a written complaint with
38 the board requesting the board to determine compliance
39 by a local exchange carrier with the provisions of
40 sections 476.30A through 476.30C, 476.30E, and this
41 section, or any board rules implementing those
42 sections. Upon the filing of such complaint, the
43 board may promptly initiate a formal complaint
44 proceeding and give notice of the proceeding and the
45 opportunity for hearing. The formal complaint
46 proceeding may be initiated at any time by the board
47 on its own motion. The board shall render a decision
48 in the proceeding within ninety days after the date
49 the written complaint was filed.

50 Sec. 10. NEW SECTION. 476.30E UNIVERSAL SERVICE.

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1 1. The board shall initiate a proceeding to
2 preserve universal service such that it shall be
3 maintained in a competitively neutral fashion. As a
4 part of this proceeding, the board shall determine the
5 difference between the cost of providing universal
6 service and the prices determined to be appropriate
7 for such service.

8 2. The board shall base policies for the
9 preservation of universal service on the following
10 principles:

11 a. A plan adopted by the board should ensure the
12 continued viability of universal service by
13 maintaining quality services at just and reasonable
14 rates.

15 b. The plan should define the nature and extent of
16 the service encompassed within any entities' universal
17 service obligations.

18 c. The plan should establish specific and
19 predictable mechanisms to provide competitively
20 neutral support for universal service. Those
21 mechanisms shall include a nondiscriminatory mechanism
22 by which funds to support universal service shall be
23 collected, and a mechanism for disbursement of support
24 funds to eligible subscribers, either directly to
25 those subscribers, or to the subscriber's provider of
26 local exchange services chosen by the subscriber.

27 d. The plan should be based on other principles as
28 the board determines are necessary and appropriate for
29 the protection of the public interest, convenience,
30 and necessity and consistent with the purposes of
31 sections 476.30 through 476.30D and this section.

32 Sec. 11. REPORT. The utilities board shall submit
33 a report to the general assembly no later than January
34 15, 1999, concerning the implementation of price
35 regulation for local exchange carriers furnishing
36 communications services."

By METCALF of Polk

H-3610 FILED MARCH 29, 1995

Adopted 4-6-95
(P. 1331)

HOUSE FILE 518

H-3611

1 Amend House File 518 as follows:

2 1. Page 7, by striking line 21 and inserting the
3 following:

4 "9. The duration of any plan shall be for a period
5 of three to five years."

6 2. Page 7, by striking line 24 and inserting the
7 following: "no later than one year prior to".

By WEIGEL of Chickasaw

H-3611 FILED MARCH 29, 1995

out of order 4-6-95
(P. 1331)

HOUSE FILE 518

H-3616

- 1 Amend House File 518 as follows:
- 2 1. Page 6, by inserting after line 16 the
- 3 following:
- 4 "g. Providing that no price increases shall be
- 5 undertaken within three years of the date of approval
- 6 of the rate-regulated utilities plan."

By BRAND of Benton

H-3616 FILED MARCH 29, 1995

out of order 4-6-95
(P.1331)

HOUSE FILE 518

H-3617

- 1 Amend House File 518 as follows:
- 2 1. Page 5, line 12, by striking the word "six"
- 3 and inserting the following: "ten".
- 4 2. Page 5, line 14, by striking the word "six"
- 5 and inserting the following: "ten".

By BRAND of Benton

H-3617 FILED MARCH 29, 1995

out of order 4-6-95
(P.1331)

HOUSE FILE 518

H-3618

- 1 Amend House File 518 as follows:
- 2 1. By striking page 5, line 31 through page 6,
- 3 line 5, and inserting the following:
- 4 "The plan may provide that price increases for
- 5 basic communications services which are permitted
- 6 under this section may be deferred and accumulated for
- 7 a maximum of three years into a single price increase,
- 8 not to exceed six percent. Price decreases for basic
- 9 communications services shall not be deferred or
- 10 accumulated, except that a price decrease required
- 11 under this section may be offset by a price increase
- 12 for basic communications services which would have
- 13 been permitted under this section in the previous
- 14 twelve-month period but which was deferred by the
- 15 local exchange carrier."

By HOLVECK of Polk

H-3618 FILED MARCH 29, 1995

out of order 4-6-95
(P.1331)

HOUSE FILE 518

H-3619

- 1 Amend House File 518 as follows:
- 2 1. Page 5, by striking lines 7 through 10 and
- 3 inserting the following: "access service rates in
- 4 effect as of July 1, 1995."
- 5 2. Page 10, by striking lines 26 through 34.
- 6 3. Renumber and reletter as necessary.

By HOLVECK of Polk

H-3619 FILED MARCH 29, 1995

out of order 4-6-95

HOUSE FILE 518

H-3621

1 Amend House File 518 as follows:

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

4 "Section 1. Section 476.1, unnumbered paragraph 4,
5 Code 1995, is amended to read as follows:

6 Mutual telephone companies in which at least fifty
7 percent of the users are owners, co-operative
8 telephone corporations or associations, telephone
9 companies having less than fifteen thousand customers
10 and less than fifteen thousand access lines,
11 municipally owned utilities, and unincorporated
12 villages which own their own distribution systems are
13 not subject to the rate regulation provided for in
14 this chapter or to sections 476.30A through 476.30D."

15 2. Page 3, by inserting after line 6 the
16 following:

17 "2A. "Basic communications price factor" means the
18 following:

19 a. For purposes of a local exchange carrier having
20 less than fifteen thousand customers and less than
21 fifteen thousand access lines, a factor determined
22 annually as the lower of the following:

23 (1) Forty-one and six thousand six hundred sixty-
24 seven ten thousandths percent of the percentage change
25 of the average annual gross national product price
26 index.

27 (2) The percentage change of the average annual
28 gross national product price index minus two and
29 seventy-five hundredths percentage points.

30 b. For purposes of the local exchange carrier
31 having fifteen thousand or more customers and fifteen
32 thousand or more access lines, a factor determined
33 annually as the lower of the following:

34 (1) Fifty-two and eight hundred thirty-four ten
35 thousandths percent of the percentage change of the
36 average annual gross national product price index.

37 (2) The percentage change of the average annual
38 gross national product price index minus two and six
39 hundred twenty-five thousandths percentage points."

40 3. Page 5, by striking lines 24 through 30 and
41 inserting the following: "the prices for basic
42 communications services based upon the basic
43 communications price factor."

44 4. By renumbering as necessary.

By BERNAU of Story

H-3621 FILED MARCH 29, 1995

out of order

4-6-95

(P. 1331)

HOUSE FILE 518

H-3632

1 Amend House File 518 as follows:
2 1. Page 5, line 10, by inserting after the word
3 "plan." the following: "For purposes of the rate case
4 filed pursuant to this paragraph, the local exchange
5 carrier shall only be allowed to include one-third of
6 the amount of the access charge reduction as part of
7 the carrier's cost of service."

By HOLVECK of Polk

H-3632 FILED MARCH 29, 1995

Out of Order
4-6-95

HOUSE FILE 518

H-3633

1 Amend House File 518 as follows:
2 1. Page 4, line 12, by inserting after the word
3 "a" the following: "proposed".
4 2. Page 4, line 14, by inserting after the word
5 "carrier" the following: "to be applied to all rate-
6 regulated local exchange carriers. The board, after
7 notice and opportunity for hearing, may approve,
8 modify, or reject one of the plans submitted. Upon
9 approval, the plan shall apply to all rate-regulated
10 utilities".
11 3. Page 4, by striking lines 27 through 31 and
12 inserting the following: "may approve, modify, or
13 reject the plan. A local exchange carrier shall have
14 ten days to accept or reject any board modifications
15 to the plan. If a local exchange carrier rejects a
16 modification to the plan, the board shall reject the
17 plan without prejudice to any local exchange carrier
18 to submit".

By WEIGEL of Chickasaw

H-3633 FILED MARCH 29, 1995

Out of Order
4-6-95

HOUSE FILE 518

H-3629

1 Amend House File 518 as follows:

2 1. Page 1, by inserting after line 8 the
3 following:

4 "Sec. _____. Section 476.10, unnumbered paragraph 4,
5 Code 1995, is amended to read as follows:

6 Whenever the board shall deem it necessary in order
7 to carry out the duties imposed upon it in connection
8 with rate regulation under section 476.6,
9 investigations under section 476.3, or review
10 proceedings under section 476.31, the board may employ
11 additional temporary or permanent staff, or may
12 contract with persons who are not state employees for
13 engineering, accounting, or other professional
14 services, or both. The costs of these additional
15 employees and contract services shall be paid by the
16 public utility whose rates are being reviewed in the
17 same manner as other expenses are paid under this
18 section. Beginning on July 1, 1991, there is
19 appropriated out of any funds in the state treasury
20 not otherwise appropriated, such sums as may be
21 necessary to enable the board to hire additional staff
22 and contract for services under this section. The
23 board shall increase quarterly assessments specified
24 in unnumbered paragraph 2, by amounts necessary to
25 enable the board to hire additional staff and contract
26 for services under this section. The authority to
27 hire additional temporary or permanent staff that is
28 granted to the board by this section shall not be
29 subject to limitation by any administrative or
30 executive order or decision that restricts the number
31 of state employees or the filling of employee
32 vacancies, and shall not be subject to limitation by
33 any law of this state that restricts the number of
34 state employees or the filling of employee vacancies
35 unless that law is made applicable to this section by
36 express reference to this section. Before the board
37 expends or encumbers an amount in excess of the funds
38 budgeted for rate regulation and before the board
39 increases quarterly assessments pursuant to this
40 paragraph, the director of the department of
41 management shall approve the expenditure or
42 encumbrance. Before approval is given, the director
43 of the department of management shall determine that
44 the expenses exceed the funds budgeted by the general
45 assembly to the board for rate regulation and that the
46 board does not have other funds from which the
47 expenses can be paid. Upon approval of the director
48 of the department of management the board may expend
49 and encumber funds for the excess expenses, and
50 increase quarterly assessments to raise the additional

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1 funds. The board and the office of consumer advocate
 2 may add additional personnel or contract for
 3 additional assistance to review and evaluate energy
 4 efficiency plans and the implementation of energy
 5 efficiency programs including, but not limited to,
 6 professionally trained engineers, accountants,
 7 attorneys, skilled examiners and inspectors, and
 8 secretaries and clerks. The board and the office of
 9 consumer advocate may also contract for additional
 10 assistance in the evaluation and implementation of
 11 issues relating to telecommunication competition. The
 12 board and the office of the consumer advocate may
 13 expend additional sums beyond those sums appropriated.
 14 However, the authority to add additional personnel or
 15 contract for additional assistance must first be
 16 approved by the department of management. The
 17 additional sums for energy efficiency shall be
 18 provided to the board and the office of the consumer
 19 advocate by the utilities subject to the energy
 20 efficiency requirements in this chapter. Telephone
 21 companies shall pay any additional sums needed for
 22 assistance with telecommunication competition issues.
 23 The assessments shall be in addition to and separate
 24 from the quarterly assessment."
 25 2. By renumbering as necessary.

By WEIGEL of Chickasaw

H-3629 FILED MARCH 29, 1995

out of order
4-6-95

HOUSE FILE 518

H-3630

1 Amend House File 518 as follows:
 2 1. Page 5, line 10, by inserting after the word
 3 "plan." the following: "For purposes of the rate case
 4 filed pursuant to this paragraph, the local exchange
 5 carrier shall only be allowed to include one-half of
 6 the amount of the access charge reduction as part of
 7 the carrier's cost of service."

By HOLVECK of Polk

H-3630 FILED MARCH 29, 1995

out of order
4-6-95

HOUSE FILE 518

H-3631

1 Amend House File 518 as follows:
 2 1. Page 3, line 30, by inserting after the word
 3 "basic" the following: "and may reclassify by rule as
 4 basic those two-way switched voice communications
 5 services previously classified by rule as nonbasic".

By BRAND of Benton

H-3631 FILED MARCH 29, 1995

out of order
4-6-95

HOUSE FILE 518

H-3620

- 1 Amend House File 518 as follows:
- 2 1. Page 12, line 23, by inserting after the word
- 3 "collected" the following: "from all rate-regulated
- 4 local exchange carriers and competitive local exchange
- 5 service providers".

By BELL of Jasper

H-3620 FILED MARCH 29, 1995

*Out of Order
4-6-95*

HOUSE FILE 518

H-3627

- 1 Amend the House File 518 as follows:
- 2 1. Page 4, by striking lines 17 through 19 and
- 3 inserting the following: "subsection 4, concurrent
- 4 with a rate".

By WEIGEL of Chickasaw

H-3627 FILED MARCH 29, 1995

*Out of Order 4-6-95
(P. 1331)*

HOUSE FILE 518

H-3628

- 1 Amend House File 518 as follows:
- 2 1. Page 5, line 30, by inserting after the word
- 3 "number." the following: "However, the plan shall
- 4 provide that a local exchange carrier may reduce the
- 5 price for any basic communications service, to an
- 6 amount not less than the total service long-run
- 7 incremental cost for such service on one day's notice
- 8 filed with the board. For purposes of this section,
- 9 total service long-run incremental cost is the
- 10 difference between the company's total cost and the
- 11 company's total cost less the cost of the service in
- 12 question."

By BELL of Jasper

H-3628 FILED MARCH 29, 1995

*Out of Order
4-6-95
(P. 1331)*

HOUSE FILE 518

H-3649

- 1 Amend the amendment, H-3610, to House File 518, as
2 follows:
- 3 1. Page 3, by striking lines 28 through 32.
4 2. Page 4, line 9, by striking the words "Primary
5 residence" and inserting the following: "Residence".
6 3. Page 4, by striking lines 29 through 34 and
7 inserting the following: "services, other than a
8 local exchange carrier."
9 4. Page 5, by striking lines 37 through 40 and
10 inserting the following: "subsection 4. The board
11 may approve".
12 5. Page 6, by striking lines 21 through 43 and
13 inserting the following: "the date of filing of the
14 plan, in a period beginning no more than two years and
15 not ending more than five years from the plan's
16 inception."
17 6. Page 11, line 17, by inserting after the word
18 "rules." the following: "The tariffs implementing the
19 unbundled essential facilities shall not provide for
20 an increase in prices for basic communications
21 services except as provided pursuant to a proceeding
22 to establish initial rates under a price regulation
23 plan established under section 476.30B."
24 7. Page 11, line 47, by striking the word
25 "seventy-five" and inserting the following:
26 "fifteen".

By HOLVECK of Polk

H-3649 FILED MARCH 30, 1995

WITHDRAWN 4-6-95

HOUSE FILE 518

H-3650

- 1 Amend the amendment, H-3610, to House File 518 as
2 follows:
- 3 1. Page 5, line 12, by inserting after the word
4 "basic" the following: "and may reclassify by rule as
5 basic those two-way switched communications services
6 previously classified by rule as nonbasic".

By BRAND of Benton

H-3650 FILED MARCH 30, 1995

WITHDRAWN
4-6-95 (P. 1325)

HOUSE FILE 518

H-3654

- 1 Amend the amendment, H-3610, to House File 518 as
2 follows:
- 3 1. Page 13, by striking lines 24 through 26 and
4 inserting the following: "funds directly to eligible
5 subscribers."

By FALLON of Polk

H-3654 FILED MARCH 30, 1995

WITHDRAWN
4-6-95

HOUSE FILE 518

H-3651

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 7, line 24, by inserting after the word
 4 "productivity." the following: "However, the plan
 5 shall provide that a local exchange carrier may reduce
 6 the price for any basic communications service, to an
 7 amount not less than the total service long-run
 8 incremental cost for such service on one day's notice
 9 filed with the board. For purposes of this section,
 10 total service long-run incremental cost is the
 11 difference between the company's total cost and the
 12 company's total cost less the cost of the service in
 13 question."

By BELL of Jasper

H-3651 FILED MARCH 30, 1995

WITHDRAWN
4-6-95 (P.1325)

HOUSE FILE 518

H-3652

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 9, by inserting after line 7 the
 4 following:
 5 "10. The board, in determining whether to file a
 6 written complaint pursuant to subsection 6 or prior to
 7 reviewing a local exchange carrier's operation
 8 pursuant to subsection 9, may request that such
 9 carrier provide any information which the board deems
 10 necessary to make such determination or conduct such
 11 review. The carrier shall provide the requested
 12 information upon receipt of the request from the
 13 board."
 14 2. By renumbering as necessary.

By BERNAU of Story

H-3652 FILED MARCH 30, 1995

adopted 4-6-95 (P.1326)

HOUSE FILE 518

H-3653

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 13, line 23, by inserting after the word
 4 "collected" the following: "from all rate-regulated
 5 local exchange carriers and competitive local exchange
 6 service providers".

By BELL of Jasper

H-3653 FILED MARCH 30, 1995

WITHDRAWN
4-6-95
(P.1331)

HOUSE FILE 518

H-3661

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 3, by inserting after line 46 the
 4 following:
 5 " . "Basic communications price factor" means
 6 the following:
 7 a. For purposes of a local exchange carrier with
 8 seventy-five thousand or more access lines, a factor
 9 determined annually as the lower of the following:
 10 (1) Forty-one and six thousand six hundred sixty-
 11 seven ten thousandths percent of the percentage change
 12 of the average annual gross national product price
 13 index.
 14 (2) The percentage change of the average annual
 15 gross national product price index minus two and
 16 seventy-five hundredths percentage points.
 17 b. For purposes of the local exchange carrier with
 18 fewer than seventy-five thousand access lines, a
 19 factor determined annually as the lower of the
 20 following:
 21 (1) Fifty-two and eight hundred thirty-four ten
 22 thousandths percent of the percentage change of the
 23 average annual gross national product price index.
 24 (2) The percentage change of the average annual
 25 gross national product price index minus two and six
 26 hundred twenty-five thousandths percentage points."
 27 2. Page 7, by striking lines 17 through 24 and
 28 inserting the following: "services based upon the
 29 basic communications price factor."
 30 3. By striking page 11, line 45, through page 12,
 31 line 5.
 32 4. By renumbering and correcting internal
 33 references as necessary.

WITHDRAWN

Withdrawn 4-6-95 By BERNAU of Story
 H-3661 FILED MARCH 31, 1995 *(P. 1323)*

HOUSE FILE 518

H-3662

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 4, line 1, by striking the word "voice".
 By DODERER of Johnson

H-3662 FILED MARCH 31, 1995

WITHDRAWN
4-6-95
(P. 1323)

HOUSE FILE 518

H-3663

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 5, by striking lines 37 through 43 and
4 inserting the following: "subsection 4, concurrent
5 with a rate proceeding under".

6 2. By striking page 11, line 45 through page 12,
7 line 5.

8 3. By renumbering as necessary.

By WEIGEL of Chickasaw

H-3663 FILED MARCH 31, 1995

WITHDRAWN

4-6-95 (p. 1325)

HOUSE FILE 518

H-3664

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 7, line 3, by striking the word "six" and
4 inserting the following: "ten".

5 2. Page 7, line 6, by striking the word "six" and
6 inserting the following: "ten".

7 3. Page 7, lines 11 and 12, by striking the words
8 "twelve months" and inserting the following: "three
9 years".

10 4. Page 7, line 13, by striking the words "twelve
11 months" and inserting the following: "three years".

By BRAND of Benton

H-3664 FILED MARCH 31, 1995

Out of Order 4-6-95 (p. 1325)

HOUSE FILE 518

H-3665

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 7, line 10, by inserting after the word
4 "Act." the following: "For purposes of a rate case
5 filed pursuant to this paragraph, the local exchange
6 carrier shall only be allowed to include one-third of
7 the amount of the access charge reduction as part of
8 the carrier's cost of service."

By HOLVECK of Polk

H-3665 FILED MARCH 31, 1995

Out of Order 4-6-95 (p. 1325)

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HOUSE FILE 518

H-3666

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 7, by striking lines 25 through 40 and
4 inserting the following:
5 "(5) The plan may provide that price increases for
6 basic communications services which are permitted
7 under this section may be deferred and accumulated for
8 a maximum of three years into a single price increase,
9 not to exceed six percent. Price decreases for basic
10 communications services shall not be deferred or
11 accumulated, except that a price decrease required
12 under this section may be offset by a price increase
13 for basic communications services which would have
14 been permitted under this section in the previous
15 twelve-month period but which was deferred by the
16 local exchange carrier."

By HOLVECK of Polk

H-3666 FILED MARCH 31, 1995

4-6-95 (P. 1325)

HOUSE FILE 518

H-3667

1 Amend the amendment, H-3610, to House File 518, as
2 follows:
3 1. Page 8, line 47, by inserting after the word
4 "plan" the following: "which shall be for a period of
5 at least three years but for no more than five years".
6 2. Page 9, by striking lines 4 through 7 and
7 inserting the following: "exchange carrier's plan as
8 a result of the review.
9 10. The board, at the expiration of the time
10 period for a plan, shall conduct a hearing for review
11 of the rates of the local exchange carrier pursuant to
12 sections 476.3 and 476.6."

By WEIGEL of Chickasaw

H-3667 FILED MARCH 31, 1995

WITHDRAWN
4-6-95 (P. 1326)

HOUSE FILE 518

H-3703

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 13, by striking lines 23 through 25 and
4 inserting the following: "collected, a mechanism or
5 fund for the deposit of funds collected pursuant to
6 this section which is under the control of the board
7 or other entity which is not a provider of local
8 exchange services, and a mechanism for disbursement of
9 support funds for the benefit of eligible subscribers
10 to such subscriber's provider of".

By FALLON of Polk

H-3703 FILED APRIL 3, 1995

WITHDRAWN
4-6-95 (P. 1331)

HOUSE FILE 518

H-3704

1 Amend the amendment, H-3610, to House File 518, as
2 follows:
3 1. Page 8, line 47, by inserting after the word
4 "plan" the following: "which shall be for a period of
5 at least three years but for no more than five years".
6 2. Page 9, by striking lines 4 through 7 and
7 inserting the following: "exchange carrier's plan as
8 a result of the review."
9 10. The board, prior to the expiration of the time
10 period for a plan, shall commence and complete a
11 hearing for review of the rates of the local exchange
12 carrier pursuant to sections 476.3 and 476.6."

By WEIGEL of Chickasaw

H-3704 FILED APRIL 3, 1995

(P.1326) WITHDRAWN 4-6-95

HOUSE FILE 518

H-3722

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 6, line 26, by striking the words "is
4 filed" and inserting the following: "becomes
5 effective".
6 2. Page 7, line 46, by striking the word
7 "utility" and inserting the following: "local
8 exchange carrier".
9 3. Page 7, line 47, by striking the word *out of*
10 "utility's" and inserting the following: "local *order*
11 exchange carrier's". *4-6-95*

By METCALF of Polk

H-3722 FILED APRIL 4, 1995

Adopted 4-6-95
(P.1325)

HOUSE FILE 518

H-3749

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 4, by striking line 1 and inserting the
4 following: "at any time, any other two-way switched
5 communications services".

6 2. Page 4, line 9, by striking the words "Primary
7 residence" and inserting the following: "Residence".

8 3. Page 7, by striking lines 6 through 14 and
9 inserting the following: "A local exchange carrier
10 which elects to reduce its rates by six percent shall
11 not, at a later time, increase its rates for basic
12 communications services as a result of the carrier's
13 compliance with the board's rules relating to
14 unbundling. In lieu of the six percent reduction, and
15 prior to the adoption of rules relating to unbundling
16 pursuant to section 476.30D, subsection 4, paragraph
17 "a", subparagraph (1), the local exchange carrier may
18 request and the board may establish a regulated
19 revenue requirement in a rate proceeding under section
20 476.3 or 476.6 commenced after the effective date of
21 this Act. After the determination of the local
22 exchange carrier's regulated revenue requirement
23 pursuant to the rate proceeding, the local exchange
24 carrier shall not immediately implement rates designed
25 to recover that regulated revenue requirement.

26 Following the adoption of rules relating to unbundling
27 pursuant to section 476.30D, subsection 4, paragraph
28 "a", subparagraph (1), the local exchange carrier
29 shall commence a tariff proceeding for the approval of
30 tariffs implementing such unbundling. The board has
31 six months to complete this tariff proceeding and
32 determine the local exchange carrier's final unbundled
33 rates. The local exchange carrier shall carry forward
34 the regulated revenue requirement determined by the
35 board pursuant to the rate proceeding and design rates
36 that comply with the board's rules relating to
37 unbundling that recover the regulated revenue
38 requirement, and that implement the board's approved
39 rate design established in the tariff proceeding.

40 In lieu of taking the six percent reduction, a
41 local exchange carrier that submits a plan for price
42 regulation after the board adopts rules relating to
43 unbundling may file a rate proceeding under section
44 476.3 or 476.6 and the board may approve rates
45 designed to comply with those rules which allow the
46 carrier to recover the established regulated revenue
47 requirement and that implement the board's approved
48 rate design established in the tariff proceeding."

49 4. Page 11, line 17, by inserting after the word
50 "rules" the following: ", except for local exchange

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1 carriers with less than seventy-five thousand access
2 lines which must file such tariffs within two years of
3 the effective date of this Act".

4 5. Page 11, line 46, by striking the figures
5 "(1), (2)," and inserting the following: "(2)".

6 6. Page 12, line 4, by striking the figures "(1),
7 (2)," and inserting the following: "(2)".

By LAMBERTI of Polk METCALF of Polk
MORELAND of Wapello WISE of Lee

H-3749 FILED APRIL 4, 1995

(P. 1324) Adopted 4-6-95

HOUSE FILE 518

H-3751

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 5, by striking lines 49 and 50 and
4 inserting the following:

5 "The local exchange carrier shall be subject to
6 both rate-of-return regulation and price regulation
7 pursuant to the plan in order for the board to compare
8 the results of each. The board may not impose
9 retroactive rate-of-return regulation on the local
10 exchange carrier, but may require a return to rate-of-
11 return regulation if the board determines that the
12 public interest would be better served."

By HOLVECK of Polk

H-3751 FILED APRIL 4, 1995

WITHDRAWN

4-6-95

(P. 1325)

HOUSE FILE 518

H-3752

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 7, line 48, by inserting after the word
4 "infrastructure." the following: "The plan shall
5 include a requirement that the local exchange carrier
6 develop and file with the board an accelerated
7 modernization plan detailing how the carrier will
8 modernize the carrier's telecommunications
9 infrastructure and the schedule to be followed for
10 such modernization."

By BRAND of Benton

H-3752 FILED APRIL 5, 1995

4-6-95 (p. 1331)

HOUSE FILE 518

H-3753

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 6, line 16, by striking the word "shall"
4 and inserting the following: "may".

By HOLVECK of Polk

H-3753 FILED APRIL 5, 1995

WITHDRAWN

4-6-95
(p. 1325)

HOUSE FILE 518

H-3769

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 9, by inserting after line 7 the
4 following:

5 "10. a. Notwithstanding subsections 1 through 9,
6 a local exchange carrier with fewer than five hundred
7 thousand access lines in this state shall have the
8 option to be regulated pursuant to subsections 1
9 through 9 or pursuant to this subsection.

10 b. A local exchange carrier which elects to become
11 price regulated under this subsection shall give
12 written notice to the board of such election not less
13 than thirty days prior to the date such regulation is
14 to commence.

15 c. Initial prices for basic communications
16 services shall be set at the rates in effect as of the
17 first of July prior to the date such regulation is to
18 commence.

19 d. (1) A price-regulated local exchange carrier
20 shall not increase its rates for basic communications
21 services, for a period of twelve months after electing
22 to become price regulated. To the extent necessary,
23 rates for basic services may be increased to carry out
24 the purpose of any rules that may be adopted by the
25 board relating to the terms and conditions of
26 unbundled services and interconnection. A price-
27 regulated local exchange carrier may increase its
28 rates for basic communications services following the
29 initial twelve-month period, to the extent that the
30 change in rate does not exceed two percentage points
31 less than the most recent annual change in the gross
32 domestic product price index, as published by the
33 federal government. If application of such formula
34 achieves a negative result, prices shall be reduced so
35 that the cumulative price change for basic services,
36 including prior price reductions in these services,
37 achieves the negative result. After January 1, 2000,
38 the board by rule may adopt different measures of
39 inflation and productivity if they are found to be
40 more reflective of the individual price-regulated
41 carriers.

42 (2) Price increases for basic communications
43 services which are permitted under this subsection may
44 be deferred and accumulated for a maximum of three
45 years into a single price increase, provided that a
46 deferred and accumulated price increase under this
47 subsection shall not at any time exceed six percent.
48 A price decrease for basic communications services
49 shall not be deferred or accumulated, except that
50 price decreases of less than two percent may be

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1 deferred by the local exchange carrier for one year.
2 A price decrease required under this section may be
3 offset by a price increase for a basic communications
4 service that would have been permitted under this
5 section in the previous twelve-month period, but which
6 was deferred by the local exchange carrier. A rate
7 change pursuant to this subsection may take effect
8 thirty days after the notification of the board and
9 consumers.

10 (3) A price-regulated local exchange carrier shall
11 not increase its aggregate revenue weighted prices for
12 nonbasic communications services more than six percent
13 in any twelve-month period.

14 (4) A price-regulated local exchange carrier may
15 reduce the price for any basic communications service,
16 to an amount not less than the total service long-run
17 incremental cost for such service on one day's notice
18 filed with the board. For purposes of this
19 subsection, "total service long-run incremental costs"
20 means the difference between the company's total cost
21 and the total cost of the company less the applicable
22 service, feature, or function.

23 (5) A price-regulated local exchange carrier may
24 offer new service alternatives for any basic
25 communications services on thirty days prior notice to
26 the board, provided that the preexisting basic com-
27 munications service rate structure continues to be
28 offered to customers. New telecommunications services
29 shall be considered nonbasic communications services
30 as defined in section 476.30A, subsection 6.

31 (6) A price-regulated local exchange carrier must
32 reduce the average intrastate access service rates to
33 the carrier's average interstate access service rates.
34 Such carrier shall reduce the average interstate
35 access service rates by at least twenty-five percent
36 of the difference of such rates within ninety days of
37 the election to be price-regulated and twenty-five
38 percent each of the next three years.

39 e. A local exchange carrier shall notify customers
40 of a rate change under this subsection at least thirty
41 days prior to the effective date of the rate change.

42 f. The board may review a local exchange carrier's
43 operation under this subsection, with notice and an
44 opportunity for hearing, after four years of the
45 carrier's election to be price-regulated. The local
46 exchange carrier, consumer advocate, or any person may
47 propose, and the board may approve, any reasonable
48 modifications to the price-regulation requirements in
49 this subsection as a result of the specific carrier
50 review, except that such modifications shall not

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1 require a reduction in the rates for any basic
2 communications service or a return to rate-base, rate-
3 of-return regulation."

WITHDRAWN 4-6-95

By DINKLA of Guthrie
LAMBERTI of Polk
RENKEN of Grundy

H-3769 FILED APRIL 5, 1995

HOUSE FILE 518

H-3770

1 Amend the amendment, H-3610, to House File 518, as
2 follows:
3 1. Page 11, by striking lines 26 through 31 and
4 inserting the following:
5 "(2) Establish reciprocal cost-based compensation
6 for termination of telecommunications services between
7 local exchange carriers and competitive local exchange
8 service providers. The board may also implement an
9 appropriate surcharge to be effective on July 1, 1997,
10 or upon the availability of provider number
11 portability, whichever is first, if the ratio of
12 residence to business customers served on a facilities
13 basis by a competitive local exchange service provider
14 does not approximate the ratio of residence to
15 business customers served by the local exchange
16 carrier. The board may eliminate the surcharge upon
17 the occurrence of either of the following:
18 (a) When the local exchange carrier's prices for
19 local exchange service cover the carrier's costs as
20 determined by the board.
21 (b) Once the competitive local exchange service
22 provider's ratio of residence to business customers
23 approximates that of the local exchange carrier.
24 The board may require the local exchange carrier,
25 by tariff, to implement an equalization adjustment
26 mechanism on an annual basis that recognizes the
27 competitive local exchange service provider's average
28 annual ratio of residence to business customers and
29 which makes appropriate pro rata reductions in the
30 surcharge if the competitive local exchange service
31 provider demonstrates a year-over-year change in the
32 ratio of residence to business customers served. The
33 tariff may also provide for an equalization adjustment
34 on an annual basis if the local exchange carrier
35 experienced an increase in its residential local
36 service rates during the preceding year."

By RANTS of Woodbury
METCALF of Polk

H-3770 FILED APRIL 5, 1995

Adopted 4-6-95
(p.1330)

HOUSE FILE 518

H-3771

1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 9, by inserting after line 7 the
4 following:
5 "10. a. Notwithstanding subsections 1 through 9,
6 a local exchange carrier with fewer than five hundred
7 thousand access lines in this state shall have the
8 option to be regulated pursuant to subsections 1
9 through 9 or pursuant to this subsection.
10 b. A local exchange carrier which elects to become
11 price regulated under this subsection shall give
12 written notice to the board of such election not less
13 than thirty days prior to the date such regulation is
14 to commence.
15 c. Upon election of a local exchange carrier to
16 become price-regulated under this subsection, the
17 carrier shall reduce its rates for basic local
18 telephone service an average of three percent. In
19 lieu of the three percent reduction, the local
20 exchange carrier may establish its rates for basic
21 local telephone service in a rate proceeding under
22 section 476.3 or 476.6 commenced after the effective
23 date of this Act.
24 d. Initial prices for basic communications
25 services shall be set at the rates in effect as of the
26 first of July prior to the date such regulation is to
27 commence.
28 e. (1) A price-regulated local exchange carrier
29 shall not increase its rates for basic communications
30 services, for a period of twelve months after electing
31 to become price regulated. To the extent necessary,
32 rates for basic services may be increased to carry out
33 the purpose of any rules that may be adopted by the
34 board relating to the terms and conditions of
35 unbundled services and interconnection. A price-
36 regulated local exchange carrier may increase its
37 rates for basic communications services following the
38 initial twelve-month period, to the extent that the
39 change in rate does not exceed two percentage points
40 less than the most recent annual change in the gross
41 domestic product price index, as published by the
42 federal government. If application of such formula
43 achieves a negative result, prices shall be reduced so
44 that the cumulative price change for basic services,
45 including prior price reductions in these services,
46 achieves the negative result. After January 1, 2000,
47 the board by rule may adopt different measures of
48 inflation and productivity if they are found to be
49 more reflective of the individual price-regulated
50 carriers.

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1 (2) Price increases for basic communications
2 services which are permitted under this subsection may
3 be deferred and accumulated for a maximum of three
4 years into a single price increase, provided that a
5 deferred and accumulated price increase under this
6 subsection shall not at any time exceed six percent.
7 A price decrease for basic communications services
8 shall not be deferred or accumulated, except that
9 price decreases of less than two percent may be
10 deferred by the local exchange carrier for one year.
11 A price decrease required under this section may be
12 offset by a price increase for a basic communications
13 service that would have been permitted under this
14 section in the previous twelve-month period, but which
15 was deferred by the local exchange carrier. A rate
16 change pursuant to this subsection may take effect
17 thirty days after the notification of the board and
18 consumers.

19 (3) A price-regulated local exchange carrier shall
20 not increase its aggregate revenue weighted prices for
21 nonbasic communications services more than six percent
22 in any twelve-month period.

23 (4) A price-regulated local exchange carrier may
24 reduce the price for any basic communications service,
25 to an amount not less than the total service long-run
26 incremental cost for such service on one day's notice
27 filed with the board. For purposes of this
28 subsection, "total service long-run incremental costs"
29 means the difference between the company's total cost
30 and the total cost of the company less the applicable
31 service, feature, or function.

32 (5) A price-regulated local exchange carrier may
33 offer new service alternatives for any basic
34 communications services on thirty days prior notice to
35 the board, provided that the preexisting basic com-
36 munications service rate structure continues to be
37 offered to customers. New telecommunications services
38 shall be considered nonbasic communications services
39 as defined in section 476.30A, subsection 6.

40 (6) A price-regulated local exchange carrier must
41 reduce the average intrastate access service rates to
42 the carrier's average interstate access service rates.
43 Such carrier shall reduce the average interstate
44 access service rates by at least twenty-five percent
45 of the difference of such rates within ninety days of
46 the election to be price-regulated and twenty-five
47 percent each of the next three years.

48 f. A local exchange carrier shall notify customers
49 of a rate change under this subsection at least thirty
50 days prior to the effective date of the rate change.

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1 g. The board may review a local exchange carrier's
 2 operation under this subsection, with notice and an
 3 opportunity for hearing, after four years of the
 4 carrier's election to be price-regulated. The local
 5 exchange carrier, consumer advocate, or any person may
 6 propose, and the board may approve, any reasonable
 7 modifications to the price-regulation requirements in
 8 this subsection as a result of the specific carrier
 9 review, except that such modifications shall not
 10 require a reduction in the rates for any basic
 11 communications service or a return to rate-base, rate-
 12 of-return regulation."

By DINKLA of Guthrie

BELL of Jasper

RENKEN of Grundy

CARROLL of Poweshiek

LAMBERTI of Polk

H-3771 FILED APRIL 5, 1995

WITHDRAWN 4-6-95 (P. 1326)

HOUSE FILE 518

H-3774

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 7, by inserting after line 24 the
 4 following:
 5 "() The plan shall provide for the retraining of
 6 employees of the local exchange carrier who are not
 7 retained as employees of the carrier as a result of
 8 the implementation of and operation under the plan,
 9 and for the expenditure by the carrier of funds which
 10 are necessary for such training."
 11 2. By renumbering as necessary.

By BRAND of Benton

H-3774 FILED APRIL 5, 1995

WITHDRAWN
4-6-95 (P. 1325)

HOUSE FILE 518

H-3775

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 7, by inserting after line 24 the
 4 following:
 5 "Upon a determination under the plan of the total
 6 percent of increase or decrease pursuant to this
 7 subparagraph, the percent of increase or decrease
 8 shall be multiplied by five percent. The result of
 9 the multiplication is the technology investment
 10 factor. The amount of the increase of gross revenue
 11 collected by a local exchange carrier associated with
 12 the price increase or decrease shall be multiplied by
 13 the technology investment factor. The resulting
 14 amount, if positive, shall be deposited by the local
 15 exchange carrier in the Iowa communications network
 16 fund established in section 8D.14 to be used for the
 17 purposes authorized under chapter 8D."

By BRAND of Benton

H-3775 FILED APRIL 5, 1995

WITHDRAWN
4-6-95

HOUSE FILE 518

H-3732

- 1 Amend the amendment, H-3610, to House File 518 as
- 2 follows:
- 3 1. Page 3, line 33, by inserting after the word
- 4 "is" the following: "only".

By BRAND of Benton

H-3732 FILED APRIL 4, 1995

lost 4-6-95
(P 1323)

HOUSE FILE 518

H-3733

- 1 Amend the amendment, H-3610, to House File 518, as
- 2 follows:
- 3 1. Page 8, by inserting after line 2 the
- 4 following:
- 5 "g. Providing automatic adjustments to basic local
- 6 exchange service and switched access service rates
- 7 resulting in average cost decreases realized by an
- 8 exchange carrier that sells any of its exchanges in
- 9 the state."

By WEIGEL of Chickasaw

H-3733 FILED APRIL 4, 1995

4-6-95 (P 1326)

HOUSE FILE 518

H-3734

- 1 Amend the amendment, H-3610, to House File 518 as
- 2 follows:
- 3 1. Page 9, by striking lines 23 and 24 and
- 4 inserting the following: "sources, and the denial of
- 5 which results in undue harm."

By HOLVECK of Polk

H-3734 FILED APRIL 4, 1995

4-6-95
(P 1330)

HOUSE FILE 518

H-3781

1 Amend the amendment, H-3610, to House File 518 as
2 follows:

3 1. Page 9, by inserting after line 7 the
4 following:

5 "10. a. Notwithstanding subsections 1 through 9,
6 a local exchange carrier with fewer than five hundred
7 thousand access lines in this state shall have the
8 option to be regulated pursuant to subsections 1
9 through 9 or pursuant to this subsection.

10 b. A local exchange carrier which elects to become
11 price regulated under this subsection shall give
12 written notice to the board of such election not less
13 than thirty days prior to the date such regulation is
14 to commence.

15 c. Upon election of a local exchange carrier to
16 become price-regulated under this subsection, the
17 carrier shall reduce its rates for basic local
18 telephone service an average of three percent. In
19 lieu of the three percent reduction, the local
20 exchange carrier may establish its rates for basic
21 local telephone service in a rate proceeding under
22 section 476.3 or 476.6 commenced after the effective
23 date of this Act.

24 d. Initial prices for basic communications
25 services, other than basic local telephone service,
26 shall be set at the rates in effect as of the first of
27 July prior to the date such regulation is to commence.

28 e. (1) A price-regulated local exchange carrier
29 shall not increase its rates for basic communications
30 services, for a period of twelve months after electing
31 to become price regulated. To the extent necessary,
32 rates for basic services may be increased to carry out
33 the purpose of any rules that may be adopted by the
34 board relating to the terms and conditions of
35 unbundled services and interconnection. A price-
36 regulated local exchange carrier may increase its
37 rates for basic communications services following the
38 initial twelve-month period, to the extent that the
39 change in rate does not exceed two percentage points
40 less than the most recent annual change in the gross
41 domestic product price index, as published by the
42 federal government. If application of such formula
43 achieves a negative result, prices shall be reduced so
44 that the cumulative price change for basic services,
45 including prior price reductions in these services,
46 achieves the negative result. After January 1, 2000,
47 the board by rule may adopt different measures of
48 inflation and productivity if they are found to be
49 more reflective of the individual price-regulated
50 carriers.

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1 (2) Price increases for basic communications
2 services which are permitted under this subsection may
3 be deferred and accumulated for a maximum of three
4 years into a single price increase, provided that a
5 deferred and accumulated price increase under this
6 subsection shall not at any time exceed six percent.
7 A price decrease for basic communications services
8 shall not be deferred or accumulated, except that
9 price decreases of less than two percent may be
10 deferred by the local exchange carrier for one year.
11 A price decrease required under this section may be
12 offset by a price increase for a basic communications
13 service that would have been permitted under this
14 section in the previous twelve-month period, but which
15 was deferred by the local exchange carrier. A rate
16 change pursuant to this subsection may take effect
17 thirty days after the notification of the board and
18 consumers.

19 (3) A price-regulated local exchange carrier shall
20 not increase its aggregate revenue weighted prices for
21 nonbasic communications services more than six percent
22 in any twelve-month period.

23 (4) A price-regulated local exchange carrier may
24 reduce the price for any basic communications service,
25 to an amount not less than the total service long-run
26 incremental cost for such service on one day's notice
27 filed with the board. For purposes of this
28 subsection, "total service long-run incremental costs"
29 means the difference between the company's total cost
30 and the total cost of the company less the applicable
31 service, feature, or function.

32 (5) A price-regulated local exchange carrier may
33 offer new service alternatives for any basic
34 communications services on thirty days prior notice to
35 the board, provided that the preexisting basic com-
36 munications service rate structure continues to be
37 offered to customers. New telecommunications services
38 shall be considered nonbasic communications services
39 as defined in section 476.30A, subsection 6.

40 (6) A price-regulated local exchange carrier must
41 reduce the average intrastate access service rates to
42 the carrier's average interstate access service rates.
43 Such carrier shall reduce the average intrastate
44 access service rates by at least twenty-five percent
45 of the difference of such rates within ninety days of
46 the election to be price-regulated and twenty-five
47 percent each of the next three years.

48 f. A local exchange carrier shall notify customers
49 of a rate change under this subsection at least thirty
50 days prior to the effective date of the rate change.

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1 g. The board may review a local exchange carrier's
 2 operation under this subsection, with notice and an
 3 opportunity for hearing, after four years of the
 4 carrier's election to be price-regulated. The local
 5 exchange carrier, consumer advocate, or any person may
 6 propose, and the board may approve, any reasonable
 7 modifications to the price-regulation requirements in
 8 this subsection as a result of the specific carrier
 9 review, except that such modifications shall not
 10 require a reduction in the rates for any basic
 11 communications service or a return to rate-base, rate-
 12 of-return regulation."

By DINKLA of Guthrie

RENKEN of Grundy

LAMBERTI of Polk

BELL of Jasper

CARROLL of Poweshiek

H-3781 FILED APRIL 6, 1995

ADOPTED

(P. 1327)

HOUSE FILE 518

H-3785

1 Amend the amendment, H-3610, to House File 518 as
 2 follows:
 3 1. Page 7, by striking lines 47 and 48.
 4 2. Page 9, by inserting after line 7 the
 5 following:
 6 "Sec. ____ . NEW SECTION. 476.30_ ADDITIONAL PRICE
 7 REGULATION PLAN PROVISIONS.
 8 In addition to the provisions required in section
 9 476.30B to be included in a plan of price regulation,
 10 the plan shall include provisions for the following:
 11 1. Reflecting in rates any changes due to changes
 12 in the average cost of the local exchange carrier
 13 resulting from the sale of an exchange in this state.
 14 2. Encouraging modernization of the local exchange
 15 carrier's telecommunications infrastructure. This
 16 provision shall include a requirement that the local
 17 exchange carrier develop and file with the board an
 18 increased modernization plan."
 19 3. By renumbering as necessary.

By WEIGEL of Chickasaw

BRAND of Benton

H-3785 FILED APRIL 6, 1995

ADOPTED

(P. 1326)

HOUSE FILE 518

H-3791

- 1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 9, by inserting after line 7 the
4 following:
5 "Sec. ____ . NEW SECTION. 476.30_ DISPLACED
6 EMPLOYEE RETRAINING.
7 A local exchange company operating under a plan of
8 price regulation pursuant to section 476.30B shall
9 provide in the plan for the retraining of employees of
10 the local exchange carrier who are not retained as
11 employees of the carrier as a result of the
12 implementation of and operation under the plan, and
13 for the expenditures of funds by the carrier which are
14 necessary for such training."
15 2. Renumber as necessary.

By BRAND of Benton

H-3791 FILED APRIL 6, 1995
WITHDRAWN

HOUSE FILE 518

H-3792

- 1 Amend the amendment, H-3610, to House File 518 as
2 follows:
3 1. Page 9, by inserting after line 7 the
4 following:
5 "Sec. ____ . NEW SECTION. 476.30_ EARNINGS
6 CALCULATION AND REPORT.
7 1. The consumer advocate shall calculate an
8 estimate of the return of a local exchange carrier
9 operating under a plan of price regulation pursuant to
10 section 476.30B as if the carrier were subject to
11 rate-of-return regulation. The calculation shall be
12 based upon the annual report of such carrier and other
13 information provided to the consumer advocate by the
14 carrier. The calculation shall be made every two
15 years beginning following the end of the second
16 calendar year after the year in which the plan becomes
17 effective. The consumer advocate shall provide a
18 written report to the general assembly including the
19 results of this calculation on or before July 1 of the
20 year immediately following the two-year period for
21 which a calculation is made. If, after a review of
22 the information used to make the calculation required
23 in this section, the consumer advocate determines that
24 the public interest would be better served by a
25 different form of rate regulation, the consumer
26 advocate shall provide a recommendation that the
27 general assembly direct the utilities board to
28 implement a different form of rate regulation."
29 2. Renumber as necessary.

By HOLVECK of Polk

(P. 1320)
H-3792 FILED APRIL 6, 1995
ADOPTED

HOUSE FILE 518
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 59)

(As Amended and Passed by the House April 6, 1995)

Passed House, Date ^(P. 2136) 5-1-95 Passed Senate, Date ^(P. 1520) 4/28/95
Vote: Ayes 90 Nays 8 Vote: Ayes 50 Nays 11
Approved May 31, 1995

A BILL FOR

1 An Act relating to authorization of price regulation for
2 utilities providing communications services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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All New Language by the House

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1 Section 1. Section 476.3, subsection 2, Code 1995, is
2 amended by adding the following new unnumbered paragraph:
3 NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions
4 of this subsection, the consumer advocate shall not file a
5 petition under this subsection that alleges a local exchange
6 carrier's rates are excessive while the local exchange carrier
7 is participating in a price regulation plan approved by the
8 board pursuant to section 476.30B.

9 Sec. 2. Section 476.10, unnumbered paragraph 4, Code 1995,
10 is amended to read as follows:

11 Whenever the board shall deem it necessary in order to
12 carry out the duties imposed upon it in connection with rate
13 regulation under section 476.6, investigations under section
14 476.3, or review proceedings under section 476.31, the board
15 may employ additional temporary or permanent staff, or may
16 contract with persons who are not state employees for
17 engineering, accounting, or other professional services, or
18 both. The costs of these additional employees and contract
19 services shall be paid by the public utility whose rates are
20 being reviewed in the same manner as other expenses are paid
21 under this section. Beginning on July 1, 1991, there is
22 appropriated out of any funds in the state treasury not
23 otherwise appropriated, such sums as may be necessary to
24 enable the board to hire additional staff and contract for
25 services under this section. The board shall increase
26 quarterly assessments specified in unnumbered paragraph 2, by
27 amounts necessary to enable the board to hire additional staff
28 and contract for services under this section. The authority
29 to hire additional temporary or permanent staff that is
30 granted to the board by this section shall not be subject to
31 limitation by any administrative or executive order or
32 decision that restricts the number of state employees or the
33 filling of employee vacancies, and shall not be subject to
34 limitation by any law of this state that restricts the number
35 of state employees or the filling of employee vacancies unless

1 that law is made applicable to this section by express
2 reference to this section. Before the board expends or
3 encumbers an amount in excess of the funds budgeted for rate
4 regulation and before the board increases quarterly
5 assessments pursuant to this paragraph, the director of the
6 department of management shall approve the expenditure or
7 encumbrance. Before approval is given, the director of the
8 department of management shall determine that the expenses
9 exceed the funds budgeted by the general assembly to the board
10 for rate regulation and that the board does not have other
11 funds from which the expenses can be paid. Upon approval of
12 the director of the department of management the board may
13 expend and encumber funds for the excess expenses, and
14 increase quarterly assessments to raise the additional funds.
15 The board and the office of consumer advocate may add
16 additional personnel or contract for additional assistance to
17 review and evaluate energy efficiency plans and the
18 implementation of energy efficiency programs including, but
19 not limited to, professionally trained engineers, accountants,
20 attorneys, skilled examiners and inspectors, and secretaries
21 and clerks. The board and the office of consumer advocate may
22 also contract for additional assistance in the evaluation and
23 implementation of issues relating to telecommunication
24 competition. The board and the office of the consumer
25 advocate may expend additional sums beyond those sums
26 appropriated. However, the authority to add additional
27 personnel or contract for additional assistance must first be
28 approved by the department of management. The additional sums
29 for energy efficiency shall be provided to the board and the
30 office of the consumer advocate by the utilities subject to
31 the energy efficiency requirements in this chapter. Telephone
32 companies shall pay any additional sums needed for assistance
33 with telecommunication competition issues. The assessments
34 shall be in addition to and separate from the quarterly
35 assessment.

1 Sec. 3. Section 476.11, Code 1995, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The board may resolve
4 complaints, upon notice and hearing, that a utility, operating
5 under section 476.29, has failed to provide just, reasonable,
6 and nondiscriminatory arrangements for interconnection of its
7 telecommunications services with another telecommunications
8 provider.

9 Sec. 4. Section 476.29, subsection 2, Code 1995, is
10 amended to read as follows:

11 2. Except as provided in subsection 12, a certificate
12 shall be issued by the board, after notice and opportunity for
13 hearing, if the board determines that the service proposed to
14 be rendered will promote the public convenience and necessity,
15 provided that an applicant other than a local exchange
16 carrier, as defined in section 476.30A, shall not be denied a
17 certificate if the board finds that the applicant possesses
18 the technical, financial, and managerial ability to provide
19 the service it proposes to render and the board finds the
20 service is consistent with the public interest. The board
21 shall make a determination within ninety days of the
22 submission by the applicant of evidence of its technical,
23 financial, and managerial ability, unless the board determines
24 that additional time is necessary to consider the application,
25 in which case the board may extend the time for making a
26 determination for an additional sixty days. The board may
27 establish reasonable conditions or restrictions on the
28 certificate at the time of issuance.

29 Sec. 5. NEW SECTION. 476.30 FINDINGS -- STATEMENT OF
30 POLICY.

31 The general assembly finds all of the following:

32 1. Communications services should be available throughout
33 the state at just, reasonable, and affordable rates from a
34 variety of providers.

35 2. In rendering decisions with respect to regulation of

1 telecommunications companies, the board shall consider the
2 effects of its decisions on competition in telecommunications
3 markets and, to the extent reasonable and lawful, shall act to
4 further the development of competition in those markets.

5 3. In order to encourage competition for all
6 telecommunications services, the board should address issues
7 relating to the movement of prices toward cost and the removal
8 of subsidies in the existing price structure of the incumbent
9 local exchange carrier.

10 4. Regulatory flexibility is appropriate when competition
11 provides customers with competitive choices in the variety,
12 quality, and pricing of communications services, and when
13 consistent with consumer protection and other relevant public
14 interests.

15 5. The board should respond with speed and flexibility to
16 changes in the communications industry.

17 6. Economic development can be fostered by the existence
18 of advanced communications networks.

19 Sec. 6. NEW SECTION. 476.30A DEFINITIONS.

20 As used in section 476.30, this section, and sections
21 476.30B through 476.30G, unless the context otherwise
22 requires:

23 1. "Basic communications service" includes at a minimum,
24 basic local telephone service, switched access, 911 and E-911
25 services, and dual party relay service. The board is
26 authorized to classify by rule at any time, any other two-way
27 switched communications services as basic communications
28 services consistent with community expectations and the public
29 interest.

30 2. "Basic local telephone service" means the provision of
31 dial tone access and usage, for the transmission of two-way
32 switched communications within a local exchange area,
33 including, but not limited to, the following:

34 a. Residence service and business services, including flat
35 rate or local measured service, private branch exchange

- 1 trunks, trunk type hunting services, direct inward dialing,
2 and the network access portion of central office switched
3 exchange service.
- 4 b. Extended area service.
- 5 c. Touch tone service when provided separately.
- 6 d. Call tracing.
- 7 e. Calling number blocking on either a per call or a per
8 line basis.
- 9 f. Local exchange white pages directories.
- 10 g. Installation and repair of local network access.
- 11 h. Local operator services, excluding directory
12 assistance.
- 13 i. Toll service blocking and 1-900 and 1-976 access
14 blocking.
- 15 3. "Competitive local exchange service provider" means any
16 person that provides local exchange services, other than a
17 local exchange carrier or a nonrate-regulated wireline
18 provider of local exchange services under an authorized
19 certificate of public convenience and necessity within a
20 specific geographic area described in maps filed with and
21 approved by the board as of September 30, 1992.
- 22 4. "Interim number portability" means one or more
23 mechanisms by which a local exchange customer at a particular
24 location may change the customer's local exchange services
25 provider without any change in the local exchange customer's
26 telephone number, while experiencing as little loss of
27 functionality as is feasible using available technology.
- 28 5. "Local exchange carrier" means any person that was the
29 incumbent and historical rate-regulated wireline provider of
30 local exchange services or any successor to such person that
31 provides local exchange services under an authorized
32 certificate of public convenience and necessity within a
33 specific geographic area described in maps filed with and
34 approved by the board as of September 30, 1992.
- 35 6. "Nonbasic communications services" means all

1 communications services subject to the board's jurisdiction
2 which are not deemed either by statute or by rule to be basic
3 communications services, including any service offered by the
4 local exchange carrier for the first time after the effective
5 date of this Act. A service is not considered new if it
6 constitutes the bundling, unbundling, or repricing of an
7 already existing service. Consistent with community
8 expectations and the public interest, the board may reclassify
9 by rule as nonbasic those two-way switched communications
10 services previously classified by rule as basic.

11 7. "Provider number portability" means the capability of a
12 local exchange customer to change the customer's local
13 exchange services provider at the customer's same location
14 without any change in the local exchange customer's telephone
15 number, while preserving the full range of functionality that
16 the customer currently experiences. "Provider number
17 portability" includes the equal availability of information
18 concerning the local exchange provider serving the number to
19 all carriers, and the ability to deliver traffic directly to
20 that provider without having first to route traffic to the
21 local exchange carrier or otherwise use the services,
22 facilities, or capabilities of the local exchange carrier to
23 complete the call, and without the dialing of additional
24 digits or access codes.

25 Sec. 7. NEW SECTION. 476.30B PRICE REGULATION.

26 1. Notwithstanding contrary provisions of this chapter
27 relating to rate regulation, the board may approve a plan for
28 price regulation submitted by a rate-regulated local exchange
29 carrier. The plan for price regulation is not effective until
30 the approval by the board of tariffs implementing the
31 unbundling of essential facilities pursuant to section
32 476.30F, subsection 4, except for a local exchange carrier
33 with less than seventy-five thousand access lines whose plan
34 for price regulation will be effective concurrent with the
35 approval of its plan. The board may approve a plan for price

1 regulation prior to the adoption of rules related to the
2 unbundling of essential facilities or concurrent with a rate
3 proceeding under section 476.3, 476.6, or 476.7. During the
4 term of the plan, the board shall regulate the prices of the
5 local exchange carrier's basic and nonbasic communications
6 services pursuant to the requirements of the price regulation
7 plan approved by the board. The local exchange carrier shall
8 not be subject to rate of return regulation during the term of
9 the plan.

10 2. The board, after notice and opportunity for hearing,
11 may approve, modify, or reject the plan. The local exchange
12 carrier shall have ten days to accept or reject any board
13 modifications to its plan. If the local exchange carrier
14 rejects a modification to its plan, the board shall reject the
15 plan without prejudice to the local exchange carrier to submit
16 another plan.

17 3. A price regulation plan, at a minimum, shall include
18 provisions, consistent with the provisions of this section and
19 any rules adopted by the board, for the following:

20 a. (1) Establishing and changing prices, terms, and
21 conditions for basic communications services. The initial
22 plan for price regulation must include a proposal, which the
23 board shall approve, for reducing the local exchange carrier's
24 average intrastate access service rates to the local exchange
25 carrier's average interstate access service rates in effect as
26 of the last day of the calendar year immediately preceding the
27 date of filing of the plan, as follows:

28 (a) A local exchange carrier with five hundred thousand or
29 more access lines in this state shall reduce its average
30 intrastate access service rates to its average interstate
31 access service rates as of the date that the plan becomes
32 effective.

33 (b) A local exchange carrier with fewer than five hundred
34 thousand but seventy-five thousand or more access lines in
35 this state shall reduce its average intrastate access service

1 rates to its average interstate access service rates in
2 increments of at least twenty-five percent, with the initial
3 reduction to take effect on approval of the plan and equal
4 annual reductions on each anniversary of the approval during
5 the first three years that its plan is in effect.

6 (c) A local exchange carrier with fewer than seventy-five
7 thousand access lines in this state shall reduce its average
8 intrastate access service rates to its average interstate
9 access service rates with equal annual reductions during a
10 period beginning no more than two years and ending no more
11 than five years from the plan's inception.

12 (2) This section shall not be construed to do either of
13 the following:

14 (a) Prohibit an additional decrease in a carrier's average
15 intrastate access service rate during the term of the plan.

16 (b) Permit any increase in a carrier's average intrastate
17 access service rates during the term of the plan.

18 (3) The plan shall also provide that the initial prices
19 for basic communications services shall be six percent less
20 than the rates approved and in effect at the time the local
21 exchange carrier files its plan. A local exchange carrier
22 which elects to reduce its rates by six percent shall not, at
23 a later time, increase its rates for basic communications
24 services as a result of the carrier's compliance with the
25 board's rules relating to unbundling. In lieu of the six
26 percent reduction, and prior to the adoption of rules relating
27 to unbundling pursuant to section 476.30F, subsection 4,
28 paragraph "a", subparagraph (1), the local exchange carrier
29 may request and the board may establish a regulated revenue
30 requirement in a rate proceeding under section 476.3 or 476.6
31 commenced after the effective date of this Act. After the
32 determination of the local exchange carrier's regulated
33 revenue requirement pursuant to the rate proceeding, the local
34 exchange carrier shall not immediately implement rates
35 designed to recover that regulated revenue requirement.

1 Following the adoption of rules relating to unbundling
2 pursuant to section 476.30F, subsection 4, paragraph "a",
3 subparagraph (1), the local exchange carrier shall commence a
4 tariff proceeding for the approval of tariffs implementing
5 such unbundling. The board has six months to complete this
6 tariff proceeding and determine the local exchange carrier's
7 final unbundled rates. The local exchange carrier shall carry
8 forward the regulated revenue requirement determined by the
9 board pursuant to the rate proceeding and design rates that
10 comply with the board's rules relating to unbundling that
11 recover the regulated revenue requirement, and that implement
12 the board's approved rate design established in the tariff
13 proceeding.

14 In lieu of taking the six percent reduction, a local
15 exchange carrier that submits a plan for price regulation
16 after the board adopts rules relating to unbundling may file a
17 rate proceeding under section 476.3 or 476.6 and the board may
18 approve rates designed to comply with those rules which allow
19 the carrier to recover the established regulated revenue
20 requirement and that implement the board's approved rate
21 design established in the tariff proceeding.

22 (4) The plan shall provide for both increases and
23 decreases in the prices for basic communications services
24 reflecting annual changes in inflation and productivity.
25 Prior to January 1, 1998, the board shall use the gross
26 domestic product price index, as published by the federal
27 government, for an inflation measure, and two and six-tenths
28 percentage points for a productivity measure. After January
29 1, 1998, the board by rule may adopt current measures of
30 inflation and productivity.

31 (5) The plan may provide that price increases for basic
32 communications services which are permitted under this section
33 may be deferred and accumulated for a maximum of three years
34 into a single price increase, provided that a deferred and
35 accumulated price increase under this section shall not at any

1 time exceed six percent. A price decrease for basic
2 communications services shall not be deferred or accumulated,
3 except that price decreases of less than two percent may be
4 deferred by the local exchange carrier for one year. A price
5 decrease required under this section may be offset by a price
6 increase for a basic communications service that would have
7 been permitted under this section in the previous twelve-month
8 period, but which was deferred by the local exchange carrier.

9 b. Establishing and changing prices, terms, and conditions
10 for nonbasic communications services.

11 c. Reporting new service offerings to the board.

12 d. Reflecting in rates any changes in revenues, expenses,
13 and investment due to exogenous factors beyond the control of
14 the local exchange carrier.

15 e. Providing notice to customers, the board, and the
16 consumer advocate of changes in prices, terms, or conditions
17 for basic and nonbasic communications services.

18 4. The board shall consider the extent to which a proposed
19 plan complies with the requirements of subsection 3 and
20 achieves the following:

21 a. Just, nondiscriminatory, and reasonable rates.

22 b. High quality, universally available communications
23 services.

24 c. Encouragement of investment in communications
25 infrastructure, efficiency improvements, and technological
26 innovation.

27 d. The introduction of new communications products and
28 services from a variety of sources.

29 e. Regulatory efficiency including reduction of regulatory
30 costs and delays. A plan shall not provide for waiver of,
31 release from, or delay in implementing the provisions of this
32 section, section 476.30F or 476.30G or any rules adopted by
33 the board pursuant to those sections.

34 5. Notwithstanding an approved plan for price regulation,
35 the board shall continue to have regulatory authority over the

1 following:

2 a. The level, extent, and timing of the unbundling of
3 essential facilities offered by a local exchange carrier.

4 b. Ensuring against cross-subsidization between nonbasic
5 communications services and basic communications services.

6 6. Any person, including the consumer advocate, a body
7 politic, or the board on its own motion, may file a written
8 complaint pursuant to section 476.3, subsection 1, regarding a
9 local exchange carrier's implementation, operation under, or
10 satisfaction of the purposes of its price regulation plan.

11 7. The consumer advocate may represent consumers before
12 the board regarding any rule, order, or proceeding pertaining
13 to price regulation. The consumer advocate may act as
14 attorney for and represent consumers generally before any
15 state or federal court concerning a board rule, order, or
16 proceeding pertaining to price regulation.

17 8. In implementing price regulation, the board shall
18 consider competitively neutral methods to assist lower-income
19 Iowans to secure and retain telephone services.

20 9. The board shall determine the duration of any plan.
21 The board shall review a local exchange carrier's operation
22 under its plan, with notice and an opportunity for hearing,
23 within four years of the initiation of the plan and prior to
24 the termination of the plan. The local exchange carrier,
25 consumer advocate, or any person may propose, and the board
26 may approve, any reasonable modifications to a local exchange
27 carrier's plan as a result of the review, except that such
28 modifications shall not require a reduction in the rates for
29 any basic communications service.

30 10. The board, in determining whether to file a written
31 complaint pursuant to subsection 6 or prior to reviewing a
32 local exchange carrier's operation pursuant to subsection 9,
33 may request that such carrier provide any information which
34 the board deems necessary to make such determination or
35 conduct such review. The carrier shall provide the requested

1 information upon receipt of the request from the board.

2 11. a. Notwithstanding subsections 1 through 10, a local
3 exchange carrier with fewer than five hundred thousand access
4 lines in this state shall have the option to be regulated
5 pursuant to subsections 1 through 10 or pursuant to this
6 subsection.

7 b. A local exchange carrier which elects to become price
8 regulated under this subsection shall give written notice to
9 the board of such election not less than thirty days prior to
10 the date such regulation is to commence.

11 c. Upon election of a local exchange carrier to become
12 price-regulated under this subsection, the carrier shall
13 reduce its rates for basic local telephone service an average
14 of three percent. In lieu of the three percent reduction, the
15 local exchange carrier may establish its rates for basic local
16 telephone service in a rate proceeding under section 476.3 or
17 476.6 commenced after the effective date of this Act.

18 d. Initial prices for basic communications services, other
19 than basic local telephone service, shall be set at the rates
20 in effect as of the first of July prior to the date such
21 regulation is to commence.

22 e. (1) A price-regulated local exchange carrier shall not
23 increase its rates for basic communications services, for a
24 period of twelve months after electing to become price
25 regulated. To the extent necessary, rates for basic services
26 may be increased to carry out the purpose of any rules that
27 may be adopted by the board relating to the terms and
28 conditions of unbundled services and interconnection. A
29 price-regulated local exchange carrier may increase its rates
30 for basic communications services following the initial
31 twelve-month period, to the extent that the change in rate
32 does not exceed two percentage points less than the most
33 recent annual change in the gross domestic product price
34 index, as published by the federal government. If application
35 of such formula achieves a negative result, prices shall be

1 reduced so that the cumulative price change for basic
2 services, including prior price reductions in these services,
3 achieves the negative result. After January 1, 2000, the
4 board by rule may adopt different measures of inflation and
5 productivity if they are found to be more reflective of the
6 individual price-regulated carriers.

7 (2) Price increases for basic communications services
8 which are permitted under this subsection may be deferred and
9 accumulated for a maximum of three years into a single price
10 increase, provided that a deferred and accumulated price
11 increase under this subsection shall not at any time exceed
12 six percent. A price decrease for basic communications
13 services shall not be deferred or accumulated, except that
14 price decreases of less than two percent may be deferred by
15 the local exchange carrier for one year. A price decrease
16 required under this section may be offset by a price increase
17 for a basic communications service that would have been
18 permitted under this section in the previous twelve-month
19 period, but which was deferred by the local exchange carrier.
20 A rate change pursuant to this subsection may take effect
21 thirty days after the notification of the board and consumers.

22 (3) A price-regulated local exchange carrier shall not
23 increase its aggregate revenue weighted prices for nonbasic
24 communications services more than six percent in any twelve-
25 month period.

26 (4) A price-regulated local exchange carrier may reduce
27 the price for any basic communications service, to an amount
28 not less than the total service long-run incremental cost for
29 such service on one day's notice filed with the board. For
30 purposes of this subsection, "total service long-run
31 incremental costs" means the difference between the company's
32 total cost and the total cost of the company less the
33 applicable service, feature, or function.

34 (5) A price-regulated local exchange carrier may offer new
35 service alternatives for any basic communications services on

1 thirty days prior notice to the board, provided that the
2 preexisting basic communications service rate structure
3 continues to be offered to customers. New telecommunications
4 services shall be considered nonbasic communications services
5 as defined in section 476.30A, subsection 6.

6 (6) A price-regulated local exchange carrier must reduce
7 the average intrastate access service rates to the carrier's
8 average interstate access service rates. Such carrier shall
9 reduce the average intrastate access service rates by at least
10 twenty-five percent of the difference of such rates within
11 ninety days of the election to be price-regulated and twenty-
12 five percent each of the next three years.

13 f. A local exchange carrier shall notify customers of a
14 rate change under this subsection at least thirty days prior
15 to the effective date of the rate change.

16 g. The board may review a local exchange carrier's
17 operation under this subsection, with notice and an
18 opportunity for hearing, after four years of the carrier's
19 election to be price-regulated. The local exchange carrier,
20 consumer advocate, or any person may propose, and the board
21 may approve, any reasonable modifications to the price-
22 regulation requirements in this subsection as a result of the
23 specific carrier review, except that such modifications shall
24 not require a reduction in the rates for any basic
25 communications service or a return to rate-base, rate-of-
26 return regulation.

27 Sec. 8. NEW SECTION. 476.30C EARNINGS CALCULATION AND
28 REPORT.

29 1. The consumer advocate shall calculate an estimate of
30 the return of a local exchange carrier operating under a plan
31 of price regulation pursuant to section 476.30B as if the
32 carrier were subject to rate-of-return regulation. The
33 calculation shall be based upon the annual report of such
34 carrier and other information provided to the consumer
35 advocate by the carrier. The calculation shall be made every

1 two years beginning following the end of the second calendar
2 year after the year in which the plan becomes effective. The
3 consumer advocate shall provide a written report to the
4 general assembly including the results of this calculation on
5 or before July 1 of the year immediately following the two-
6 year period for which a calculation is made. If, after a
7 review of the information used to make the calculation
8 required in this section, the consumer advocate determines
9 that the public interest would be better served by a different
10 form of rate regulation, the consumer advocate shall provide a
11 recommendation that the general assembly direct the utilities
12 board to implement a different form of rate regulation.

13 Sec. 9. NEW SECTION. 476.30D ADDITIONAL PRICE REGULATION
14 PLAN PROVISIONS.

15 In addition to the provisions required in section 476.30B
16 to be included in a plan of price regulation, the plan shall
17 include provisions for the following:

18 1. Reflecting in rates any changes due to changes in the
19 average cost of the local exchange carrier resulting from the
20 sale of an exchange in this state.

21 2. Encouraging modernization of the local exchange
22 carrier's telecommunications infrastructure. This provision
23 shall include a requirement that the local exchange carrier
24 develop and file with the board an increased modernization
25 plan.

26 Sec. 10. NEW SECTION. 476.30E PROHIBITED ACTS.

27 A local exchange carrier shall not do any of the following:

28 1. Discriminate against another provider of communications
29 services by refusing or delaying access to the local exchange
30 carrier's services.

31 2. Discriminate against another provider of communications
32 services by refusing or delaying access to essential
33 facilities on terms and conditions no less favorable than
34 those the local exchange carrier provides to itself and its
35 affiliates. An essential facility is a local

1 telecommunications facility, feature, function, or capability
2 of the local exchange carrier's network that competitors
3 cannot practically or economically duplicate or obtain from
4 other sources, and to which reasonable access is necessary to
5 enable competition.

6 3. Degrade the quality of access or service provided to
7 another provider of communications services.

8 4. Fail to disclose in a timely manner, upon reasonable
9 request and pursuant to a protective agreement concerning
10 proprietary information, all information reasonably necessary
11 for the design of network interface equipment, network
12 interface services, or software that will meet the
13 specifications of the local exchange carrier's local exchange
14 network.

15 5. Unreasonably refuse or delay interconnections or
16 provide inferior interconnections to another provider.

17 6. Use basic exchange service rates, directly or
18 indirectly, to subsidize or offset the costs of other products
19 or services offered by the local exchange carrier.

20 7. Discriminate in favor of itself or an affiliate in the
21 provision and pricing of, or extension of credit for, any
22 telephone service.

23 Sec. 11. NEW SECTION. 476.30F LOCAL EXCHANGE
24 COMPETITION.

25 1. A certificate of public convenience and necessity to
26 provide local telephone service shall not be interpreted as
27 conveying a monopoly, exclusive privilege, or franchise. A
28 competitive local exchange service provider shall not be
29 subject to the requirements of this chapter, except that a
30 competitive local exchange service provider shall obtain a
31 certificate of public convenience and necessity pursuant to
32 section 476.29, file tariffs, notify affected customers prior
33 to any rate increase, file reports, information, and pay
34 assessments pursuant to section 476.2, subsection 4, and
35 sections 476.9, 476.10, 476.16, 476.30G, and 477C.7, and shall

1 be subject to the board's authority with respect to adequacy
2 of service, interconnection, discontinuation of service, civil
3 penalties, and complaints. If, after notice and opportunity
4 for hearing, the board determines that a competitive local
5 exchange service provider possesses market power in its local
6 exchange market or markets, the board may apply such other
7 provisions of chapter 476 to a competitive local exchange
8 service provider as it deems appropriate.

9 2. The duty of a local exchange carrier includes the duty,
10 in accordance with requirements prescribed by the board
11 pursuant to subsection 3 and other laws, to provide equal
12 access to, and interconnection with, its facilities so that
13 its network is fully interoperable with the telecommunications
14 services and information services of other providers, and to
15 offer unbundled essential facilities.

16 3. A local exchange carrier shall provide reasonable
17 access to ducts, conduits, rights-of-way, and other pathways
18 owned or controlled by the local exchange carrier to which
19 reasonable access is necessary to a competitive local exchange
20 service provider in order for a competitive local exchange
21 service provider to provide service and is feasible for the
22 local exchange carrier.

23 Upon application of a local exchange carrier or a
24 competitive local exchange service provider, the board shall
25 determine any matters concerning reasonable access to ducts,
26 conduits, rights-of-way, and other pathways owned or
27 controlled by the local exchange carrier upon which agreement
28 cannot be reached, including but not limited to, matters
29 regarding valuation, space, and capacity restraints, and
30 compensation for access.

31 4. a. Prior to September 1, 1995, the board shall
32 initiate a rule-making proceeding to adopt rules that satisfy
33 the requirements enumerated in subparagraphs (1) through (4).
34 The rule-making proceeding shall be completed as promptly as
35 possible. The board, upon petition or on its own motion, may

1 conduct a separate evidentiary hearing on the same or related
2 subjects. The evidence from a hearing may be considered by
3 the board during the rule-making proceeding, provided that the
4 board announces its intention to do so prior to the oral
5 presentation in the rule-making proceeding. The rules shall
6 do the following:

7 (1) Require a local exchange carrier to provide unbundled
8 essential facilities of its network, and allow reasonable and
9 nondiscriminatory equal access to, use of, and interconnection
10 with, those unbundled essential facilities on reasonable,
11 cost-based, and tariffed terms and conditions. The board's
12 rules must require a local exchange carrier, including those
13 operating under a plan of price regulation, to file tariffs
14 implementing the unbundled essential facilities within ninety
15 days of the board's final order adopting such rules, except
16 for local exchange carriers with less than seventy-five
17 thousand access lines which must file such tariffs within two
18 years of the effective date of this Act. Such access, use,
19 and interconnection shall be on terms and conditions no less
20 favorable than those the local exchange carrier provides to
21 itself and its affiliates for the provision of local exchange,
22 access, and toll services. This subsection shall not be
23 construed to establish a presumption as to the level of
24 interconnection charges, if any, to be determined by the board
25 pursuant to subparagraph (2).

26 (2) Establish reciprocal cost-based compensation for
27 termination of telecommunications services between local
28 exchange carriers and competitive local exchange service
29 providers. The board may also implement an appropriate
30 surcharge to be effective on July 1, 1997, or upon the
31 availability of provider number portability, whichever is
32 first, if the ratio of residence to business customers served
33 on a facilities basis by a competitive local exchange service
34 provider does not approximate the ratio of residence to
35 business customers served by the local exchange carrier. The

1 board may eliminate the surcharge upon the occurrence of
2 either of the following:

3 (a) When the local exchange carrier's prices for local
4 exchange service cover the carrier's costs as determined by
5 the board.

6 (b) Once the competitive local exchange service provider's
7 ratio of residence to business customers approximates that of
8 the local exchange carrier.

9 The board may require the local exchange carrier, by
10 tariff, to implement an equalization adjustment mechanism on
11 an annual basis that recognizes the competitive local exchange
12 service provider's average annual ratio of residence to
13 business customers and which makes appropriate pro rata
14 reductions in the surcharge if the competitive local exchange
15 service provider demonstrates a year-over-year change in the
16 ratio of residence to business customers served. The tariff
17 may also provide for an equalization adjustment on an annual
18 basis if the local exchange carrier experienced an increase in
19 its residential local service rates during the preceding year.

20 (3) Require local exchange carriers to make interim number
21 portability available on request of a competitive local
22 exchange service provider, and to implement provider number
23 portability as soon as the availability of necessary
24 technology makes provider number portability economically and
25 technically feasible, as determined by the board. The rules
26 shall also devise a reasonable and nondiscriminatory mechanism
27 for the recovery of all recurring and nonrecurring costs of
28 interim and provider number portability.

29 (4) Develop the cost methodology appropriate for a
30 competitive telecommunications environment.

31 b. The rules adopted in paragraph "a", subparagraphs (2)
32 and (3), do not apply to local exchange carriers with less
33 than seventy-five thousand access lines until a competitive
34 local exchange service provider has filed for a certificate to
35 provide basic communications services in an exchange or

1 exchanges of the local exchange carrier, or the board
2 determines that competitive necessity requires the
3 implementation of the rules in paragraph "a", subparagraphs
4 (2) and (3), by the local exchange carrier.

5 5. Local exchange carriers shall file tariffs or price
6 lists in accordance with board rules with respect to the
7 services, features, functions, and capabilities offered to
8 comply with board rules on unbundling of essential facilities
9 and interconnection. Local exchange carriers shall submit
10 with the tariffs or price lists for basic communications
11 services and toll services supporting information that is
12 sufficient for the board to determine the relationship between
13 the proposed charges and the costs of providing such services,
14 features, functions, or capabilities, including the imputed
15 cost of intrastate access service rates in toll service rates
16 pursuant to existing board orders. The board shall review the
17 tariffs or price lists to ensure that the charges are cost-
18 based and that the terms and conditions contained in the
19 tariffs or price lists unbundle any essential facilities in
20 accordance with the board's rules and any other applicable
21 laws.

22 6. This section shall not be construed to prohibit the
23 board from enforcing rules or orders entered in contested
24 cases pending on the effective date of this Act to the extent
25 that such rules and orders are consistent with the provisions
26 of this section.

27 7. Except as provided under section 476.29, subsection 2,
28 and this section, the board shall not impose or allow a local
29 exchange carrier to impose restrictions on the resale of local
30 exchange services, functions, or capabilities. The board may
31 prohibit residential service from being resold as a different
32 class of service.

33 8. Any person may file a written complaint with the board
34 requesting the board to determine compliance by a local
35 exchange carrier with the provisions of sections 476.30A

1 through 476.30E, 476.30G, and this section, or any board rules
2 implementing those sections. Upon the filing of such
3 complaint, the board may promptly initiate a formal complaint
4 proceeding and give notice of the proceeding and the
5 opportunity for hearing. The formal complaint proceeding may
6 be initiated at any time by the board on its own motion. The
7 board shall render a decision in the proceeding within ninety
8 days after the date the written complaint was filed.

9 Sec. 12. NEW SECTION. 476.30G UNIVERSAL SERVICE.

10 1. The board shall initiate a proceeding to preserve
11 universal service such that it shall be maintained in a
12 competitively neutral fashion. As a part of this proceeding,
13 the board shall determine the difference between the cost of
14 providing universal service and the prices determined to be
15 appropriate for such service.

16 2. The board shall base policies for the preservation of
17 universal service on the following principles:

18 a. A plan adopted by the board should ensure the continued
19 viability of universal service by maintaining quality services
20 at just and reasonable rates.

21 b. The plan should define the nature and extent of the
22 service encompassed within any entities' universal service
23 obligations.

24 c. The plan should establish specific and predictable
25 mechanisms to provide competitively neutral support for
26 universal service. Those mechanisms shall include a
27 nondiscriminatory mechanism by which funds to support
28 universal service shall be collected, and a mechanism for
29 disbursement of support funds to eligible subscribers, either
30 directly to those subscribers, or to the subscriber's provider
31 of local exchange services chosen by the subscriber.

32 d. The plan should be based on other principles as the
33 board determines are necessary and appropriate for the
34 protection of the public interest, convenience, and necessity
35 and consistent with the purposes of sections 476.30 through

1 476.30F and this section.

2 Sec. 13. REPORT. The utilities board shall submit a
3 report to the general assembly no later than January 15, 1999,
4 concerning the implementation of price regulation for local
5 exchange carriers furnishing communications services.

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HOUSE FILE 518

H-4182

1 Amend the Senate amendment, H-4176, to House File
2 518, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 40 the
5 following:

6 "_____. Page 9, line 30, by inserting after the
7 word "productivity." the following: "The plan shall
8 provide that a price increase shall not be undertaken
9 within twelve months of the effective date of the
10 local exchange carrier's plan, or within twelve months
11 of the last price change for basic communications
12 services."

A

13 2. Page 1, by inserting after line 48 the
14 following:

15 "_____. Page 12, line 25, by inserting after the
16 word "regulated" the following: ", or within twelve
17 months of the last price change for basic
18 communications services".

B

19 3. Renumber as necessary.

By HOLVECK of Polk
BRAND of Benton

H-4182 FILED MAY 1, 1995

A. & B. Not germane 5/1/95

HOUSE FILE 518

H-4183

1 Amend the Senate amendment, H-4176, to House File
2 518, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 48 the
5 following:

6 "_____. Page 12, line 14, by inserting after the
7 words "of three percent" the following: "for
8 residential class or classes as a group, an average of
9 three percent for the business class or classes as a
10 group, and an average of three percent for any other
11 similar class or classes as a group".

By HOLVECK of Polk

H-4183 FILED MAY 1, 1995

Withdrawn 5-1-95 (P. 2136)

HOUSE FILE 518

H-4185

1 Amend the Senate amendment, H-4176, to House File
2 518, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 48 the
5 following:

6 "_____. Page 13, by striking lines 1 through 3 and
7 inserting the following: "reduced to achieve the
8 negative result. After January 1, 1998, the".

By HOLVECK of Polk
BRAND of Benton

H-4185 FILED MAY 1, 1995

Not germane 5-1-95 (P. 2136)

HOUSE FILE 518

H-4181

1 Amend the Senate amendment, H-4176, to House File
2 518, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting before line 32, the
5 following:

6 "Each county treasurer shall be paid an amount
7 equal to the amount of the public utility property tax
8 replacement claim as calculated pursuant to section
9 476.1E.

10 Sec. ____ . NEW SECTION. 476.1E DEPARTMENT OF
11 REVENUE AND FINANCE AND COUNTY AUDITOR DUTIES.

12 1. On or before July 1 of each year, the
13 department of revenue and finance shall determine the
14 total valuation of all property assessed under section
15 476.1D, subsection 10, for that year and the valuation
16 of such property if it were assessed as of January 1,
17 1995, and shall report the valuations to the county
18 auditor.

19 2. On or before July 1, 1997, and on or before
20 July 1 of each subsequent year, the county auditor
21 shall prepare a statement listing for each taxing
22 district in the county:

23 a. Beginning with the assessment year beginning
24 January 1, 1996, the difference between the assessed
25 valuations of property assessed pursuant to section
26 476.1D, subsection 10, and the assessed value of such
27 property if it were assessed as of January 1, 1995.
28 The auditor shall make other adjustments as directed
29 by rule of the department of revenue and finance.

30 b. The tax levy rate for each taxing district for
31 the fiscal year.

32 c. If the calculation under paragraph "a"
33 indicates a net decrease in aggregate valuation of
34 such property, the public utility property tax
35 replacement claim for each taxing district is equal to
36 the net decrease determined pursuant to paragraph "a",
37 multiplied by the tax rate specified in paragraph "b".

38 3. The county auditor shall certify and forward
39 one copy of the statement to the department of revenue
40 and finance not later than July 1 of each year.

41 Sec. ____ . NEW SECTION. 476.1F FUND CREATED.

42 1. The public utility property tax replacement
43 fund is created. There is appropriated annually from
44 the general fund of the state to the department of
45 revenue and finance to be credited to the public
46 utility property tax replacement fund, an amount
47 necessary to administer this section and section
48 476.1E.

49 2. Each county treasurer shall be paid from the
50 fund created in this section the amount calculated

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Page 2

1 pursuant to section 476.1E. The payment shall be made
2 in two equal installments on or before September 30
3 and March 30 of each year. The county treasurer shall
4 apportion the payment in the manner provided in
5 section 445.57.

6 3. If an amount appropriated for a fiscal year is
7 insufficient to pay all claims, the director shall
8 prorate the disbursements from the fund to the county
9 treasurers and shall notify the county auditors of the
10 pro rata percentage on or before August 1. If an
11 amount appropriated for a fiscal year is in excess of
12 the amount necessary to pay all claims according to
13 the replacement schedule in section 476.1E, the
14 director shall prorate the disbursements from the fund
15 to the county treasurers, notwithstanding the amount
16 of the claims, and shall notify the county auditors of
17 the pro rata percentage on or before August 1.

18 4. The replacement amount paid to each school
19 district shall be regarded as property tax for the
20 purposes of the school foundation property tax levy in
21 section 257.3 and the additional property tax levy in
22 section 257.4. The department of management shall
23 annually make the adjustments necessary to implement
24 this subsection."

25 2. Page 2, by inserting after line 50 the
26 following:

27 "____. Title page, line 2, by inserting after the
28 word "services" the following: "and to the assessment
29 of certain utilities for purposes of property taxation
30 and providing replacement funds to local
31 governments"."

32 3. By renumbering as necessary.

By WEIGEL of Chickasaw

H-4181 FILED MAY 1, 1995

Lost 5-1-95 (p. 2135)

HOUSE FILE 518

H-4179

1 Amend the Senate amendment, H-4176, to House File
2 518, as amended, passed, and reprinted by the House,
3 as follows:

- 4 1. Page 1, by striking lines 3 through 31.
- 5 2. By renumbering as necessary.

By BRAND of Benton

H-4179 FILED MAY 1, 1995

*Lost 5/1/95
(p. 2133)*

HOUSE FILE 518

S-3641

1 Amend House File 518, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 476.1D, Code 1995, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 10. The board, at the request of
8 a long distance telephone company, shall classify such
9 company as a competitive long distance telephone
10 company if more than half of the company's revenues
11 from its Iowa intrastate telecommunications services
12 and facilities are received from services and
13 facilities that the board has determined to be subject
14 to effective competition. The board shall promptly
15 notify the director of revenue and finance that a long
16 distance telephone company has been classified as a
17 competitive long distance telephone company. Upon
18 such notification by the board, the director of
19 revenue and finance shall assess the property of such
20 competitive long distance telephone company, which
21 property is first assessed for taxation in this state
22 on or after January 1, 1996, in the same manner as all
23 other property assessed as commercial property by the
24 local assessor under chapters 427, 427A, 427B, 428,
25 and 441. As used in this section, "long distance
26 telephone company" means an entity that provides
27 telephone service and facilities between local
28 exchanges, but does not include a cellular service
29 provider or a local exchange utility holding a
30 certificate issued under section 476.29, subsection
31 12."

32 2. Page 7, by striking lines 30 through 32 and
33 inserting the following: "intrastate access service
34 rates by at least fifty percent of the difference
35 between average intrastate access service rates and
36 average interstate access service rates as of the date
37 that the plan is filed and further reduce such rates
38 to the average interstate access service rates within
39 ninety days of the date that the plan becomes
40 effective."

41 3. Page 12, line 6, by inserting after the word
42 "subsection." the following: "A local exchange
43 carrier which elects to become price regulated under
44 this subsection shall also be subject to subsections 5
45 through 8 and subsection 10 in the same manner as a
46 local exchange carrier which operates under an
47 approved plan of price regulation submitted pursuant
48 to subsection 1."

49 4. Page 14, by inserting after line 15 the
50 following:

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Page 2

1 "_____. A local exchange carrier which elects to
2 become price regulated under this subsection shall
3 also be subject to the following:

4 (1) The local exchange carrier shall not be
5 subject to rate-of-return regulation while operating
6 under price regulation.

7 (2) All regulated services shall be provided
8 pursuant to board-approved tariffs.

9 (3) All new regulated service offerings shall be
10 reported to the board.

11 (4) Rates may be adjusted by the board to reflect
12 any changes in revenues, expenses, and investment due
13 to exogenous factors beyond the control of the local
14 exchange carrier."

15 5. Page 14, by inserting after line 26 the
16 following:

17 "_____. This subsection shall not be construed to
18 prohibit an additional decrease or to permit any
19 increase in a local exchange carrier's average
20 intrastate access service rates during the term of the
21 local exchange carrier's operation under price
22 regulation."

23 6. Page 14, lines 30 and 31, by striking the
24 words "a plan of".

25 7. Page 15, by striking lines 15 through 17 and
26 inserting the following:

27 "In addition to the provisions required in section
28 476.30B, a local exchange carrier, prior to operating
29 under price regulation, shall make provision for the
30 following:"

31 8. By striking page 15, line 35, through page 16,
32 line 5, and inserting the following: "affiliates. A
33 local telecommunications facility, feature, function,
34 or capability of the local exchange carrier's network
35 is an essential facility if all of the following
36 apply:

37 a. Competitors cannot practically or economically
38 duplicate the facility, feature, function, or
39 capability, or obtain the facility, feature, function,
40 or capability from another source.

41 b. The use of the facility, feature, function, or
42 capability by potential competitors is technically and
43 economically feasible.

44 c. Denial of the use of the facility, feature,
45 function, or capability by competitors is
46 unreasonable.

47 d. The facility, feature, function, or capability
48 will enable competition."

49 9. By striking page 18, line 29, through page 19,
50 line 19, and inserting the following: "providers."

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Page 3

1 10. Renumber and relettering as necessary.

By MICHAEL E. GRONSTAL

EMIL J. HUSAK

PATRICK J. DELUHERY

MARY A. LUNDBY

S-3641 FILED APRIL 28, 1995

ADOPTED

(P. 1519)

HOUSE FILE 518

S-3648

1 Amend House File 518, as amended, passed, and

2 reprinted by the House, as follows:

3 1. Page 22, by inserting after line 1 the

4 following:

5 "Sec. ____ . NEW SECTION. 476.78A PUBLIC UTILITY

6 -- SEPARATE AFFILIATE REQUIRED.

7 A rate-regulated utility, as defined in section

8 476.1, which engages in a nonutility service, as

9 defined in section 476.72, shall establish a separate

10 affiliate business entity for the purpose of engaging

11 in such service. The separate affiliate shall not use

12 in any manner, any name, logo, property, equipment, or

13 facilities owned or leased by, or personnel employed

14 by, the rate-regulated utility."

15 2. Renumber as necessary.

By JIM LIND

S-3648 FILED APRIL 28, 1995

No action taken

HOUSE FILE 518

S-3583

1 Amend House File 518, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 7, by striking lines 30 through 32 and
 4 inserting the following: "intrastate access service
 5 rates by at least fifty percent of the difference
 6 between average intrastate access service rates and
 7 average interstate access service rates as of the date
 8 that the plan is filed and further reduce such rates
 9 to the current average interstate access service rates
 10 within ninety days of the date that the plan becomes
 11 effective."

12 2. Page 16, by striking lines 4 and 5 and
 13 inserting the following: "other sources, the denial
 14 of which results in undue harm to the competitor."

15 3. Page 18, line 29, by inserting after the word
 16 "providers" the following: "at a level sufficient to
 17 compensate a local exchange carrier for its costs
 18 incurred in providing the network functions necessary
 19 to terminate the telecommunications services
 20 originating on the network of the competitive local
 21 exchange service provider".

22 4. Page 18, line 30, by striking the words and
 23 figures "on July 1, 1997, or upon" and inserting the
 24 following: "two years after a competitive local
 25 exchange service provider is certified to offer local
 26 residential service, or one year after".

By STEVEN D. HANSEN
 BRAD BANKS
 EMIL J. HUSAK
 DERRYL McLAREN

EUGENE S. FRAISE
 JIM LIND
 JOHN JENSEN
 BERL E. PRIEBE

S-3583 FILED APRIL 26, 1995

*out of order 4-28-95**(P.1519)*

HOUSE FILE 518

S-3590

1 Amend House File 518, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 8, by inserting after line 11 the
 4 following:
 5 "(d) The board shall require that all cost
 6 reductions and savings to the interexchange carriers
 7 resulting from the local exchange carrier's reduction
 8 in intrastate access service rates be returned to Iowa
 9 customers in the form of lower message
 10 telecommunications service rates. The board shall
 11 require the interexchange carrier to file price lists
 12 and supporting information and data sufficient for the
 13 board to determine the relationship between the
 14 reduced intrastate access service rates and the
 15 subsequent reduction in the interexchange carrier's
 16 prices."

4-28-95 (P.1519) By MICHAEL E. GRONSTAL

S-3590 FILED APRIL 26, 1995

SENATE AMENDMENT TO HOUSE FILE 518

H-4176

1 Amend House File 518, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 476.1D, Code 1995, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 10. The board, at the request of
8 a long distance telephone company, shall classify such
9 company as a competitive long distance telephone
10 company if more than half of the company's revenues
11 from its Iowa intrastate telecommunications services
12 and facilities are received from services and
13 facilities that the board has determined to be subject
14 to effective competition. The board shall promptly
15 notify the director of revenue and finance that a long
16 distance telephone company has been classified as a
17 competitive long distance telephone company. Upon
18 such notification by the board, the director of
19 revenue and finance shall assess the property of such
20 competitive long distance telephone company, which
21 property is first assessed for taxation in this state
22 on or after January 1, 1996, in the same manner as all
23 other property assessed as commercial property by the
24 local assessor under chapters 427, 427A, 427B, 428,
25 and 441. As used in this section, "long distance
26 telephone company" means an entity that provides
27 telephone service and facilities between local
28 exchanges, but does not include a cellular service
29 provider or a local exchange utility holding a
30 certificate issued under section 476.29, subsection
31 12."

32 2. Page 7, by striking lines 30 through 32 and
33 inserting the following: "intrastate access service
34 rates by at least fifty percent of the difference
35 between average intrastate access service rates and
36 average interstate access service rates as of the date
37 that the plan is filed and further reduce such rates
38 to the average interstate access service rates within
39 ninety days of the date that the plan becomes
40 effective."

41 3. Page 12, line 6, by inserting after the word
42 "subsection." the following: "A local exchange
43 carrier which elects to become price regulated under
44 this subsection shall also be subject to subsections 5
45 through 8 and subsection 10 in the same manner as a
46 local exchange carrier which operates under an
47 approved plan of price regulation submitted pursuant
48 to subsection 1."

49 4. Page 14, by inserting after line 15 the
50 following:

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Page 2

1 "_____. A local exchange carrier which elects to
2 become price regulated under this subsection shall
3 also be subject to the following:

4 (1) The local exchange carrier shall not be
5 subject to rate-of-return regulation while operating
6 under price regulation.

7 (2) All regulated services shall be provided
8 pursuant to board-approved tariffs.

9 (3) All new regulated service offerings shall be
10 reported to the board.

11 (4) Rates may be adjusted by the board to reflect
12 any changes in revenues, expenses, and investment due
13 to exogenous factors beyond the control of the local
14 exchange carrier."

15 5. Page 14, by inserting after line 26 the
16 following:

17 "_____. This subsection shall not be construed to
18 prohibit an additional decrease or to permit any
19 increase in a local exchange carrier's average
20 intrastate access service rates during the term of the
21 local exchange carrier's operation under price
22 regulation."

23 6. Page 14, lines 30 and 31, by striking the
24 words "a plan of".

25 7. Page 15, by striking lines 15 through 17 and
26 inserting the following:

27 "In addition to the provisions required in section
28 476.30B, a local exchange carrier, prior to operating
29 under price regulation, shall make provision for the
30 following:"

31 8. By striking page 15, line 35, through page 16,
32 line 5, and inserting the following: "affiliates. A
33 local telecommunications facility, feature, function,
34 or capability of the local exchange carrier's network
35 is an essential facility if all of the following
36 apply:

37 a. Competitors cannot practically or economically
38 duplicate the facility, feature, function, or
39 capability, or obtain the facility, feature, function,
40 or capability from another source.

41 b. The use of the facility, feature, function, or
42 capability by potential competitors is technically and
43 economically feasible.

44 c. Denial of the use of the facility, feature,
45 function, or capability by competitors is
46 unreasonable.

47 d. The facility, feature, function, or capability
48 will enable competition."

49 9. By striking page 18, line 29, through page 19,
50 line 19, and inserting the following: "providers."

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Page 3

1 10. Renumber and relettering as necessary.

RECEIVED FROM THE SENATE

H-4176 FILED APRIL 28, 1995

*House Concurred 5-1-95
(P. 2136)*

COMMERCE • REGULATION

Metcalf, Chair
Brunkhorst
Holveck
Lamberti
Weigel

Introduced By _____
SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/UTILITIES
DIVISION BILL)

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

A BILL FOR

1 An Act relating to authorization of price regulation for
2 utilities providing communications services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 476.3, subsection 2, Code 1995, is
2 amended by adding the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions
4 of this subsection, the consumer advocate shall not file a
5 petition under this subsection which alleges that a utility's
6 rates are excessive while the utility is participating in a
7 price regulation plan approved by the board pursuant to
8 section 476.30A.

9 Sec. 2. NEW SECTION. 476.30 FINDINGS -- STATEMENT OF
10 POLICY.

11 The general assembly finds all of the following:

12 1. Communications services should be available throughout
13 the state at just, reasonable, and affordable rates.

14 2. Regulatory flexibility is appropriate when competition
15 provides consumers with choices in the variety, quality, and
16 pricing of communications services, and when consistent with
17 consumer protection and other relevant public interests.

18 3. The utilities board should respond rapidly and with
19 flexibility to changes in the communications industry.

20 4. Economic development can be fostered by advanced
21 communications networks.

22 Sec. 3. NEW SECTION. 476.30A DEFINITIONS.

23 As used in sections 476.30 through 476.30B, unless the
24 context otherwise requires:

25 1. "Essential communications service" includes at a
26 minimum, basic local telephone service, switched access, 911
27 and E-911 services, and relay service for communications-
28 impaired persons. The board may classify by rule other
29 communications services as essential communications services
30 consistent with community expectations and the public
31 interest.

32 2. "Nonessential communications services" means all
33 communications services subject to the board's jurisdiction
34 not defined or classified either by statute or by rule as
35 essential communications services. Consistent with community

1 expectations and the public interest, the board may reclassify
2 by rule as nonessential those communications services
3 previously classified by rule as essential.

4 Sec. 4. NEW SECTION. 476.30B PRICE REGULATION.

5 1. Notwithstanding contrary provisions of this chapter
6 relating to rate regulation, the board may adopt rules
7 relating to price regulation for rate-regulated utilities
8 furnishing communications services.

9 2. If rules for price regulation are adopted, a rate-
10 regulated utility certified under section 476.29 shall submit
11 a plan for price regulation specific to that utility. The
12 board, after notice and opportunity for hearing, may approve,
13 modify, or reject the plan.

14 3. A price regulation plan shall, at a minimum, include
15 provisions for all of the following:

16 a. Establishing and changing prices, terms, and conditions
17 for essential communications services.

18 b. Establishing and changing prices, terms, and conditions
19 for nonessential communications services.

20 c. Reporting new service offerings to the board.

21 d. Reflecting changes in revenues, expenses, and
22 investment due to exogenous factors beyond the control of the
23 utility in the rates charged by the utility.

24 e. Modernizing the utility's telecommunications
25 infrastructure.

26 4. The board shall consider the extent to which a proposed
27 plan achieves the following:

28 a. Just, nondiscriminatory, and reasonable rates.

29 b. High quality, universally available communications
30 services.

31 c. Investment in communications infrastructure, efficiency
32 improvements, and technological innovation.

33 d. Introduction of new communications products and
34 services.

35 e. Regulatory efficiency, including reduction of

1 regulatory costs and delays.

2 5. The board shall have authority over all of the
3 following:

4 a. The level, extent, and timing of the unbundling of
5 services by the local exchange utility.

6 b. Ensuring against cross subsidization of nonessential
7 services by essential services.

8 6. Any person may file a complaint pursuant to section
9 476.3, subsection 1, regarding a utility's operation under its
10 price regulation plan.

11 7. The consumer advocate may represent consumers before
12 the utilities board regarding any rule, order, or proceeding
13 pertaining to price regulation. The consumer advocate may act
14 as attorney for and represent consumers generally before any
15 state or federal court concerning a utilities board rule,
16 order, or proceeding pertaining to price regulation.

17 8. In implementing price regulation, the board shall
18 consider methods to assist low-income Iowans to secure and
19 retain telephone services.

20 9. The board shall review a utility's operation under its
21 plan, with notice and an opportunity for hearing, prior to the
22 termination of the plan or within five years of the initiation
23 of the plan, whichever comes first.

24 Sec. 5. NEW SECTION. 476.30C PROHIBITED ACTS.

25 A utility under a price regulation plan shall not do any of
26 the following:

27 1. Discriminate against another provider of communications
28 services by refusing or delaying access to regulated services
29 or in the pricing of regulated services.

30 2. Degrade the quality of access or service provided to
31 another provider of communications services.

32 3. Fail to disclose in a timely manner, upon request and
33 pursuant to a protective agreement concerning proprietary
34 information, all information reasonably necessary for the
35 design of network interface equipment or network interface

1 services that will meet the specifications of the
2 participating utility's local exchange network.

3 Sec. 6. REPORT. The utilities board shall submit a report
4 to the general assembly no later than January 15, 1999,
5 concerning the implementation of price regulation for
6 utilities furnishing communications services.

7 EXPLANATION

8 The bill provides the utilities board with the authority to
9 adopt rules to implement price regulation for rate-regulated
10 telephone companies. The bill provides that the board is to
11 consider the extent to which a proposed plan achieves just,
12 nondiscriminatory, and reasonable rates; high quality,
13 universally available communications services; investment in
14 communications infrastructure, efficiency improvements, and
15 technological innovation; the introduction of new
16 communications products and services; and regulatory
17 efficiency, including reduction of regulatory costs and
18 delays. The consumer advocate is authorized to represent
19 consumers before the utilities board regarding any proceeding
20 pertaining to price regulation. In implementing price
21 regulation, the board is directed to consider methods to
22 assist low-income Iowans in securing and retaining telephone
23 services.

24 The bill defines essential communications services to
25 include at a minimum, basic local telephone service, switched
26 access, 911 and E-911 services, and relay service for
27 communications-impaired persons. Nonessential communications
28 services are defined as all communications services subject to
29 the board's jurisdiction not deemed either by statute or by
30 rule as essential communications services.

31 BACKGROUND STATEMENT
32 SUBMITTED BY THE AGENCY

33 The bill allows price regulation for rate-regulated
34 telephone companies in place of traditional rate-of-return
35 regulation. Under price regulation, utilities are allowed to

1 change rates within limits and on notice to their customers
2 and the board. Price increases under typical price regulation
3 plans are limited by an index that includes inflation,
4 industry productivity, and other factors. Generally, price
5 reductions are not limited.

6 The reasons for authorizing price regulation relate to
7 increasing competition in the telephone industry. A number of
8 services have already been deregulated by the board, pursuant
9 to statute, because they are subject to effective competition.
10 Other services offered by the former monopoly providers are
11 beginning to be offered by competitors. In this environment,
12 the traditional rate-making method hinders competition by
13 rate-regulated providers. Price regulation allows flexible
14 and timely responses in a dynamic marketplace. It also
15 provides those companies better incentives to control costs
16 and introduce new services. In a more competitive industry,
17 price regulation will usually produce better results for the
18 telephone company's ordinary customers, for other telephone
19 companies that must buy services from it, and for the company
20 itself, than traditional rate-of-return regulation, without
21 being unfair or sending improper economic signals to potential
22 competitors. A properly designed price regulation plan can
23 allow the telephone company to compete within reasonable
24 parameters, while offering customers appropriate protection as
25 to rates and service quality.

26 Traditional rate-of-return regulation requires complex and
27 lengthy rate cases to consider evidence on the utility's
28 revenues, expenses, capital structure, and a proper return on
29 its investment, as well as testimony on the amount of revenue
30 to be recovered from individual services offered by the
31 utility. These cases take up to 10 months at the agency and
32 up to three years, if appealed to the courts. A rate case can
33 be initiated by the utility if it believes its revenues are
34 inadequate, or by the consumer advocate if it believes the
35 utility is overearning. Rate-of-return regulation gets its

1 name because in a rate case the utilities board determines the
2 amount of revenue needed to provide the utility the
3 opportunity to recover its expenses plus a reasonable rate of
4 return on the investment of shareholders.

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HOUSE FILE 518

AN ACT

RELATING TO AUTHORIZATION OF PRICE REGULATION FOR UTILITIES
PROVIDING COMMUNICATIONS SERVICES.

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

Section 1. Section 476.1D, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The board, at the request of a long distance telephone company, shall classify such company as a competitive long distance telephone company if more than half of the company's revenues from its Iowa intrastate telecommunications services and facilities are received from services and facilities that the board has determined to be subject to effective competition. The board shall promptly notify the director of revenue and finance that a long distance telephone company has been classified as a competitive long distance telephone company. Upon such notification by the board, the director of revenue and finance shall assess the property of such competitive long distance telephone company, which property is first assessed for taxation in this state on or after January 1, 1996, in the same manner as all other property assessed as commercial property by the local assessor under chapters 427, 427A, 427B, 428, and 441. As used in this section, "long distance telephone company" means an entity that provides telephone service and facilities between local exchanges, but does not include a cellular service provider or a local exchange utility holding a certificate issued under section 476.29, subsection 12.

Sec. 2. Section 476.3, subsection 2, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection, the consumer advocate shall not file a petition under this subsection that alleges a local exchange carrier's rates are excessive while the local exchange carrier is participating in a price regulation plan approved by the board pursuant to section 476.30B.

Sec. 3. Section 476.10, unnumbered paragraph 4, Code 1995, is amended to read as follows:

Whenever the board 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 476.31, the board 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. Beginning on July 1, 1991, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph 2, by amounts necessary to enable the board 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 board 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. Before the board expends or

encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of consumer advocate may also contract for additional assistance in the evaluation and implementation of issues relating to telecommunication competition. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums for energy efficiency shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. Telephone companies shall pay any additional sums needed for assistance with telecommunication competition issues. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 4. Section 476.11, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may resolve complaints, upon notice and hearing, that a utility, operating under section 476.29, has failed to provide just, reasonable, and nondiscriminatory arrangements for interconnection of its telecommunications services with another telecommunications provider.

Sec. 5. Section 476.29, subsection 2, Code 1995, is amended to read as follows:

2. Except as provided in subsection 12, a certificate shall be issued by the board, after notice and opportunity for hearing, if the board determines that the service proposed to be rendered will promote the public convenience and necessity, provided that an applicant other than a local exchange carrier, as defined in section 476.30A, shall not be denied a certificate if the board finds that the applicant possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest. The board shall make a determination within ninety days of the submission by the applicant of evidence of its technical, financial, and managerial ability, unless the board determines that additional time is necessary to consider the application, in which case the board may extend the time for making a determination for an additional sixty days. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance.

Sec. 6. NEW SECTION. 476.30 FINDINGS -- STATEMENT OF POLICY.

The general assembly finds all of the following:

1. Communications services should be available throughout the state at just, reasonable, and affordable rates from a variety of providers.

2. In rendering decisions with respect to regulation of telecommunications companies, the board shall consider the effects of its decisions on competition in telecommunications

markets and, to the extent reasonable and lawful, shall act to further the development of competition in those markets.

3. In order to encourage competition for all telecommunications services, the board should address issues relating to the movement of prices toward cost and the removal of subsidies in the existing price structure of the incumbent local exchange carrier.

4. Regulatory flexibility is appropriate when competition provides customers with competitive choices in the variety, quality, and pricing of communications services, and when consistent with consumer protection and other relevant public interests.

5. The board should respond with speed and flexibility to changes in the communications industry.

6. Economic development can be fostered by the existence of advanced communications networks.

Sec. 7. NEW SECTION. 476.30A DEFINITIONS.

As used in section 476.30, this section, and sections 476.30B through 476.30G, unless the context otherwise requires:

1. "Basic communications service" includes at a minimum, basic local telephone service, switched access, 911 and E-911 services, and dual party relay service. The board is authorized to classify by rule at any time, any other two-way switched communications services as basic communications services consistent with community expectations and the public interest.

2. "Basic local telephone service" means the provision of dial tone access and usage, for the transmission of two-way switched communications within a local exchange area, including, but not limited to, the following:

a. Residence service and business services, including flat rate or local measured service, private branch exchange trunks, trunk type hunting services, direct inward dialing, and the network access portion of central office switched exchange service.

- b. Extended area service.
- c. Touch tone service when provided separately.
- d. Call tracing.
- e. Calling number blocking on either a per call or a per line basis.
- f. Local exchange white pages directories.
- g. Installation and repair of local network access.
- h. Local operator services, excluding directory assistance.
- i. Toll service blocking and 1-900 and 1-976 access blocking.

3. "Competitive local exchange service provider" means any person that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

4. "Interim number portability" means one or more mechanisms by which a local exchange customer at a particular location may change the customer's local exchange services provider without any change in the local exchange customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

5. "Local exchange carrier" means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

6. "Nonbasic communications services" means all communications services subject to the board's jurisdiction which are not deemed either by statute or by rule to be basic communications services, including any service offered by the

local exchange carrier for the first time after the effective date of this Act. A service is not considered new if it constitutes the bundling, unbundling, or repricing of an already existing service. Consistent with community expectations and the public interest, the board may reclassify by rule as nonbasic those two-way switched communications services previously classified by rule as basic.

7. "Provider number portability" means the capability of a local exchange customer to change the customer's local exchange services provider at the customer's same location without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer currently experiences. "Provider number portability" includes the equal availability of information concerning the local exchange provider serving the number to all carriers, and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call, and without the dialing of additional digits or access codes.

Sec. 8. NEW SECTION. 476.30B PRICE REGULATION.

1. Notwithstanding contrary provisions of this chapter relating to rate regulation, the board may approve a plan for price regulation submitted by a rate-regulated local exchange carrier. The plan for price regulation is not effective until the approval by the board of tariffs implementing the unbundling of essential facilities pursuant to section 476.30F, subsection 4, except for a local exchange carrier with less than seventy-five thousand access lines whose plan for price regulation will be effective concurrent with the approval of its plan. The board may approve a plan for price regulation prior to the adoption of rules related to the unbundling of essential facilities or concurrent with a rate proceeding under section 476.3, 476.6, or 476.7. During the

term of the plan, the board shall regulate the prices of the local exchange carrier's basic and nonbasic communications services pursuant to the requirements of the price regulation plan approved by the board. The local exchange carrier shall not be subject to rate of return regulation during the term of the plan.

2. The board, after notice and opportunity for hearing, may approve, modify, or reject the plan. The local exchange carrier shall have ten days to accept or reject any board modifications to its plan. If the local exchange carrier rejects a modification to its plan, the board shall reject the plan without prejudice to the local exchange carrier to submit another plan.

3. A price regulation plan, at a minimum, shall include provisions, consistent with the provisions of this section and any rules adopted by the board, for the following:

a. (1) Establishing and changing prices, terms, and conditions for basic communications services. The initial plan for price regulation must include a proposal, which the board shall approve, for reducing the local exchange carrier's average intrastate access service rates to the local exchange carrier's average interstate access service rates in effect as of the last day of the calendar year immediately preceding the date of filing of the plan, as follows:

(a) A local exchange carrier with five hundred thousand or more access lines in this state shall reduce its average intrastate access service rates by at least fifty percent of the difference between average intrastate access service rates and average interstate access service rates as of the date that the plan is filed and further reduce such rates to the average interstate access service rates within ninety days of the date that the plan becomes effective.

(b) A local exchange carrier with fewer than five hundred thousand but seventy-five thousand or more access lines in this state shall reduce its average intrastate access service

rates to its average interstate access service rates in increments of at least twenty-five percent, with the initial reduction to take effect on approval of the plan and equal annual reductions on each anniversary of the approval during the first three years that its plan is in effect.

(c) A local exchange carrier with fewer than seventy-five thousand access lines in this state shall reduce its average intrastate access service rates to its average interstate access service rates with equal annual reductions during a period beginning no more than two years and ending no more than five years from the plan's inception.

(2) This section shall not be construed to do either of the following:

(a) Prohibit an additional decrease in a carrier's average intrastate access service rate during the term of the plan.

(b) Permit any increase in a carrier's average intrastate access service rates during the term of the plan.

(3) The plan shall also provide that the initial prices for basic communications services shall be six percent less than the rates approved and in effect at the time the local exchange carrier files its plan. A local exchange carrier which elects to reduce its rates by six percent shall not, at a later time, increase its rates for basic communications services as a result of the carrier's compliance with the board's rules relating to unbundling. In lieu of the six percent reduction, and prior to the adoption of rules relating to unbundling pursuant to section 476.30F, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier may request and the board may establish a regulated revenue requirement in a rate proceeding under section 476.3 or 476.6 commenced after the effective date of this Act. After the determination of the local exchange carrier's regulated revenue requirement pursuant to the rate proceeding, the local exchange carrier shall not immediately implement rates designed to recover that regulated revenue requirement.

Following the adoption of rules relating to unbundling pursuant to section 476.30F, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier shall commence a tariff proceeding for the approval of tariffs implementing such unbundling. The board has six months to complete this tariff proceeding and determine the local exchange carrier's final unbundled rates. The local exchange carrier shall carry forward the regulated revenue requirement determined by the board pursuant to the rate proceeding and design rates that comply with the board's rules relating to unbundling that recover the regulated revenue requirement, and that implement the board's approved rate design established in the tariff proceeding.

In lieu of taking the six percent reduction, a local exchange carrier that submits a plan for price regulation after the board adopts rules relating to unbundling may file a rate proceeding under section 476.3 or 476.6 and the board may approve rates designed to comply with those rules which allow the carrier to recover the established regulated revenue requirement and that implement the board's approved rate design established in the tariff proceeding.

(4) The plan shall provide for both increases and decreases in the prices for basic communications services reflecting annual changes in inflation and productivity. Prior to January 1, 1998, the board shall use the gross domestic product price index, as published by the federal government, for an inflation measure, and two and six-tenths percentage points for a productivity measure. After January 1, 1998, the board by rule may adopt current measures of inflation and productivity.

(5) The plan may provide that price increases for basic communications services which are permitted under this section may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this section shall not at any

time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier.

b. Establishing and changing prices, terms, and conditions for nonbasic communications services.

c. Reporting new service offerings to the board.

d. Reflecting in rates any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

e. Providing notice to customers, the board, and the consumer advocate of changes in prices, terms, or conditions for basic and nonbasic communications services.

4. The board shall consider the extent to which a proposed plan complies with the requirements of subsection 3 and achieves the following:

a. Just, nondiscriminatory, and reasonable rates.

b. High quality, universally available communications services.

c. Encouragement of investment in communications infrastructure, efficiency improvements, and technological innovation.

d. The introduction of new communications products and services from a variety of sources.

e. Regulatory efficiency including reduction of regulatory costs and delays. A plan shall not provide for waiver of, release from, or delay in implementing the provisions of this section, section 476.30F or 476.30G or any rules adopted by the board pursuant to those sections.

5. Notwithstanding an approved plan for price regulation, the board shall continue to have regulatory authority over the following:

a. The level, extent, and timing of the unbundling of essential facilities offered by a local exchange carrier.

b. Ensuring against cross-subsidization between nonbasic communications services and basic communications services.

6. Any person, including the consumer advocate, a body politic, or the board on its own motion, may file a written complaint pursuant to section 476.3, subsection 1, regarding a local exchange carrier's implementation, operation under, or satisfaction of the purposes of its price regulation plan.

7. The consumer advocate may represent consumers before the board regarding any rule, order, or proceeding pertaining to price regulation. The consumer advocate may act as attorney for and represent consumers generally before any state or federal court concerning a board rule, order, or proceeding pertaining to price regulation.

8. In implementing price regulation, the board shall consider competitively neutral methods to assist lower-income Iowans to secure and retain telephone services.

9. The board shall determine the duration of any plan. The board shall review a local exchange carrier's operation under its plan, with notice and an opportunity for hearing, within four years of the initiation of the plan and prior to the termination of the plan. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to a local exchange carrier's plan as a result of the review, except that such modifications shall not require a reduction in the rates for any basic communications service.

10. The board, in determining whether to file a written complaint pursuant to subsection 6 or prior to reviewing a local exchange carrier's operation pursuant to subsection 9, may request that such carrier provide any information which the board deems necessary to make such determination or conduct such review. The carrier shall provide the requested information upon receipt of the request from the board.

11. a. Notwithstanding subsections 1 through 10, a local exchange carrier with fewer than five hundred thousand access lines in this state shall have the option to be regulated pursuant to subsections 1 through 10 or pursuant to this subsection. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to subsections 5 through 8 and subsection 10 in the same manner as a local exchange carrier which operates under an approved plan of price regulation submitted pursuant to subsection 1.

b. A local exchange carrier which elects to become price regulated under this subsection shall give written notice to the board of such election not less than thirty days prior to the date such regulation is to commence.

c. Upon election of a local exchange carrier to become price-regulated under this subsection, the carrier shall reduce its rates for basic local telephone service an average of three percent. In lieu of the three percent reduction, the local exchange carrier may establish its rates for basic local telephone service in a rate proceeding under section 476.3 or 476.6 commenced after the effective date of this Act.

d. Initial prices for basic communications services, other than basic local telephone service, shall be set at the rates in effect as of the first of July prior to the date such regulation is to commence.

e. (1) A price-regulated local exchange carrier shall not increase its rates for basic communications services, for a period of twelve months after electing to become price regulated. To the extent necessary, rates for basic services may be increased to carry out the purpose of any rules that may be adopted by the board relating to the terms and conditions of unbundled services and interconnection. A price-regulated local exchange carrier may increase its rates for basic communications services following the initial twelve-month period, to the extent that the change in rate does not exceed two percentage points less than the most

recent annual change in the gross domestic product price index, as published by the federal government. If application of such formula achieves a negative result, prices shall be reduced so that the cumulative price change for basic services, including prior price reductions in these services, achieves the negative result. After January 1, 2000, the board by rule may adopt different measures of inflation and productivity if they are found to be more reflective of the individual price-regulated carriers.

(2) Price increases for basic communications services which are permitted under this subsection may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this subsection shall not at any time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier. A rate change pursuant to this subsection may take effect thirty days after the notification of the board and consumers.

(3) A price-regulated local exchange carrier shall not increase its aggregate revenue weighted prices for nonbasic communications services more than six percent in any twelve-month period.

(4) A price-regulated local exchange carrier may reduce the price for any basic communications service, to an amount not less than the total service long-run incremental cost for such service on one day's notice filed with the board. For purposes of this subsection, "total service long-run incremental costs" means the difference between the company's total cost and the total cost of the company less the applicable service, feature, or function.

(5) A price-regulated local exchange carrier may offer new service alternatives for any basic communications services on thirty days prior notice to the board, provided that the preexisting basic communications service rate structure continues to be offered to customers. New telecommunications services shall be considered nonbasic communications services as defined in section 476.30A, subsection 6.

(6) A price-regulated local exchange carrier must reduce the average intrastate access service rates to the carrier's average interstate access service rates. Such carrier shall reduce the average intrastate access service rates by at least twenty-five percent of the difference of such rates within ninety days of the election to be price-regulated and twenty-five percent each of the next three years.

f. A local exchange carrier shall notify customers of a rate change under this subsection at least thirty days prior to the effective date of the rate change.

g. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to the following:

- (1) The local exchange carrier shall not be subject to rate-of-return regulation while operating under price regulation.
- (2) All regulated services shall be provided pursuant to board-approved tariffs.
- (3) All new regulated service offerings shall be reported to the board.
- (4) Rates may be adjusted by the board to reflect any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

h. The board may review a local exchange carrier's operation under this subsection, with notice and an opportunity for hearing, after four years of the carrier's election to be price-regulated. The local exchange carrier, consumer advocate, or any person may propose, and the board

may approve, any reasonable modifications to the price-regulation requirements in this subsection as a result of the specific carrier review, except that such modifications shall not require a reduction in the rates for any basic communications service or a return to rate-base, rate-of-return regulation.

i. This subsection shall not be construed to prohibit an additional decrease or to permit any increase in a local exchange carrier's average intrastate access service rates during the term of the local exchange carrier's operation under price regulation.

Sec. 9. NEW SECTION. 476.30C EARNINGS CALCULATION AND REPORT.

1. The consumer advocate shall calculate an estimate of the return of a local exchange carrier operating under price regulation pursuant to section 476.30B as if the carrier were subject to rate-of-return regulation. The calculation shall be based upon the annual report of such carrier and other information provided to the consumer advocate by the carrier. The calculation shall be made every two years beginning following the end of the second calendar year after the year in which the plan becomes effective. The consumer advocate shall provide a written report to the general assembly including the results of this calculation on or before July 1 of the year immediately following the two-year period for which a calculation is made. If, after a review of the information used to make the calculation required in this section, the consumer advocate determines that the public interest would be better served by a different form of rate regulation, the consumer advocate shall provide a recommendation that the general assembly direct the utilities board to implement a different form of rate regulation.

Sec. 10. NEW SECTION. 476.30D ADDITIONAL PRICE REGULATION PLAN PROVISIONS.

In addition to the provisions required in section 476.30B, a local exchange carrier, prior to operating under price regulation, shall make provision for the following:

1. Reflecting in rates any changes due to changes in the average cost of the local exchange carrier resulting from the sale of an exchange in this state.
2. Encouraging modernization of the local exchange carrier's telecommunications infrastructure. This provision shall include a requirement that the local exchange carrier develop and file with the board an increased modernization plan.

Sec. 11. NEW SECTION. 476.30E PROHIBITED ACTS.

A local exchange carrier shall not do any of the following:

1. Discriminate against another provider of communications services by refusing or delaying access to the local exchange carrier's services.
2. Discriminate against another provider of communications services by refusing or delaying access to essential facilities on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates. A local telecommunications facility, feature, function, or capability of the local exchange carrier's network is an essential facility if all of the following apply:
 - a. Competitors cannot practically or economically duplicate the facility, feature, function, or capability, or obtain the facility, feature, function, or capability from another source.
 - b. The use of the facility, feature, function, or capability by potential competitors is technically and economically feasible.
 - c. Denial of the use of the facility, feature, function, or capability by competitors is unreasonable.
 - d. The facility, feature, function, or capability will enable competition.

3. Degrade the quality of access or service provided to another provider of communications services.

4. Fail to disclose in a timely manner, upon reasonable request and pursuant to a protective agreement concerning proprietary information, all information reasonably necessary for the design of network interface equipment, network interface services, or software that will meet the specifications of the local exchange carrier's local exchange network.

5. Unreasonably refuse or delay interconnections or provide inferior interconnections to another provider.

6. Use basic exchange service rates, directly or indirectly, to subsidize or offset the costs of other products or services offered by the local exchange carrier.

7. Discriminate in favor of itself or an affiliate in the provision and pricing of, or extension of credit for, any telephone service.

Sec. 12. NEW SECTION. 476.30F LOCAL EXCHANGE COMPETITION.

1. A certificate of public convenience and necessity to provide local telephone service shall not be interpreted as conveying a monopoly, exclusive privilege, or franchise. A competitive local exchange service provider shall not be subject to the requirements of this chapter, except that a competitive local exchange service provider shall obtain a certificate of public convenience and necessity pursuant to section 476.29, file tariffs, notify affected customers prior to any rate increase, file reports, information, and pay assessments pursuant to section 476.2, subsection 4, and sections 476.9, 476.10, 476.16, 476.30G, and 477C.7, and shall be subject to the board's authority with respect to adequacy of service, interconnection, discontinuation of service, civil penalties, and complaints. IF, after notice and opportunity for hearing, the board determines that a competitive local exchange service provider possesses market power in its local

exchange market or markets, the board may apply such other provisions of chapter 476 to a competitive local exchange service provider as it deems appropriate.

2. The duty of a local exchange carrier includes the duty, in accordance with requirements prescribed by the board pursuant to subsection 3 and other laws, to provide equal access to, and interconnection with, its facilities so that its network is fully interoperable with the telecommunications services and information services of other providers, and to offer unbundled essential facilities.

3. A local exchange carrier shall provide reasonable access to ducts, conduits, rights-of-way, and other pathways owned or controlled by the local exchange carrier to which reasonable access is necessary to a competitive local exchange service provider in order for a competitive local exchange service provider to provide service and is feasible for the local exchange carrier.

Upon application of a local exchange carrier or a competitive local exchange service provider, the board shall determine any matters concerning reasonable access to ducts, conduits, rights-of-way, and other pathways owned or controlled by the local exchange carrier upon which agreement cannot be reached, including but not limited to, matters regarding valuation, space, and capacity restraints, and compensation for access.

4. a. Prior to September 1, 1995, the board shall initiate a rule-making proceeding to adopt rules that satisfy the requirements enumerated in subparagraphs (1) through (4). The rule-making proceeding shall be completed as promptly as possible. The board, upon petition or on its own motion, may conduct a separate evidentiary hearing on the same or related subjects. The evidence from a hearing may be considered by the board during the rule-making proceeding, provided that the board announces its intention to do so prior to the oral presentation in the rule-making proceeding. The rules shall do the following:

(1) Require a local exchange carrier to provide unbundled essential facilities of its network, and allow reasonable and nondiscriminatory equal access to, use of, and interconnection with, those unbundled essential facilities on reasonable, cost-based, and tariffed terms and conditions. The board's rules must require a local exchange carrier, including those operating under a plan of price regulation, to file tariffs implementing the unbundled essential facilities within ninety days of the board's final order adopting such rules, except for local exchange carriers with less than seventy-five thousand access lines which must file such tariffs within two years of the effective date of this Act. Such access, use, and interconnection shall be on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates for the provision of local exchange, access, and toll services. This subsection shall not be construed to establish a presumption as to the level of interconnection charges, if any, to be determined by the board pursuant to subparagraph (2).

(2) Establish reciprocal cost-based compensation for termination of telecommunications services between local exchange carriers and competitive local exchange service providers.

(3) Require local exchange carriers to make interim number portability available on request of a competitive local exchange service provider, and to implement provider number portability as soon as the availability of necessary technology makes provider number portability economically and technically feasible, as determined by the board. The rules shall also devise a reasonable and nondiscriminatory mechanism for the recovery of all recurring and nonrecurring costs of interim and provider number portability.

(4) Develop the cost methodology appropriate for a competitive telecommunications environment.

b. The rules adopted in paragraph "a", subparagraphs (2) and (3), do not apply to local exchange carriers with less than seventy-five thousand access lines until a competitive local exchange service provider has filed for a certificate to provide basic communications services in an exchange or exchanges of the local exchange carrier, or the board determines that competitive necessity requires the implementation of the rules in paragraph "a", subparagraphs (2) and (3), by the local exchange carrier.

5. Local exchange carriers shall file tariffs or price lists in accordance with board rules with respect to the services, features, functions, and capabilities offered to comply with board rules on unbundling of essential facilities and interconnection. Local exchange carriers shall submit with the tariffs or price lists for basic communications services and toll services supporting information that is sufficient for the board to determine the relationship between the proposed charges and the costs of providing such services, features, functions, or capabilities, including the imputed cost of intrastate access service rates in toll service rates pursuant to existing board orders. The board shall review the tariffs or price lists to ensure that the charges are cost-based and that the terms and conditions contained in the tariffs or price lists unbundle any essential facilities in accordance with the board's rules and any other applicable laws.

6. This section shall not be construed to prohibit the board from enforcing rules or orders entered in contested cases pending on the effective date of this Act to the extent that such rules and orders are consistent with the provisions of this section.

7. Except as provided under section 476.29, subsection 2, and this section, the board shall not impose or allow a local exchange carrier to impose restrictions on the resale of local exchange services, functions, or capabilities. The board may

prohibit residential service from being resold as a different class of service.

8. Any person may file a written complaint with the board requesting the board to determine compliance by a local exchange carrier with the provisions of sections 476.30A through 476.30E, 476.30G, and this section, or any board rules implementing those sections. Upon the filing of such complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety days after the date the written complaint was filed.

Sec. 13. NEW SECTION. 476.30G UNIVERSAL SERVICE.

1. The board shall initiate a proceeding to preserve universal service such that it shall be maintained in a competitively neutral fashion. As a part of this proceeding, the board shall determine the difference between the cost of providing universal service and the prices determined to be appropriate for such service.

2. The board shall base policies for the preservation of universal service on the following principles:

a. A plan adopted by the board should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

b. The plan should define the nature and extent of the service encompassed within any entities' universal service obligations.

c. The plan should establish specific and predictable mechanisms to provide competitively neutral support for universal service. Those mechanisms shall include a nondiscriminatory mechanism by which funds to support universal service shall be collected, and a mechanism for disbursement of support funds to eligible subscribers, either directly to those subscribers, or to the subscriber's provider of local exchange services chosen by the subscriber.

d. The plan should be based on other principles as the board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of sections 476.30 through 476.30F and this section.

Sec. 14. REPORT. The utilities board shall submit a report to the general assembly no later than January 15, 1999, concerning the implementation of price regulation for local exchange carriers furnishing communications services.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 518, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 31, 1995

TERRY E. BRANSTAD
Governor