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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1038**

February 23, 2009

Authored by Jackson

The bill was read for the first time and referred to the Energy Finance and Policy Division

March 9, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to utilities; authorizing Public Utilities Commission to order refunds
1.3 of unlawful utility rate revenues; amending Minnesota Statutes 2008, sections
1.4 216B.23, by adding a subdivision; 237.081, by adding a subdivision; 237.74, by
1.5 adding a subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2008, section 216B.23, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 1a. **Authority to issue refund.** On determining that a public utility has
1.10 charged a rate in violation of this chapter, a commission rule, or a commission order, the
1.11 commission, after conducting a proceeding, may require the public utility to refund to its
1.12 customers, in a manner approved by the commission, any revenues the commission finds
1.13 were collected as a result of the unlawful conduct. Any refund authorized by this section
1.14 is permitted in addition to any remedies authorized by section 216B.16 or any other law
1.15 governing rates. Exercising authority under this section does not preclude the commission
1.16 from pursuing penalties under sections 216B.57 to 216B.61 for the same conduct.

1.17 Nothing in this section shall be construed as allowing retroactive ratemaking. In
1.18 addition, nothing in this section shall be construed to allow refunds based on claims that
1.19 prior or current approved rates have been unjust, unreasonable, unreasonably preferential,
1.20 discriminatory, insufficient, inequitable, or inconsistent in application to a class of
1.21 customers. Moreover, nothing in this section shall be construed to allow refunds based on
1.22 claims that approved rates have not encouraged energy conservation or renewable energy
1.23 use, or have not furthered the goals of section 216B.164, 216B.241, or 216C.05. A refund
1.24 under this paragraph shall not apply to revenues collected more than six years prior to the
1.25 date of the notice of the commission proceeding required under this subdivision.

2.1 Sec. 2. Minnesota Statutes 2008, section 237.081, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 4a. **Authority to issue refund.** On determining that a telephone company has
2.4 charged a rate or price in violation of this chapter, a commission rule, or a commission
2.5 order, the commission, after conducting a proceeding, may require the telephone company
2.6 to refund to its subscribers, in a manner approved by the commission, any revenues
2.7 the commission finds were collected as a result of the unlawful conduct. Any refund
2.8 authorized by this section is permitted in addition to any remedies authorized by any
2.9 other law governing rates. Exercising authority under this section does not preclude the
2.10 commission from pursuing penalties under section 237.46 or 237.461 for the same conduct.

2.11 Nothing in this section shall be construed as allowing retroactive ratemaking. In
2.12 addition, nothing in this section shall be construed to allow refunds based on claims that
2.13 prior or current approved rates have been unjust, unreasonable, unreasonably preferential,
2.14 discriminatory, insufficient, inequitable, or inconsistent in their application. A refund
2.15 under this paragraph shall not apply to revenues collected more than six years prior to the
2.16 date of the notice of the commission proceeding required under this subdivision.

2.17 Sec. 3. Minnesota Statutes 2008, section 237.74, is amended by adding a subdivision
2.18 to read:

2.19 Subd. 11a. **Authority to issue refund.** On determining that a telecommunications
2.20 carrier has charged a rate or price in violation of this chapter, a commission rule, or a
2.21 commission order, the commission, after conducting a proceeding, may require the
2.22 telecommunications carrier to refund to its subscribers, in a manner approved by the
2.23 commission, any revenues the commission finds were collected as a result of the unlawful
2.24 conduct. Any refund authorized by this section is permitted in addition to any remedies
2.25 authorized by any other law governing rates. Exercising authority under this section does
2.26 not preclude the commission from pursuing penalties under section 237.46 or 237.461 for
2.27 the same conduct.

2.28 Nothing in this section shall be construed as allowing retroactive ratemaking. In
2.29 addition, nothing in this section shall be construed to allow refunds based on claims that
2.30 prior or current approved rates have been unjust, unreasonable, unreasonably preferential,
2.31 discriminatory, insufficient, inequitable, or inconsistent in their application. A refund
2.32 under this paragraph shall not apply to revenues collected more than six years prior to the
2.33 date of the notice of the commission proceeding required under this subdivision.